

Goodbye to PIP, but hello to what? Disability, social security, devolution and policy change in Scotland

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Abstract (Standard example):

The Scottish Government has ambitions to build a new social security system in Scotland with new powers over social security. With the ability to now entirely replace the UK's Personal Independence Payment, highly controversial for the way it has narrowed entitlement and made the process of applying stressful, the Scottish Government has the opportunity to transform both the experience of disabled people in applying for social security and ensure what is paid more accurately reflects the costs of disability. However, whilst significant improvements to the process of applying appear to have been made and these are having a positive impact on access to payment, the Scottish Government's gradualist approach has also put off by some years more fundamental improvements.

Key messages

1. The Scottish Government is in the process of replacing the UK Personal Independence Payment, a social security payment paid to people with health conditions or disabilities to help them with the additional costs of their health condition or disability
2. The new payment, Adult Disability Payment, launched in March 2022 and whilst similar in many ways, appears to be easier to access.
3. Initial data shows that this is resulting in more successful claims and more claims paid at the higher rate.
4. However, more fundamental improvements to PIP have not yet been confirmed, and it currently falls short of the ambitions for the new system from service user groups.

Key words/short phrases:

Scottish devolution; Personal Independence Payments; Social Security
Scotland; Adult Disability Payment; social security; disability

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Introduction

Social security was excluded from the Scottish devolution settlement of 1998. When the devolved institutions started to function from 1999, they had extensive powers to shape health, education, care and other key areas of social and public policy, but social security remained largely a reserved matter.

However, the Smith Commission established in the wake of the closer-than-expected independence referendum result recommended a part-devolution of social security, with extensive powers to legislate for social security related to the additional costs of disability; carers; housing; and new children. Flexibilities were granted to alter select elements of Universal Credit and create entirely new payments providing they related to a devolved area. Most aspects of Universal Credit and its predecessor payments are still reserved, but they can be ‘topped-up’ using devolved powers. The Basic State Pension remains entirely reserved.

Expenditure on payments being transferred comprised an estimated 15% of all social security expenditure in Scotland (Scottish Parliament Information Centre, 2022). However, these figures belie the huge significance of the new social security system for disabled people and people with health conditions. Disability Living Allowance, Personal Independence Payment and Attendance Allowance are central to independent living for disabled people and their approximately 580,000 recipients (Social Security Scotland, 2021) equate to around one in 10 of the population receiving a disability payment, with 82,000 carers of disabled people also receiving Carer’s Allowance. Industrial Injuries Disablement Benefit and Severe Disablement Allowance are also now the responsibility of the Scottish Government. In 2024, £4.2bn of a total devolved social security budget of £5.2bn was forecast to be spent on payments for disabled people and those with health conditions (Scottish Fiscal Commission, 2022).

Such groups have been at the forefront of UK welfare reform since the late 1990s and are amongst the most negatively impacted by attempts to reduce social security expenditure (Cross, 2013). The replacement of Disability Living Allowance (DLA) with Personal Independence Payment (PIP), both non-means-tested payments aimed at compensating for the additional costs of disabilities and health conditions but fundamentally different in their design, has attracted the most attention given a series of fundamental flaws in its design and significant negative impact on access to support. Criticisms include how evidence for claims is valued and used (see for example, Porter, Watson and Pearson [2022]); the mental and physical health impacts of the application process, in particular the face-to-face assessments that became the default in PIP (MS Society, 2018); the significant financial losses faced by people losing entitlement when being moved onto PIP from DLA (Scottish Government, 2017); high rates of decisions being overturned when challenged at tribunal (Citizens Advice, nd), and the failure of the points-based system of measuring eligibility to accurately reflect applicants’ level of need (Machin and McCormack, 2021).

As a result, PIP has been the highest-profile social security payment transferred to Scottish Government responsibility and, alongside the new Scottish Child Payment for low-income households with children, has involved the most policy work for the Scottish Government. The replacement of PIP in Scotland with Adult Disability Payment (ADP) is an important test of the new Scottish social security system’s ability to deliver fairness for disabled people, and is the focus of the paper.

