

REPORT TO: East Lothian Council

MEETING DATE: 25 October 2016

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Consultation on Social Security in Scotland: East Lothian Council Response

1 PURPOSE

- 1.1 To seek agreement from the Council for the Council's response to the Scottish Government's consultation on Social Security in Scotland.

2 RECOMMENDATIONS

- 2.1 That Council approves the response to the Scottish Government's consultation on Social Security in Scotland.

3 BACKGROUND

- 3.1 The Scottish Government launched a consultation¹ on devolved Social Security powers on 29 July 2016. The closing date for the consultation is 28 October 2016.
- 3.2 The Scottish Government is undertaking a separate options appraisal around the delivery mechanisms for Social Security. Phase 1² of this process saw the initial high level appraisal completed. Phase 2 will involve a more detailed appraisal around 'back room' delivery functions and will focus on value for money, financial affordability and achievability of options.
- 3.3 The consultation paper is more than 140 pages long and contains more than 150 questions. The paper and questions are structured around three parts:

Part 1: A principled approach – this section contains questions around:

- principles for the new Social Security Agency,
- outcomes and the user experience,
- delivery of social security in Scotland,

¹ <https://consult.scotland.gov.uk/social-security/social-security-in-scotland>

² <http://www.gov.scot/Resource/0049/00494859.pdf>

- equality and low income and
- Independent advice and scrutiny.

Part 2: The Devolved Benefits – this section contains questions on:

- each of the powers being devolved to Scotland in the area of Social Security.

Part 3: Operational Policy – this section contains questions covering:

- advice
- representation
- advocacy
- complaint
- reviews and appeals
- residency and cross-border issues
- overpayments and debts
- fraud
- protecting information
- uprating of benefits.

- 3.4 The Council's response (Appendix 1) is based on the response being submitted by the Convention of Scottish Local Authorities (COSLA) which was prepared with inputs from officers representing SOLACE (Chief Executives), Directors of Finance, and Social Work Scotland (SWS). It also took account of representations made by council officers who attended consultation events held jointly with Scottish Government in Edinburgh and Perth on 14 and 15 September. Elected members on COSLA's Community Well-being, Resources and Capacity, and Health and Well-being Executive Groups considered early drafts of the COSLA response and comments received at these meetings were included in the final draft of the COSLA response which was approved at COSLA Leaders' meeting, 30 September 2016.
- 3.5 Staff from various Council services contributed to reviewing the COSLA response and providing additional commentary based on East Lothian's perspective and experience of the existing and emerging social security system.
- 3.6 The Council's response comments on all parts of the consultation. However, there is a particular emphasis on the links with public sector reform, the potential to shape the landscape, the possibilities for synergies with existing Local Government services and a strong push on integrated services at a local level leading to improved outcomes. The response also draws on the Council's experience of East Lothian being the first area in Scotland to be subject to full service Universal Credit (see section 13 of the response).
- 3.7 The themes listed below provide a broad overview of the response with detail being available in the appended draft Council response.
- Principles & legislation (Claimant Charter) – the Council's response highlights the importance of the culture within the agency being paramount to achieving the principles as established.

- User experience & outcomes – Commentary is given around the importance both of including those with a lived experience of the scheme in all levels of design and the of ensuring those with experience of delivering these types of supports, e.g. DWP and Local Authority staff being involved early in the design processes.
- Communication & technology – the response highlights the need to use all existing technology, to ensure communication is available in many accessible formats and the need to build an evidence base for the reach and availability of face to face services.
- Local Government role in delivery – throughout the submission the need for integration, joined up offerings and reduction in complexities for those claiming is reinforced. Commentary also stresses the need for the outcomes expected from the various forms of support to be clear to prevent confusion which can lead to lack of take up.
- Given that Local Government could well be involved in delivery of significant elements of the new powers, we must be at the design table with the Scottish Government we will be able to influence and understand the funding which will come to Scotland, the adequacy and the timing of this, as well as how it will subsequently be deployed here.
- Benefits, support & flexibility (Goods/Cash) – the Council's submission, whilst not ruling out the possibility of in kind services or purchase of other support, does highlight this may conflict with the broad principles around dignity and respect and may also be more expensive to deliver.
- Assessment, appeals & advice – the response highlights the need for an independent appeals process adequately supported by advice and advocacy for those who need it. The response also notes the cluttered funding landscape for advice and support agencies across the piece and the need for an understanding of this before decision can be taken on the way forward.

3.8 The analysis of the consultation responses will be collated, with results published early in 2017, alongside details of the second stage of the options appraisal discussed in paragraph 5 of this report. The Scottish Government have signalled their intention to bring forward a Social Security Bill before the end of this parliamentary year.

4 POLICY IMPLICATIONS

4.1 The Council's response to the consultation on Social Security in Scotland provides the opportunity for the Council to set out its views on the Scottish Government's proposals for developing a distinct Scottish Social Security system based on the Council's experience of the existing system and the changes brought about by the introduction of Universal Credit. The Scottish

Government's proposals will have major implications not just for the Council in delivering and supporting the delivery of benefits but also for East Lothian residents who receive or could receive benefits.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
6.2 Personnel – none.
6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Appendix 1: East Lothian Council's Response to the Scottish Government's Consultation on Social Security in Scotland
7.2 A New Future for Social Security: Consultation on Social Security in Scotland: (Members' Library Ref: 194/16, October 2016 Bulletin)

AUTHOR'S NAME	Paolo Vestri
DESIGNATION	Service Manager Corporate Policy & Improvement
CONTACT INFO	pvestri@eastlothian.gov.uk 01620 827320
DATE	13/10/2016

Appendix 1: East Lothian Council Response to: A New Future for Social Security Consultation on Social Security in Scotland

PART 1: A PRINCIPLED APPROACH

1. Fixing the principles in legislation

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

(please tick the option/s you prefer)

A. As a 'Claimant Charter'?	
B. Placing principles in legislation?	X
C. Some other way, please specify	X

Why do you favour this/these option/s?

Please explain your answer
Principles would be easier to enforce if embedded within legislation (in the same way as it is with the Scottish Welfare Fund.
We are concerned that the term 'Claimants Charter' could re-enforce the stigma associated with welfare benefits/ social security.
If benefits/ social security are a right, then there needs to be a move away from people needing to be claimants and a change in terminology.
The Charter should also cover providers of services so has to be wider than 'Claimants'. We note the 'claimant charter' in an NHS setting has both what the patient should expect by way of services, processes etc. but also has expectation around how patients and/or their representatives should conduct themselves – should a 'claimant charter' be adopted it is critical both elements – rights and responsibilities are detailed.

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

Please explain your answer
See comments above regarding terminology and the scope of a Charter
More detail on how claimants should be expected to be treated and the standard of service they should be able to expect.

Q: Should the Charter be drafted by:

(please tick the option/s you prefer)

A. An advisory group?	
B. A wider group of potential users and other groups or organisations?	
C. Both	X
D. Some other way, please specify	

Why do you favour this/these option/s?