Adult Disability Payment and the new devolved social security system

Adult Disability Payment is currently largely unchanged from PIP in many respects. Its purpose to compensate for the additional costs of health conditions and/or disabilities is unchanged, and it remains non-means-tested and non-taxable. It is structured the same way, with a Daily Living Component and a Mobility Component, each paid at a Standard or Enhanced rate. The amounts paid are the same, and there have only been minor changes to the descriptors which determine entitlement (Shaw, 2022). The controversial 20m test of mobility has not been replaced, and nor has the abolition of the lower rate Care Component of DLA been reversed.

The Scottish Government's justification for making so few changes to the core elements of PIP in ADP is that it is prioritising the 'safe and secure transition' to the new system. It argues that changes to the criteria before all PIP cases are transferred into the new system would risk administrative overload, create a two tier system of different entitlements and risk the UK Government not recognising ADP for the purposes of passporting to other UK entitlements (Robison, 2021). These claims have not been universally accepted: running two different systems as one winds down and the other comes into place is common in the UK, and the latter argument on passporting would potentially rule out even longer-term changes to eligibility, not just changes whilst ADP is being established. It has been the source of criticism from opposition parties within the Scottish Parliament and from groups such as the MS Society, which campaigned for the 20m rule to be scrapped in the run-up to the launch of ADP in March 2022 (MS Society, 2021). However, the position does have the support of the Scottish Commission on Social Security (2021), which provides independent scrutiny of devolved social security policy. Future changes to eligibility criteria are only now being consulted on (Scottish Government, 2023).

However, although ADP will not differ significantly from PIP in the short or medium terms, this comes with two caveats. Firstly ADP does make a number of middle-order changes that potentially could make it easier for disabled people to access the payment:

- **Removal of barriers to applying:** ADP removes the barrier PIP has in requiring applicants to ask for an application form first. Application forms do not need to be requested first if applying online, and applications can be made either online, on paper or over the phone, rather than the more restrictive offline application routes that apply to PIP (Scottish Government, 2023).

Like PIP, ADP has an accelerated process for people who are terminally ill, but unlike PIP, this only requires a medical certification that the person has a terminal illness and the likely time of their death is not considered, whereas PIP requires death to be likely within 6 months (Social Security Scotland 2022a).

- **Reduction of assessments:** The Scottish Government went into the legislative passage of the Social Security (Scotland) Bill promising to reduce the need for the additional assessments, often in person, required by PIP and which have been amongst the most controversial aspects of the PIP system. The Government accepted a Scottish Green amendment to put this on a legal footing, and so the Act explicitly prohibits the conducting of any similar form of assessment unless

1 it is necessary due to sufficient evidence to make a decision not being available.
2 The intention is that, quite differently to PIP, decisions on most ADP
3 applications can be made on the strength of the application, any accompanying
4 evidence, and further evidence obtainable from sources such as the applicant's
5 GP, carer and so on (mygov.scot 2022). Should further assessment be needed, it
6 is by a new system of 'Client Consultations' (ibid), which prohibits any
7 functional assessments, and is over the phone by default, carried out in-person
8 only at the request of the applicant.
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10 This appears to be a highly significant change. In doing so, the way applications
11 will be assessed will roll-back the high-surveillance approach of PIP and be
12 closer in nature to the way that DLA applications were assessed. Given the
13 multitude of problems stemming from the PIP in-person assessments, this
14 approach has the potential to significantly improve the qualitative experience of
15 the process of applying, and the Scottish Fiscal Commission has cited it as a
16 factor in the higher expenditure it is projecting for ADP (Scottish Fiscal
17 Commission 2021).
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- 21 ● **Award length:** In contrast to PIP, ADP awards are indefinite and do not need to
22 be re-applied for (Shaw, 2022). Applications are reviewed through a 'light
23 touch' approach, in most cases at between 5 and 10 year intervals, though some
24 applications made for conditions unlikely to change will need fewer or no
25 reviews, again closer to the *status quo ante* of DLA.
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- 28 ● **Appeals and Short Term Assistance:** Most devolved payments are subject to a
29 two-stage appeals process similar to that which operates for reserved payments,
30 and this attracted some criticism during the passage of the Social Security
31 (Scotland) Act. However, there are two important differences. A Re-
32 Determination, the Scottish equivalent of a Mandatory Reconsideration, triggers
33 an entirely decision and mandates Social Security Scotland to look at the
34 application and evidence again, in contrast with an MR (Citizens Advice
35 Scotland, nd). Decisions that have reduced a recipient's entitlement can also
36 apply for their payment to be restored via an entirely new Scotland-only
37 payment, Short Term Assistance (STA), until the appeals process has been
38 exhausted (ibid).
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43 Secondly, ADP is part of a new and potentially different social security system. Like
44 most of the entitlements being devolved and any new ones being created, ADP is part of
45 a legally separate social security system to the UK system, which differs in a number of
46 respects. As well as restricting the Scottish Government's ability to conduct face-to-face
47 assessments, the Social Security (Scotland) Act 2018 created the legislative framework
48 for the new system, involving a new set of guiding principles - including that social
49 security is an investment in people and is central to the realisation of human rights; a
50 charter which establishes the rights of applicants and recipients of Scottish payments,
51 and a requirement on the Scottish Government to improve take-up. The remit of the
52 DWP is ending and being replaced by the new Social Security Scotland agency, with
53 new procedures and guidance for staff. It remains to be seen how these will improve the
54 experience of applying and for and receiving payments, but again the Scottish Fiscal
55 Commission have cited some of these changes as likely leading to ADP costing more
56 than PIP (Scottish Fiscal Commission, 2021).
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Adult Disability Payment: small changes, big impacts?

Given the apparent paucity of decisionmaking under PIP, changes to the way applicants evidence their claims and the way the evidence is considered by decisionmakers may result in significant improvements to the accessibility of ADP (both in terms of accessing any award, and accessing the highest awards), even absent changes to the design in the short and medium term.

The data from the initial months of ADP suggest that applicants are considerably more likely to gain an award than applicants for PIP, a 17% difference (Table 1), and successful applicants are more likely to get an award at the Enhanced rate for ADP compared to PIP: a 24% difference for the Daily Living component and 8% for Mobility (Table 2).

[Table 1 here]

[Table 2 here]

The ADP data should be interpreted with caution. It represents just over 10 months of applications only; ADP was phased in gradually by Local Authority, so the figures only represent a full roll-out from August 2022 only, and we know from the introduction of ESA and PIP itself that initial data can differ from longer-term trends.

Nonetheless, these figures do tally with earlier forecasts made by the Scottish Fiscal Commission (SFC), the only other substantial indication of how ADP is likely to progress in terms of awards. Though subject to considerable uncertainty, the Commission estimates that ADP expenditure will be around £700m higher in 2027/28 (Scottish Fiscal Commission 2022) compared to if the Scottish Government had made no changes. It expects a higher number of applications (by around 10% in the long run) to be made, a higher rate of successful applications (also by about 10%); more awards given at the Enhanced Rate (a 15% increase) and a significant fall in the number of awards ended as a result of a review (14% fewer) (Scottish Fiscal Commission, 2021). It attributes this to a range of factors outlined in Table 3.

[Table 3 here]

Early data shows that the appeals process is also working differently to PIP. Social Security Scotland reports that 4% of ADP decisions (new claims and case transfers) were challenged by claimants through a Re-Determination, compared to 21% of all PIP decisions being challenged through an MR ([DWP, 2023](#)). The Scottish process also results in more decisions being overturned: 62% (Social Security Scotland, 2023) compared to 21% for PIP ([DWP, 2023](#)). This appears to support claims that MRs are used primarily to place an additional barrier to mounting a successful challenge ([Osborne, 2015](#))

Conclusions

Any conclusions must come with the proviso that ADP is only a year old, and the review of ADP pledged by the Scottish Government, with a view to making more substantive changes once everyone has transferred from the UK system, has not completed. There is also no data yet on the way ADP has or has not improved the experience of claiming PIP.