Please explain your answer

Scottish Government must ultimately be responsible for the process but should aim to draw upon lived experience of those claiming and stakeholder groups delivering and providing assisting those claiming assistance. Gathering views from both organisations tasked with delivering assistance and those who actually receive assistance could lead to a better understanding of the challenges faced on both sides and ultimately a more realistic Charter.

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

Please specify below

See comments above. The term claimant has negative connotations with how the DWP currently view welfare recipients.

The term client or customer might be more appropriate. Whatever name is chosen; care needs to be taken to avoid any confusion with the ‘Claimant Commitment’ which is a statement of claimant obligations under Universal Credit and to avoid stigmatising people who are in receipt of benefits/ social security.

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

Please specify below

No further comments

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

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

A. The Scottish Government	<input checked="" type="checkbox"/>
B. The Scottish Ministers	<input checked="" type="checkbox"/>
C. The Chief Executive of the Social Security Agency	<input checked="" type="checkbox"/>
D. Someone else, please specify	<input type="checkbox"/>

Please specify below

Everyone who has any part to play in any elements of social security in Scotland should have to abide by the principles that claimants should be treated with dignity and respect – this duty must also be recognised in the application set up, promotional material and the general messages around social security moving forward if Principle two is to be truly realised.

It should also be noted that customers/ clients of the social security system will have a responsibility to treat those administering schemes with dignity and respect.

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

Please specify below
No further comments

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

(please tick one box)

Yes	X
No	

Please explain your answer

If it is felt important to have overriding principles, then they should be stated in legislation. However, some concepts e.g. 'treated with dignity and respect' may be difficult to define legally given their subjective nature regardless of whether the principles are in legislation and/or guidance the culture and practical application of these principles will be the most important judgement of whether this outcome is achieved.

2. Outcomes and the user experience

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

(please tick one box)

Yes	
No	X

Please explain your answer

They are reasonable short and long term outcomes to have for the impact of the overall system. However, some appear difficult to determine in practice whether they are being met and will require some accepted measures of performance and evidence framework to determine periodically how far in practice they outcomes are being achieved.

The proposed outcomes measure the users experience but do not measure the outcome of the Social Security system. There need to be outcomes related to the Social Security system – what is it meant to achieve in terms of income and deprivation, dignity, the right to live a life free from poverty

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

See comments above.

We are pleased to note that there are objectives on effective integration with the reserved benefit system and about effective integration with other public services to ensure people get the support they need. These are key outcomes for a successful devolved social security system.

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

Recognition that the concepts around dignity and respect must be apparent at all levels of the organisations involved with Social Security is important and will take both time and effort to achieve.

Ensure staff receive appropriate disability and poverty awareness training and are courteous at all times. Our experience of Universal Credit full service in East Lothian suggests that staff also require training in supporting clients who have problems with literacy and numeracy and also clients who might have mental wellbeing problems.

Consult with stakeholders to ensure use of plain language communications and appropriate arrangements for those with visual impairments, learning disabilities and other conditions.

Awareness that those accessing the benefits devolved may well have multiple barriers to communication so the use of plain language is important but also ensuring access to things like language line for those who do not have English as their first language is also critical.

Use a variety of means of communication and direct people to easily accessible sources of information and advice. Consideration to communications undergoing specific equality impact assessments as well as policies might be an option.

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

Those with lived experience both positive and negative must be given the opportunity to share their views and thoughts on how this can be achieved.

The full range of key stakeholders, local authorities, voluntary organisations and the disability organisations. Consideration might be given to buying in or commissioning expertise in this area if it is not sufficiently available within government.

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

(please tick one box)

Yes	x
No	

Please state below which words or phrases should not be used:

Take care to avoid any stigmatising language, including terms which may be in common use in the past but are now regarded as stigmatising to those to whom they are applied, in policy documents and communications is important.

However, it is also equally important to recognition that the media, politicians and others have contributed to certain phrases being seen as toxic around welfare and ensuring unhelpful contributions do not go unchecked is also important.

The Poverty Alliance 'Stick your labels' campaign highlights many of the phrases that are unhelpful. COSLA and a number of Scottish Councils have endorsed this campaign and are actively seeking to raise awareness amongst staff of words and phrases that are unhelpful.

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

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

- Good customer care
- Transparency in decision making
- Acknowledging applications and information received.
- Advise what will happen next with clear timescales – if these timescales are not going to be met explain why and what timescales will actually be.
- Provide accessible contacts for more information taking customer's needs in to account.
- Advise what people can do if not satisfied with decisions clearly and consistently at all stages in the application process.
- Consider when access to services and support is available, traditional office hours are different across organisations, localities and departments – user requirements must be understood and provision provided where possible.

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

It is reasonable and desirable to use all modern forms of communication – e mail, text messages etc. and to encourage use of digital channels. However, not everyone including many people with disabilities are comfortable or able to use digital communication, so alternate appropriate communication should also be utilised. Caution also is needed in relation to using social media when communicating with a service user to avoid disclosing personal data to the general public.

Frequently asked questions – visible and accessible in various means of communication, across the spectrum of benefits, would be helpful.

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

Co-production and co-design in the truest sense includes experiences from both claimant and other perspectives and requires barriers to be understood, broken down and addressed before the process can helpfully take place.

The commentary associated with this question mentions those who are existing Scottish DWP claimants working with Scottish Government however if co-production in its broadest sense is to be achieved those with experience of delivering the service must also be involved. Involving those with experience of both received and providing services will also ensure considerations around cost implications and limitations will factor in the process.

Recognising those with lived experience of claiming social security may need assistance to be involved with things like travel expenses, child care and other types of assistance.

Work closely with local government and other key public services to hardwire integrated approaches into the new system at the start, not as an afterthought.

Scotland has a unique opportunity to do things differently here to achieve a more joined up customer experience. Consult not just on social security allowances but on how the process of application might trigger access to other forms of help and support and on how social security support fits into broader policies and outcomes in key areas.

The views of Stakeholders and those identified as responsible for delivering these services will be particularly important in any design and /or review stages of Social Security development. That said, consultation will need to be balanced against the requirement to deliver the required Social Security schemes within a short time frame. (The ongoing rollout of Universal Credit by the UK Government requires the Scottish Government to be able to deploy the devolved schemes as soon as possible).

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

Please specify below

Following on from the point above ‘user panels’ would not be appropriate if those with experience in administering the system were also involved.

It is not clear from the commentary notes whether those involved in ‘user panels’ would also be involved in the Advisory Panels discussed elsewhere in the document. It may be a missed opportunity if those with experience of using the system were not involved in all levels of the governance.

3. Delivering social security in Scotland

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

(please tick one box)

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

This question may be too simplistic since by definition the devolved benefit powers will inevitably have to compliment and dovetail with existing UK welfare provision. Whilst it may be more cost effective to deliver some of the newly devolved elements from a centralised Scottish agency it should be borne in mind that Scottish Local Authorities already have a good track record in administering and delivering UK & Scottish Government welfare schemes and one would think that they would be more responsive to local needs. However, whilst much of this expertise exists currently within Local Government it may soon be eroded and lost as the ongoing rollout of Universal Credit progresses. The question will be whether the Scottish Government can move quickly enough to establish the Agency and its devolved Social Security schemes in time to take advantage of currently existing capabilities.