However, the changes made so far appear to have the potential to make ADP easier to access than PIP, and there is a seemingly sincere intention of the part of the Scottish Government to depart from the UK approach through PIP, much of which by its own admission, was meant to reduce claims. Initial data and SFC projections suggest these will result in more successful applications and more awards made for longer, and more at the higher rate, for a significant additional annual cost to the Scottish Government.

Yet, significant gaps remain. There does not, so far at least, appear to be an intention to reverse the UK's elimination of the DLA lower rate care component, which caused many to drop out of eligibility on transition to PIP, nor to review how the payment rates are decided, nor to have automatic awards based on someone's condition, as suggested by Spicker (2019). Concerns about how well the points-based system allows people to relate their condition to the eligibility criteria (ibid) are reflected in the Scottish Government's consultation on the criteria and it also consulting on changes to the eligibility criteria, including the controversial 20m rule for mobility, and the requirement that the impact of someone's disability impacts the applicant 50% of the time. But any changes to these or other criteria have not yet been committed to by the Scottish Government, and in the consultation document are hemmed-in by concerns over deliverability and affordability (Scottish Government, 2023).

With ADP, it appears that the Scottish Government has made more changes than might have been the case. In theory, the Scottish Government could have declined to use the new powers, or kept Scottish applicants and recipients in the UK system subject to minor differences in the rules, and paid the UK Government to administer these. These changes appear likely to make PIP more accessible and considerable extra cost to the Scottish Government. However, it also appears to be making far fewer changes than are warranted by the experience of PIP and that are hoped for by disabled people and people with health conditions in Scotland and their representative organisations.

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	Awarded	Not Awarded	Withdrawn
ADP	60%	30%	11%
PIP	43%	54%	1.75%

Table 1: Outcomes of new ADP and PIP claims, March 2022-January 2023
(ADP figures for March 2022 are from 21 March only) (ADP: Social Security Scotland 2023; PIP: DWP Stat-Xplore)

	Percentage paid at Enhanced Rate (Daily Living)	Percentage paid at Enhanced Rate (Mobility)
ADP	64%	61%
PIP	42%	53%

Table 2: Outcomes of new ADP and PIP claims: percentage of Daily Living and Mobility Components awarded at Enhanced Rate, March 2022-January 2023
(ADP figures for March 2022 are from 21 March only) (ADP: Social Security Scotland 2023; PIP: DWP Stat-Xplore)

Mechanism for higher expenditure	Causes
Additional applications	<ul style="list-style-type: none"> • More flexibility on how applications can be made (via phone, online or on paper) • More support for applicants, including a new independent advocacy service run by VoiceAbility (Social Security Scotland, 2022b) • Tailored communications campaigns to advertise ADP to potentially eligible people
Higher rate of successful applications and Higher Payment Awards	<ul style="list-style-type: none"> • The removal of the requirement for face-to-face assessments • More reliance on additional evidence • The impact of the Social Security Charter on decisionmaking • Applicants being better informed about evidence requirements • Differences in organisation culture between Social Security Scotland and DWP
Case transfer and change of circumstances	<ul style="list-style-type: none"> • Recipients of DLA or PIP having an incentive to report a change in their condition, triggering an

	award review and transfer to ADP
Length of Awards and Review Process	<ul style="list-style-type: none"> • Increases in award length and therefore longer periods between reviews. • Lighter touch review than PIP, resulting in fewer losses of award on review
Re-Determination and Short Term Assistance	<ul style="list-style-type: none"> • Greater proportion of challenges through Re-Determination (though lower rate of success as a result), resulting in more people remaining in the caseload than under the PIP MR system. • Cost of paying Short Term Assistance and incentive effect on encouraging people with adverse Determinations to challenge them.
Terminally Ill system	<ul style="list-style-type: none"> • Broader definition of terminal illness increases number of successful applications and lengthens time terminally ill people receive ADP compared to PIP by around 62%

Table 3: Scottish Fiscal Commission’s rationale for projections of higher spending on ADP compared to PIP (Scottish Fiscal Commission, 2021)