Integration with those services already engaged with those entitled to the various different elements being devolved must surely be considered. We are not suggesting all the elements being devolved fit within the local government family but would assert not all social security benefits should be administered by the social security agency.

Local authorities already have extensive experience of administering various elements of social security type funds in Scotland both entitlement based and discretionary against a backdrop of financial reductions. For instance, Housing Benefit and Council Tax Reduction (previously *Benefit*) is published by local authorities. Data since 12/13 shows the cost of administration per claim reducing from £42.03 to £40.14 (14/15); processing times for new claims down from 26 days to 23 days over the same period.

Councils have a proven track record of being able to quickly put in place delivery arrangements, this was demonstrated for the Scottish Welfare Fund which saw Councils across Scotland quickly put in place arrangements to deliver in a local setting nationally agreed policy. To suggest an untried and untested new agency would be better placed to deliver many of the elements being devolved does not appear to be supported by the evidence available at this time.

Local authorities are in a strong position to be able to expand a role in delivery and administration, using existing infrastructure and accountability arrangements which could take place within a consistent national entitlement and eligibility framework. Synergies already exist at local levels around many of the areas the benefits being devolved cover.

Having face to face facilities to allow claims to be made, evidence provided and assistance through the claims process is vital for those who require it. However, it must be recognised regardless of who provides this type of service it will always be more expensive to run than digital or telephony service and will require adequate funding. Local Authorities already have a presence in all localities throughout Scotland and already provide similar services around for example Council Tax Reduction. LAs will also continue to provide Personal Budgeting Support as part of the Universal Credit customer journey and there is an opportunity to align the support being provided to access DWP services with support required to access the new Social Security arrangements in Scotland.

Local authority delivery options do not rule out national applications, back office payment mechanisms and collaboration between Scottish Government, Local Government and relevant stakeholders.

DWP and LA relationships will still exist. If another interface is set up over and above that already in situ this will incur significant added expense and has the potential to increase customer's confusion. This is against the widely endorsed principles of the Christie Commission, doesn't take cognisance of the public services reform agenda and would be a missed opportunity to invest in services to provide services via one port of call in an integrated manner.

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

Yes	
No	X

Options of providing benefits in a range of formats , (not just cash) should be considered since cash only may have a number of unintended consequences which could include:

- Security
- Greater transactional costs involved with cash handling
- An increased risk of creating a welfare dependency

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

Scottish Government must recognise the challenge in Scotland is twofold in that individuals may well experience barriers to digital service but that some geographical regions across Scotland also have digital access issue – both challenges need to be overcome to ensure equality of access to Social Security in Scotland.

It is reasonable to promote and facilitate digital claims and seek to develop this as the main channel for many people. It is important however to retain alternative channels for those who are unable for whatever reason to access digital services and these are better provided at a local level with support from and integration with locally provided services.

Whilst online claims may be the preferred channel this cannot be allowed to “digitally disadvantage” more vulnerable people or those who do not have good access to digital services. It may be that local government could be appropriately resourced to help facilitate face to face and digital access for their residents facilitating (amongst other things) Social Security claims.

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

(please tick one box)

Yes	x
No	

There is no doubt some customers will struggle to use a system with no face to face contact and for that reason it might be necessary to provide some.

However, we would expect the availability of face to face contact to be proportionate to the likely level of need which will be determined by the ease of use of application process, access to other supporting information via existing data and the requirements around reviews and appeals.

Where face to face contact is deemed necessary this is best done locally and customer outcomes are likely to be increased if wrap around services are also discussed at the same time.

East Lothian’s experience of Universal Credit shows that cases are becoming increasingly complex. Marrying up the Scottish Social Security system and the growing range of mitigating measures (such as DHP and Scottish welfare Fund) with Universal Credit and other legacy benefits not devolved to Scotland will prove to be more complex than will be thought of originally.

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

Clarity would be helpful here around whether this is a decision maker having access to a customer's existing medical records and deciding accordingly or a customer being asked to attend a medical assessment in support of their claim before this is forwarded to a decision maker for a decision.

Regardless the person's own medical practitioner – GP, consultant or primary care practitioner would seem like the best person to be involved. Individuals could be asked who would be best, although they would have to be able to provide a qualified opinion.

Arrangements around awareness, conflict of health professional relationship and costs would need to be discussed with relevant interested parties in further details once more detail is clear around what disability benefits will look like once devolved.

Yes	x
No	

Yes, particularly where there is existing experience of similar responsibilities as in local government. This is also best to promote integration with local services/supports and likely cheaper and more cost effective over time as it could make for a more joined up offering using existing infrastructure and data sets where possible. This would however still allow it to be delivered in the context of consistent national entitlement and eligibility.

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

(please tick one box)

Yes	
No	x

Whilst not necessarily ruling out the 3rd sector, not for profit organisation and social enterprises it is difficult to point to an organisation in this sector who has the infrastructure and governance to make this option seem attractive.

In terms of social security delivery via the private sector the narrative around the Scottish Welfare Fund and out sourcing suggest there is no appetite in Scotland to have private companies involved.

4. Equality and low income

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

These prompts could be helpful in framing your answer:

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

The Impact Assessment should also consider and take Human Rights into account.

As well as focusing on the implications of policies and arrangements in relation to particular benefits a full EqIA needs to consider how benefits interact with other public services and the reserved benefits system. A narrow focus on Scottish benefits alone might not cover consequences for various groups of the potential for a more confused landscape to get the support they need. How will arrangements for Scottish social security interface with access to other supports and service and make access smoother for various groups?

There is a need to consider more broadly the consequences and outcomes for e.g. disabled people across the full range of public services within Scotland. Decisions to invest additional resources in social security in Scotland could have the potential to neglect investment in other services provided by local authorities and others with unintended consequences.

The questions posed within an EqIA need to be broader than just asking what needs to be done by a Scottish social security system since the right level of support may require both investment in other services and thought to how effectively services can be joined up to achieve outcomes.

5. Independent advice and scrutiny

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

Yes	x
No	

A Scottish independent scrutiny body should be set up to provide scrutiny, expert analysis and comment on how new arrangements are working, this could work in much the same way as the current system in place across the rest of the UK.

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

(please tick one box)

Yes	x
No	

Please explain your answer

Such a body should be established in legislation with wide powers to investigate aspects of the social security system and requirements to produce regular reports.

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

It needs to be independent with a range of expertise and should be given broad powers in law so that it can carry out its functions. While it would have no role in policy making, it should be able to comment on how policies are working in practice, particularly how far objectives and outcomes are being achieved. The body should also be able to make recommendations to ministers, the social security agency and other bodies involved in delivering the social security powers.

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

Yes	
No	X

Please explain your answer

Could the scrutiny body not also take responsibility for overseeing standards of decision making?

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

(please tick one box)

Yes	
No	X

Please explain your answer

Not necessarily. Either this role might be combined with the responsibilities of a scrutiny body or could be taken on by an existing public body.

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

Please specify below:

No comment

PART 2: THE DEVOLVED BENEFITS

General comments on the proposed benefits

- The following questions do not seem to be those we would need responses to if we are to develop a new social security system based on the principles already set out by Scottish Government. These questions start from 'where we are now' rather than developing those principles into a new model for social security. Clearly there are constraints in terms of the linked elements of the social security systems that will not be devolved; and at some point there will be a need to situate any new model within those constraints but we need to look beyond the transitional phase (will, in order to minimise disruption to people receive support through the current UK system). We understand the priority to ensure a smooth transfer but we would anticipate the development of a more strategic development framework rather than a focus on the system Scotland is inheriting.
- Already Scottish Government have introduced a constraint through the commitment to maintaining the current level of disability benefits once the powers have been transferred. It is unclear whether this is a minimum or a maximum nor whether this will apply to any new model.
- The commitment to reform aspects of devolved disability benefits also imply a lack of transformational thinking.
- Consideration needs to be given to situating the benefits system that consider a disabled persons' needs in context of the person centred social and health care that is being provided.
- Furthermore the relationship between the financial support provided through all benefits and the charges paid by the individual for care services needs to be examined. Also the whole system of how a transformed social security system should be funded alongside that for social care. There is an opportunity to directly link social security and benefits to the financial assessment that is carried out when people are assessed for social care.
- Relationship and compatibility with other support arrangements for disabled people in Scotland e.g. the existing and new stand-alone provision for people with severe disabilities through ILF Scotland.
- The need to harmonise social security (disability) benefits with social care through person centred approaches already being rolled out such as Self-directed support.

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

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

Disability Living Allowance (DLA)

What is right with DLA?

The is surely an academic question since DWP will continue roll-out of PIP and SG have indicated that they will not further burden claimants (moving from DLA to PIP) with any more assessments during the transition.

Motivation of reform of DLA through its replacement with PIP was two-fold:

- i. reduce overall support by 20% and
- ii. provide a system of support which is more up to date and in tune with disabled peoples' needs in 21st Century.

It would seem odd to base any new developments on DLA as DLA in itself would not support any of the bolder aspirations suggested in the accompanying notes.

Disable people organisations and disabled people might say that one of the good points is that DLA is not means tested.

What is wrong with DLA?

Among the drivers cited for replacement of DLA was is the reduction of waste, fraud and inefficiency and the need to eliminate structurally embedded welfare traps which prevented people from moving from welfare and into work. Implicit in that was the desire to reduce the current level of expenditure which has increased over time. It should be noted that the number of people living longer within our communities with disabilities or extreme frailty has risen and that this has led to, and could be argued as a result of, increased expenditure on DLA and other related supportive benefits.

Personal Independence Payment (PIP)

What is right with PIP?

In these early days it is difficult to see the advantages that PIP has introduced as compared with DLA particularly given the range of issues that claimants are reported to have experienced during the initial implementation stage.

What is wrong with PIP?

There is apparently no way of identifying individuals that are currently in receipt of DLA who are about to be 'invited' to apply for PIP. So there is significant potential for vulnerable people to slip through the net.

Despite their efforts to inform and prepare people in their communities – DWP had advised that because of the random selection of people information could not be secured or shared with councils in order that that could target individuals who might need support and advice.

In terms of overall expenditure, we understand that the anticipated reduction of 20% has not been achieved, and that no significant savings have been made. The changes in criteria from DLA to PIP have effectively shifted the profile of the supported group so that many who would not have qualified for DLA now qualify for support through PIP. This could be interpreted as either a right or wrong of the new approach.

PIP was intended to focus on individuals with the most severe challenges in day-to-day life might be seen as short-termism if the support available to those with lower level needs is withdrawn and those needs then escalate. We are therefore concerned that the proposals will merely pass responsibility for meeting need from the DWP to local authority social work budgets, which are already under great strain.

Processes for applying for PIP are extremely long, complicated and not customer friendly, the length of the form, the types of information requested and the standard of communication provide all make it difficult for those in need to access the support.

Medical assessments have become more prevalent with the introduction of PIP – this is potentially counterproductive for those claiming assistance and has ultimately saw costs associated with administer PIP increasing.

Attendance Allowance (AA)

What is right with AA?

AA for the most part is seen as fit for purpose.

AA has not been subject to review in the same way as PIP and claims appear to be treated with less toxicity by DWP.

What is wrong with AA?

Whilst the provision itself could be seen as fit for purpose the application process and evidence requirements discussed around PIP are true to some extent for AA.

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

Please specify below

Examination / review of age barriers – necessary to review the different rules across the age ranges to confirm if there is evidence to support these differences.

Realistic timescales for review of awards reintroduced based on customer's individual circumstances and prognosis.

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

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

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

Please specify below

How the new Scottish social security system should operate will be appropriate to the benefit being applied for, the criteria associated and the outcomes the benefit is trying to achieve. The process itself if impossible to determine before it is clear what this will be, whether access to medical records and/or assessment is required etc.

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

Yes	X
No	

Please explain your answer

Timescales should be set for both assessments and decision making – surely these would be set out in either/or both legislation and the 'customer charter' if this is adopted.

Those applying for support and the wider public at large should have a clear understanding of the length of time things should take to ensure confidence in the system and to hold however is delivering the service to account.

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

Please specify below

The evidence and information required to support an application will change dependent on the benefit being applied for and the criteria set. The evidence and information required will also be determined by what is available via existing data sets is appropriate.

Who should be responsible for requesting this information?

Please specify below

The person responsible for making the decision should be responsible for requesting it.

Who should be responsible for providing it?

Please specify below

This would depend on what was requested and who would be able to supply the information.

Please explain why

No comment

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

Yes	X
No	

If no, please explain why

No comment

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

Yes	X
No	

If no, please explain why

No comment

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

Yes	X
No	

If yes, which aspects of an individual's life should the criteria cover and why?
The impact is the sensible way to determine entitlement. But we note that some emerging SG policy commitments, such as those associated with community care charging seek to based entitlement on specific conditions e.g. extend free personal and nursing care (FPNC) to people under 65 who have dementia.

If no, how do you suggest entitlement is determined?

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

Yes	
No	x

Please explain why
The rules for the terminally ill are specific and well understood – to start to add others would lead to an ever increasing list of issues being treated under special rules which could be expensive and ultimately lead to unnecessary delays.

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

Please specify below
East Lothian Council would not necessarily be against the introduction of 'automatic entitlement' but agree the matter is complex and would require careful consideration.

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

Please specify below
No comment

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

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

No comment

If no, how could the approach could be improved?

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

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please explain your reasons

Unclear whether this is for all disability payments or those specifically received by those who are terminally ill?

Evidence would be required as to how lump sum payments would assist with the needs of those with a disability in a way which ongoing payments do not.

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

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please explain why

Worth exploring in terms of age equalities but need to be careful about terms like interventions in so far as enabling decisions to be made by individuals rather than state interference.

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

Please specify below

The current system intervention points should be explored to determine the advantages and disadvantages for those receiving them as this will differ for those at both ends of the age spectrum.

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

Yes	X
No	

Please explain how
Single local point of contact / single application for all benefits and financial assessments?
Provision of information/application to other local services available.
Medical information provided in written form to reduce the number of face to face assessments required.

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

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

Please specify below
Single local interface, with relevant professional input from cross-sector e.g. HSCPs

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

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

Please specify below
No comment

Q: How could the existing assessment process be improved?

Please specify below
Only rely on face to face assessments for those conditions/applicants who are unable to provide suitable medical information via other means – DLA was previously assessed face to face by exception – a return to this type of system would be seen as an improvement to the existing PIP process.

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

Yes	X
No	

Please explain why
All available technology should be used to increase accessibility, communication and convenience – information from those with disabilities should be sought to understand the barriers they face and technologies sought to address these where possible.

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

Please specify below

Skype, video-calling, online accounts etc. would all be beneficial to different customer groups.

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

Yes	
No	

Please explain why

Might be helpful where permission is given for a light touch review to be carried out periodically by decision maker reviewing the customer's medical notes to ensure the level of support was equivalent to need. Evidence of the numbers of those likely to need reassess etc. would be required before an informed conversation around this point could take place across Scotland.

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

Please specify below

Day to day medical evidence being available to decision makers, as appropriate, would allow a judgement to be made for a large number of customers regarding whether reassessment was required that was only a subset of those potentially with changeable conditions would require reassessed.

Q: Who should provide that evidence?

Please specify below

If decision makers have access with consent to medical records this would be provided that way.

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

Yes	
No	X

Please explain why

Adaptations are already available through other means. This highlights the need to ensure that there is a joined up approach to the development of the Scottish social security system with existing social care support and entitlements to adaptations and other support.

There are other means by which people can access reduced energy tariffs and other support to tackle fuel poverty.

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

No comment

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

(please tick one box)

Yes	
No	X

Please explain the reason for your answer

Evidence would need to be collected and assessed to confirm the types of one of expenses that would require one off payments to be made.

If yes, what are they?

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

Please specify below

No comment

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

Yes	x
No	

Please explain why

The Motability scheme is seen by those entitled to assistance as a positive experience and restricting access to this provision would prove unhelpful for many.

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

Please specify below
No comment

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

Please specify below
No comment

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

Please specify below
The type of support available should be determined in line with the customer group applying, the type of support they are accessing. User panels will be crucial in determining what that currently looks like and what they would find useful in future.

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

Please specify below
Integration with those services already engaged with those entitled to the various different elements being devolved at design stage is critical.
Sharing information across the agencies and ensuring the work being done at national and local level is complementary.

Q: How do you think this might be achieved?

Please specify below
Involving services at both national and local level in policy, operational and administrative discussions as early as possible – recognising the huge cross over between the support provided by way of social security, supports that will remain devolved and services provided locally.

Q: What are the risks?

Please specify below
Failure to share information and design integrated service will be costly and will lead to an even more clutter landscape of services in Scotland.

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

Please specify below
No comment

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

What is right with the IIDB scheme?
No comment

What is wrong with the IIDB scheme?
No comment

Please explain your answer
No comment

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

Yes	<input type="checkbox"/>	No comment
No	<input type="checkbox"/>	

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

Yes	<input type="checkbox"/>	No comment.
No	<input type="checkbox"/>	

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

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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

Yes	<input type="checkbox"/>	No comment
No	<input type="checkbox"/>	

7. Carers Allowance

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

Yes	
No	x

Please explain why

Overall the approach does not give enough consideration of the potential to deliver a more joined-up approach by integrating delivery mechanisms with those in place to implement the Carers Act. A 'twin track' approach is mentioned, but there is little discussion of the options here, for example, the potential for a single portal for financial and other support for carers. The approach also seems confused about the primary purpose of the benefit, which raises a number of issues described below.

The paper seems confused about the purpose of CA. It is described as 'income replacement', which normally requires means testing to establish the income-deficit that requires to be replaced, yet a commitment is given that CA will not be means-tested.

There is no rationale given for selecting JSA as the benefit to level CA with. JSA is a means-tested benefit for the purpose of income replacement and bringing everyone up to a certain level of income. Again, this raises questions about why carers will be exempt from means-testing resulting in associated questions about equity with other claimant groups.

Raising the level of CA for those caring for more than one child will raise expectations amongst those caring for more than one adult, and further thought needs to be given to the rationale behind this. If the purpose of the benefit is to offset the costs of caring, why are the costs for adults thought *not* to increase for more than one person, yet the costs for children are? Conversely, if the purpose of CA is income replacement, why is the impact on ability to work thought to increase when caring for multiple children, but not for multiple adults?

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

Yes	
No	x

See previous comments regarding the potential for integration with health and social care services and the provisions of the Carers Act.

The approach to young carers whereby they are encouraged to 'sustain the caring role if they wish' would be problematic for very young carers, or for those where the caring burden is high. The approach within social care in these circumstances may

be to minimise, or even exit from, the caring role. The proposals do not give sufficient recognition to the fact that caring can have a negative impact on health and wellbeing and that public services have duties to protect the wellbeing of children and young people. It also needs to be clear at what age young carers allowance would be made available and how this might interact with other benefits such education maintenance allowance etc.

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

Please specify below

The development of a single portal for accessing all financial and other support would greatly simplify the process for carers. This would allow for a single integrated assessment which considers the carer's needs in a holistic way and allows financial and other resources to be pooled, with the carer having maximum choice and control over how this is invested to meet their needs. The systems and processes in place to deliver self-directed support have significant potential in this respect.

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

Yes	x
No	

Please explain why

See comments about flexibility and maximising choice above.

Q: What alternative support should be considered?

Consultation with carers themselves will give the most helpful indication of this. It may be worth exploring whether 'regular' expenditure items, such as utility bills, would more helpful than one-off expenditure items which can be harder to finance if unexpected – e.g. replacing a broken washing machine.

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

The development of a single portal for accessing all financial and other support would greatly simplify the process for carers. This would allow for a single integrated assessment which considers the carer's needs in a holistic way and allows financial and other resources to be pooled, with the carer having maximum choice and control over how this is invested to meet their needs. The systems and processes in place to deliver self-directed support have significant potential in this respect.

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

Yes	
No	

Please explain why

The main focus for the longer-term appears to be on changing the definition of a carer. The Carers (Scotland) Act significantly widened the definition of who is a carer and this will result in an expectation that any new Scottish definition for welfare purposes follows this. Differing definitions could give rise to concerns about equity. However, using such a broad definition to define eligibility for CA would result in a significant cost. There may be a need to consider other approaches to deciding who is eligible for CA and what level of benefit is awarded to different groups.

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

No further comment

8. Winter Fuel and Cold Weather Payments

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

Please specify below

Extending Winter Fuel Payments to families with disabled children on higher rate of DLA and making early payments to those households who live off the gas grid is a helpful suggestion in the short term. COSLA also welcomes the intention to consider the reports of the Fuel Poverty Strategic Working Group and the Scottish Rural Fuel Poverty Task Force when they are published later in the year and COSLA looks forward to discussing options for longer terms strategies to potentially use Winter Fuel Payments and Cold Weather Payments to as effective use as possible.

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

Please specify below

Again depending on the reports from the fuel groups and the evidence available across Scotland COSLA would not rule out changes being made regarding temperatures and length of time across Scotland however these changes would need to be discussed in term of benefits to those in receipt and increased costs should they be likely.

9. Funeral Payments

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

Please specify below

The benefit should cover as a minimum the cost of a dignified funeral and we welcome the intent to set up Ministerial round table events and a national conference on funeral poverty to further debate this area.

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

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

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

Yes	
No	X

Please explain why
No comment

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

Please specify below

The DWP process for identifying who is responsible for the funeral and who should receive payment of the funeral payment in itself does not appear to be the problem with the existing system rather the delays in assessing applications and the way in which these are communicated seem to cause issues.

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

Yes	
No	X

Please explain your answer

Increasing eligibility to include other groups would increase the total amount spent on this provision across Scotland – it would seem more sensible to encourage more people to save for funeral costs going forward than to increase those who are entitled to assistance.

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

Yes	x
No	

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

No comment

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

Please specify below

Increase the amount of information passed from statutory agencies as opposed to requiring applicants to gather information at a time when they are potentially less able to do this having been recently bereaved.

Seek consent from the applicant to contact funeral providers on their behalf.

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

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

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

Please specify below
No comment

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

Please specify below

Registrars
DWP
Local Authorities
Council Tax Teams
DWP
NHS
Advice and Support Agencies

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

Please specify below
No comment

10. Best Start Grant

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

Please specify below

Under the current scheme more families receive and benefit from a grant albeit a smaller one than under the new scheme. The proposal increases the value of each grant (by almost a 3rd), with limited funding it will have to be targeted on families with very low incomes / those most deprived. The proposal will inevitably see a reduction in the number of families who can receive a grant.

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

(please tick one box)

Yes	x
No	

Please explain why:

The person who receives child benefit or who lives with that child and is responsible for their welfare should be the claimant and be assessed for the BSG.

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

Yes	x
No	

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

With exceptions in limited circumstances, e.g. changes to guardians.

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

Yes	X
No	

Please explain why:

Family relationships can be complicated and more straight forward if it can be identified how many children (under 16) are in a household already.

If no, what alternative method should we use?

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

Yes	x
No	

Please explain your answer:

Having the requirement that mothers are only eligible for a grant if they have received medical advice reinforces the importance of attending antenatal care. This should mean those at greatest risk will increase access to medical advice and hence improve health outcomes.

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

The 3 identified transition points are the areas of greatest pressure for a family.

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

Flexibility is required as 'the start of nursery' can vary greatly depending on individual family circumstances.

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

The issue of sustainment of the nursery placement after the payment has been made, ensuring the child continues to access this placement opportunity.

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

We would need to understand what the additional expenses are that are incurred as a child starts school not already provided via school clothing grants and free school meals.

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

Payment should be made to all eligible children who begin primary school for first time. An upper age limit could be detrimental to a child's transition.

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

We support the proposed process of 3 separate payments over a 5 year period as this will benefit people whose circumstances change either positively or negatively over the period. The extension of the 1st payment window would benefit claimants and address concerns under the current scheme that the window is too short.

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

An integrated application process for both grants would be positive as this could reduce bureaucracy, duplication and improve efficiencies.

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

More streamlined, reduce duplication, improve awareness of both among mothers.

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

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Difficult for some to manage large sums of cash, whilst ensuring appropriate use of funds to support outcomes and improvements. A catalogue would offer value for money due to purchasing power which would help constrained budgets.

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

Health visitors, Jobcentre, social work department.

11. Discretionary Housing Payment

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

Yes	X
No	

Please explain why

It would be desirable to move towards full mitigation of the bedroom tax in Scotland as part of the way UC is calculated for Scottish claimants rather than use DHP as a means of doing so. However, it is understood this will not be fully possible until all working age claimants have migrated to UC.

Consideration should be given to using DHP to focus equally on all the elements of housing need and welfare reforms. In some authorities, other measures such as LHA changes are having more of an impact than the bedroom tax yet the way authorities have been funded and the differing priorities of UK and Scottish Governments means that those affected by other measures are subject to prioritised assistance while those impacted by the bedroom tax experience full mitigation.

It is important that local authorities continue to exercise discretion on local priorities as Scotland experiences quite different housing markets and pressures in different areas which national priorities are unlikely to address adequately.

Q: Could the administration of DHP applications be improved?

Yes	X
No	

Please explain why

Local authorities will always strive to improve on efficiency of administration by way of continuous improvement particularly with regard to speed of response however it is important that DHPs are able to respond to local pressures and impacts in different housing markets and local authorities continue to exercise discretion on local priorities.

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

Yes	X
No	

Please explain why

Guidance will require on- going review in the light of new pressures and impacts and this should be completed with input from all relevant stakeholders.

12. Job Grant

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

Please specify below

It is important to consider how making this payment integrates with local employability offerings so that public assistance has maximum impact.

Some authorities already provide cash payments to assist with appropriate clothing, tools etc. and it is important that there is no duplication of effort.

There is a strong argument for devolution of this to Local Government to enable alignment with the employability pipelines creating better integration and value for money.

Devolution to Local Government may also provide the opportunity to have this Job Grant up and running earlier than other elements of Social Security as Councils already have the existing infrastructure to make one of payments via arrangements set up to provide Scottish Welfare Fund and or Education Maintenance Allowances.

13. Universal Credit flexibilities

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

Yes	
No	

Please explain why

While this might be considered at some point, it is important to put in place the arrangements to address the specific risks for payment of rents in the social sector as a priority.

The arrangements for the payments of APAs under UC which are open to private sector tenants are not dissimilar to the current arrangements under Housing Benefit and LHA.

It is not clear what problem extending the choice of managed payments to PRS tenants would be seeking to address and any change in policy should not be embarked upon without a clear evidence base and evaluation of the costs to introduce such extended arrangements versus the benefits gained.

Further research is required on the impact that UC is having on the private rented sector. There is a concern that a reduction in private sector landlords will reduce houses for rent and contribute to an increase in homelessness and a reduction in temporary accommodation for homeless people.

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

Yes	x
No	

It would be important to have this choice to address situations of possible domestic abuse or when the payment may be going to a member of a household who is not the tenant with the responsibility for payment or rent.

However again we would point out this provision is already available in the existing Universal Credit system as is – we would expect evidence to be sought around need for an extended provision in Scotland, costs and benefits realised before making an informed judgement on the requirement for this.

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	x

To have this as the default position might produce significant difficulties in ensuring the rent is paid. This would be a radical step to take without a very clear evidence base on the likely behavioural impacts.

b) automatic household payments, with the option to choose individual payments?

Yes	x
No	

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

It would be important to have this choice to address situations of possible domestic abuse or when the payment may be going to a member of a household who is not the tenant with the responsibility for payment or rent.

The proportion of splitting payments may need to be determined in the light of evidence in individual cases, unless there is a clear evidence base which would give confidence on the likely behavioural impacts.

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

East Lothian Council is very concerned about the impacts of UC on rent collection and the potential for large build-up of rent arrears as numbers and complexity of need increases in UC rollout.

East Lothian is the first area in Scotland to be subjected to Universal Credit full service since March 2016. We are therefore in a unique position to understand the impact and implications of UC on areas such as Council house rent collection and Council Tax Reduction.

Housing element of Universal Credit

As a social housing provider, the Council must maximise income, sustain tenancies and reduce homelessness. This means engaging with customers, establishing a payment culture and understanding their needs, whilst identifying and managing risk. All of this must be done whilst cutting costs and delivering value for money.

We have carried out an impact assessment of UC on our rent collection and estimate by the time we have reached full UC caseload, Council Officers will need to collect

£8.3m direct from Council house tenants receiving UC. In most cases, this is currently paid direct to the rent account in the form of Housing Benefit.

In recent years, due to the economic climate and now in particular due to the rapid increase in UC claims, collection of Council house rent and Council Tax is becoming even more challenging. In order to minimise the impact on Council house tenants, in terms of both finance and wellbeing, and to ensure that we maximise collection and safeguard the Council's income, our Officers are having to spend significant time supporting UC claimants, particularly the more vulnerable in our community.

Our Officers are having to effect early engagement from tenants moving onto UC by way of arranging face to face contact, often in tenants' homes, to ensure that they understand their obligation to pay their rent and Council Tax from their UC payment and to verify that adequate provision has been made to do so. We are finding that, as UC is paid in arrears and there is a six week assessment period prior to payment being made, this is placing significant financial pressure on tenants during this period. Our Officers are having to ensure that all forms of financial assistance have been applied for and our experience is that, in most cases, rent arrears are accruing or increasing during this time. As you will appreciate, this is a very resource intensive and costly service to provide. It has been estimated that such interviews, which may have previously lasted around 15 minutes, are now taking up to 1.5 hours.

As identified in some of the early UC pilots, Council Officers are often just discovering vulnerability of some tenants and residents, as many previously received maximum Housing Benefit and there was not always a full awareness of their circumstances e.g. mental health issues, addictions, literacy, numeracy and financial difficulties. It is likely that Job Centre staff will have established these circumstances as part of the claim process but unfortunately it would seem that this personal information cannot be shared with local authorities, which means that Officers are having to undertake in depth tenant profiling work to determine the level of support required to manage individual situations. All of this gives rise to significant pressure being put on already stretched Council services.

When the Council is notified of a new UC claim for a Council tenant, we issue an Evidence of Rent Liability form to the tenant as proof of their housing costs. The information contained within this form is almost identical to the SRS Verification of Housing Costs form, which is subsequently issued to the Council by the DWP for completion. This appears to be a clear example of duplication of effort and is something which could be done more efficiently.

Council Tax Reduction

One of the unintended consequences of the introduction of UC coming on the shoulder of the introduction of the Council Tax Reduction (CTR) scheme in Scotland is that we are now facing a significant problem in Council tax collection. People eligible for CTR who are also claiming UC now have to submit a separate claim to the Council for their CTR.

The Council has experienced a significant decline in the number of people claiming

CTR and consequent reduction in CTR expenditure since UC was introduced. Whilst we recognise that a number of factors can affect CTR take up there is a clear correlation between claimants no longer being able to claim Housing Benefit and CTR jointly and this decline. Whilst the UC process should mean that the Council is informed by the DWP Service Centre that a claimant wishes to claim CTR, we have seen evidence that some notifications have been sent to the wrong organisation. In the case of those that have been received the Council can no longer rely on confirmation of the claimant's UC award being available on the DWP's Customer Information System. As a result of this, the Council has to resort to asking claimants to confirm their UC award which, because of the waiting period and built in UC processing delay may not be available for 6 to 7 weeks. Inevitably, many customers are not supplying this information and are losing out on their CTR entitlement. Consequently, this is continuing to have a detrimental effect on Council Tax collection performance.

East Lothian Council would strongly recommend that the Scottish Government should use its UC administrative flexibilities to re-introduce direct payments of the Housing element of UC to local authorities as soon as possible.

The Scottish Government should also review how the CTR scheme operates in view of the complications and negative impacts associated with UC.

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

The Scottish Government's response to UC cannot be restricted to the housing element of UC.

It is East Lothian Council's experience so far, that the 7 day waiting period at the outset of the UC claim process and the 6 week assessment period is creating significant financial difficulties for claimants. Routinely, claimants do not have sufficient savings or financial means to get through this lengthy period before they receive their first payment. It is often the case that a reduced first UC payment is made, as a portion is retained to cover any DWP advance, leaving insufficient funds to pay all outstanding household expenses and housing costs, let alone budget for the forthcoming month. The Council is regularly putting repayment arrangements in place to cover rent and Council Tax debt from the day the UC claim is made.

The decision to pay UC monthly in arrears is also placing significant strain and creating debt for claimants.

These pressures are manifested in increasing demand on Scottish Welfare Fund and increased demand for services such as Foodbanks.

It has been highlighted that, in many cases, UC claimants are visiting Council offices to use telephone facilities to contact the DWP Helpline about their claim as they have no credit on their phone. Although East Lothian Council provides online access in various Council offices, our experience is that many claimants are not able, or

confident enough, to access their UC journal themselves and that they would prefer to speak to someone from DWP about their claim.

Whilst recognising that UC is not being devolved to the Scottish Parliament we suggest that the Scottish Government needs to ensure that the development of a Scottish social security system and its powers over UC administrative flexibilities take into account and where possible put in place measures to mitigate the problems being encountered through the roll out of UC full service as soon as possible.

While in future such powers would allow the Scottish parliament to exercise different choices to mitigate benefit retrenchment by the UK Government, careful consideration would need to be given to the impact of e.g. a more generous Scottish regime. There is potential for adjustments to the block grant if cuts go ahead in rest of the UK but are mitigated by the exercise of these powers in Scotland and any extra public investment in Scotland might be better made in other areas of public policy e.g. affordable housing, education, social care etc.

The experience of East Lothian Council and other authorities that are beginning to roll out full service UC will be invaluable to the Scottish Government as it develops its proposals for a Scottish social security system. In particular we have much to learn both in terms of good practice, but also bad practice in developing new benefits systems and the relationship between national agencies (DWP or a new Scottish Social Security agency) and local authorities that are administering parts of the system.

PART 3: OPERATIONAL POLICY

14. Advice, representation and advocacy

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

Please specify below

Publically funded advice providers should play a full part in the development of the new Scottish social security system – they have significant experience across the social security landscape, both in terms of entitlement based systems and discretionary payments, to exclude publicly funded advice providers would risk losing significant experience and opinion on the areas identified.

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

Please specify below

As a first step it is important to gain a current understanding of the current landscape across Scotland around publicly funded advice agencies. Scottish local government, Scottish government and the UK government provide funding to various organisations, for various lengths of time to do various types of work. Sometimes the funding is to do benefit specific work and at others general work around signposting etc. without understanding the current landscape it will be difficult to assess what the impact across the various parts.

Having a complete picture around what is currently available, what will continue to be available and what each 'advice agency' specialises in will allow a truer understanding of the impact and therefore more realistic actions required to allow publicly funded advice services to assist those affected by changes appropriately.

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

Please specify below

No comment

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

Yes	x
No	

No comment

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

It is important to understand the current provision around Advocacy available, look at the breadth of subjects/localities serviced and agree actions moving forward to strengthen those areas that are sparse without ending up with over-provision in other areas.

15. Complaints, reviews and appeals

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

(please tick one box)

Yes	x
No	

Basing the CHP on the SPSO Statement of Complaints Handling Principles seems sensible and would align the Scottish Social Security complaints procedure with other large public bodies e.g local authorities already operating in Scotland.

Q: How should a Scottish internal review process work?

As mentioned in the notes accompanying the consultation questions internal reviews are normal practice across much of public sector in Scotland.

Internal reviews when carried out using established (and published) procedures in set timescales, allow public bodies to remedy disputes at the lowest level possible – ensuring timely resolution and good feedback mechanism to prevent re-occurrences.

The same principles as noted above should apply to the Mandatory reconsideration process within DWP however opinion seems to suggest the lack of clarity around the process and timescales has led to public confidence in mandatory reconsideration being extremely low.

The Scottish Social Security internal review process should be simple to apply, follow a set process and have published timescales attached, to ensure transparency and confidence in the process.

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

Timescale should be discussed as part of co-production work and also work with those agencies who have experience of decision making processes.

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

Yes	x
No	

The issues being appealed via the Scottish Social Security system with a few notable exceptions will be around on-going entitlement to benefits e.g Carers Allowance as opposed to one off discretionary support e.g Scottish Welfare Fund.

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

No comment

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

We assume regardless of the final option chosen for the appeals process for Social Security that the legislation and 'claimant charter' if adopted would also apply to the appeals service – all of the suggested action for the agency earlier in this submission would be as relevant to the appeals service to ensure the values as highlighted are carried through.

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

No comment

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

Please specify below
Timescale should be discussed as part of co-production work and also work with those agencies who have experience of decision making processes.

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

Process should be developed with all relevant stakeholder and should be consistent across the range of Social Security benefits being devolved.
Decision Making guides etc. should be available to the general public.
Ensuring communications are provided in a way that best suits the applicant and local supports available to guide them through the process are critical.
Regular reports on the performance of appeals processes etc. should also be part of the process.

Q: How could the existing appeals process be improved?

Reduce delays
Make it more customer friendly
Ensure appeals can be heard both orally and in writing
Ensure technology is utilised to minimise disruption where possible

16. Residency and cross-border issues

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

Yes	x
No	

Individuals who are residing in Scotland should be able to access Scottish benefits – those living out with Scotland are not part of the tax base.

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

The current ‘habitual’ residence test is consistent and long established – to apply a different test for those benefits devolved to Scotland would surely cause confusion and some unhelpful results e.g DWP rule customer not habitually resident for Universal Credit and Scottish Social Security Agency rule habitually resident for Disability Benefits?

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

No comment

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

How the Scottish Social Security system deals with those who live on one side of the border and work on another requires careful consideration to ensure fairness of access and equality are maintained.

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

Data sharing will be an important tool for the prevention of ‘double claiming’. Clear and concise eligibility rules including residency checks etc. will also be paramount to prevent the new system being vulnerable to misuse.

17. Managing overpayments and debt

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

Yes	x
No	

Deductions from source are done in a piecemeal fashion at present with little prioritisation or recognition of the overall effect on those claiming assistance – Scottish Government should consider working with DWP, utilities companies and LAs to ensure the overall effect across the benefits landscape is considered.

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

Financial advice is important in the recovery of overpayment and for that matter in many other elements of social security – financial advice needs to be available in various forms (face to face, telephony and online) and also needs to be suitably independent to ensure those affected are being advised accordingly.

18. Fraud

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

Yes	
No	

If no, what else should be used instead?

We would suggest a significant refresh of the existing Scottish Government approach is required as Scottish Social Security becomes a reality.

Consideration will be required around joining up offerings with work being done locally, (and nationally via the Fraud Investigation Service) providing the legal basis for other work moving forward and also joining up the Scottish system with the work ongoing to protect the benefits not being devolved to Scotland.

Local Government, DWP and other stakeholders have much experience and insight that will be invaluable in this area of work moving forward.

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

Yes		No comment
No		

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

Data sharing
Clear and consistent eligibility criteria
Joining up national policy with local knowledge
Reducing clerical processes
Asking for proportionate evidence at the onset and during claims.

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

Yes	
No	

No comment

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

No comment

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

No comment

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

No comment

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

Yes	
No	

No comment

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

Yes	
No	

No comment

19. Safeguarding your information

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

Yes	X
No	

The same principles should apply

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

Yes	
No	

No comment

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

No comment

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

No comment

Q: Do you perceive any risks to the individual?

No comment

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

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

Yes	x
No	

Applicants have highlighted the need to make the Scottish Social Security system easier to access and use – sharing data across public sector bodies is one way in which this can be realised.

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

Yes	x
No	

Yes – data sharing will become increasingly important as we move towards not only the Scottish Social Security system but across the public sector organisation more generally as Public Service Reform continues in years to come.

There must be proper robust data sharing agreements in place and the new data protection legislation which comes into force in May 2018 will need to be taken into account.

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

Having the ability to complete application online is critical if social security in Scotland is to keep pace with other parts of both public/private service provision.

However, resources will need to be made available to local authorities and advocacy groups to support vulnerable people and the digitally excluded to access on-line services.

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

Many LAs have started to pilot/introduce citizens accounts to allow residents, who wish to and are able to, check, apply for and correct information via online routes.

Experience and research from these types of projects should be drawn on for the Scottish Offering.

20. Uprating

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

At the UK level there are different approaches to the indexation of in work benefits, pensions and other payments. The most generous is the “Triple Lock” which relates to the State Pension and is currently the higher of 2.5%, CPI and Average Earnings. There are understandable concerns over the sustainability of such an uprating

approach and it would not be advisable for the SG to adopt a similar policy for the devolved benefits.

If the general acceptance is that CPI is the “cost of living” inflation measure, then this is an option on its own (subject to the response in the 2nd question). This is in line with the UK approach and would ensure a fiscal link with the uprating of the funding due to come to the SG from the UK Government. If Scotland adopted a more generous uprating, then this would have to be funded at the expense of something else.

An automatic uprating set by regulations is more transparent and less prone to ad hoc/political adjustments however it can mean that funding is not always targeted at those in most need. However, the way to deal with that would be to factor this in when devising the new Scottish Benefits rather than making the uprating system overly complex.

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

The one which stands out as not being linked to a general inflation measure is the Cold Weather Payments/Winter Fuel Allowance which is clearly linked to Fuel costs. Measures do exist which track movements in Utility prices and if it was decided to create an annual uprating then these could be used. This annual uprating could be funded by removing the universal nature of the Winter Fuel Allowance.