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**Royal Blind and Scottish War Blinded draft response to Scottish Government consultation on Disability Assistance.**

Note: This consultation document was compiled in 2019 when the charity was called Royal Blind.

May 2019

**Question 1. Do you agree or disagree with the proposal to name Disability**

**Assistance for clients aged 0-18 years old Disability Assistance for Children**

**and Young People (DACYP)?**

Disagree.

**Question 2. If you disagreed, please explain why.**

We recognise that the proposed names for the different types of assistance are more accessible and more immediately convey their purpose than their current names. However, we support the point made by Alliance Scotland that they should be less focused on the medical/charitable model and more focused on the social/human rights model, for example, ‘Equality Assistance/Payment for Children and Young People.’ We recognise this approach could also be taken with the names for the other entitlements proposed, so believe similar alternatives should also be identified in those instances.

**Question 3. Do you agree or disagree with the proposal to name Disability**

**Assistance for clients aged 16 years old to state pension age Disability**

**Assistance for Working-Age People (DAWAP)?**

Disagree.

**Question 5. Do you agree or disagree with the proposal to name Disability**

**Assistance for clients who are state pension age or older Disability Assistance**

**for Older People (DAOP)?**

Disagree.

**Question 7. Do you agree or disagree with the proposal to enable multiple**

**application channels for Disability Assistance?**

We welcome the proposal to have multiple application channels. It is vital for people with vision impairment to have access to inclusive forms of communication, such as braille, large print and digital and audio formats, and we are pleased that Social Security Scotland has recognised the importance of this approach. Royal Blind runs the Scottish Braille Press which has produced the braille version of this consultation document in collaboration with the Scottish Government, and we believe is particularly important in relation to disability assistance that all forms and information are available in braille.

We also believe it will be important for advisers to have appropriate vision impairment awareness training, to help ensure people with vision impairment making an application can access informed advice.

In terms of contact with Social Security Scotland advisers by phone, it is important for older people with sight loss to be able to speak with an adviser without having to navigate too many automated options before they can speak to an adviser. The legislation provides for disabled people to access independent advocacy and the application process must be designed in such a way that supports this provision.

**Question 11. Do you agree or disagree with the proposal to implement a**

**person-centred approach to making decisions about entitlement for Disability**

**Assistance?**

Agree.

**Question 12. If you disagreed, please could you explain why?**

For people with vision impairment, a person-centred approach to decisions on entitlement is vital. Case Managers need be able to understand the specific challenges for people with vision impairment, which for some people with certain sight loss conditions can be a hidden disability. A person-centred approach to the decision making process for people with vision impairment will require Case Managers to have access to appropriate information and expert advice on vision impairment. In addition, we believe it will be important for Case Managers to be able to undertake vision impairment awareness training.

Currently, many people with vision impairment are facing unfair and unnecessary barriers to accessing support. Too often this because assessors do not understand the impact of their sight loss and the appropriate expertise and information on vision impairment is not being accessed to ensure reasonable decisions on awards are made. This emphasises the need for a person-centred approach based on a reasonable understanding on how a person’s life is affected by their condition, and appropriate awareness of the impact of a range of disabilities, including vision impairment, among Case Managers and particularly Specialist Advisers.

**Question 13. Do you agree or disagree with our proposed approach to the**

**involvement of Specialist Advisors in Decision Making?**

Agree.

**Question 14. If you disagreed, please could you explain why.**

Providing Case Managers with information and advice on a broad range of matters including how a specific disability generally impacts people should be an important aspect of the role of Specialist Advisor. However, we believe there could be more detail in the consultation on the responsibilities Specialist Advisors will take on in the new system. We also believe it will be important for there to be sufficient expertise of vision impairment among the complement of Specialist Advisers who are appointed.

We recognise Specialist Advisers will need to be able to offer advice and expertise on a number of conditions, and so it will also be important that they can access relevant training and learning opportunities and build links with other professionals outwith the agency with expertise on specific conditions, including with appropriate staff in third sector organisations. Along with other third sector organisations, Royal Blind employs staff with specific expertise in vision impairment and the challenges for people living with sight loss. It should be a priority that the positive engagement there has been with the third sector in establishing the new agency continues and deepens. Establishing and sustaining links between Specialist Advisers and third sector experts will help ensure fewer disabled people face situations where they are denied support because those making decisions on applications do not have the appropriate awareness or access to the specialist advice.

**Question 15. What factors should Case Managers take into account in deciding**

**when a Specialist Advisor should be involved?**

Case Managers need to be confident they have the required understanding and awareness of a condition and its impact on a person applying for assistance to make an informed decision on their application. We believe if the Case Manager has any level of uncertainty about the impact of a condition which makes a material difference to their decision then they should involve a Specialist Advisor. We believe decisions are too often made without a full understanding, or even a misunderstanding, of the effects of sight loss conditions on applicants. We also believe that information provided by a Specialist Advisor should be included with the notification of the outcome of a decision.

**Question 16. Do you agree or disagree that the decision making process for**

**Disability Assistance for Children and Young People, and for Older People**

**should use existing supporting information and not through face-to-face**

**assessments?**

Agree.

**Question 18. What types of supporting information would be relevant in assessing an application for Disability Assistance e.g. social work report, medical report?**

Medical reports will be important supporting information, including reports form ophthalmologists and optometrists to ensure all relevant information on sight loss conditions is considered. We believe that a Certificate of Vision Impairment should also be considered relevant supporting information. Through the process of applying for a Certificate of Vision Impairment, people with vision impairment are assessed for needs and referred to specialist support. Currently people with vision impairment are being asked to undergo additional, rudimentary sight tests when a Certificate of Vision Impairment has already established their vision impairment.

While we agree social work assessments will be relevant information, eligibility for social care should not be a determining factor given locally applied eligibility criteria currently vary significantly.

Personal accounts from the individual and those close to them about the impact vision impairment has on their life and independence should also be considered relevant information. Such testimony can provide important additional information on the impact of sight loss on an individual which might not be immediately evident to a Case Manager but should be taken into account in reaching a decision on eligibility.

We believe the Alliance has made important points in its submission around data sharing, which we support. We agree “the new social security system should be flexible enough to enable the individual to give consent to open up access to their data to whatever level stipulated by the individual.”

We recognise that though engagement with Experience Panels and the Disability and Carers Benefits Expert Advisory Group to establish that there would not be a move in the new system to automatic entitlement to Disability Assistance. We understand that this approach is being taken because the new system allows for decisions to be made with access to specialist expertise and robust information about the impact of a person’s disability. We hope that these measures will create a system where fair decisions are made about an individual’s need to receive Disability Assistance, but still believe there is a strong argument for automatic entitlement to certain disability payments for particular long term conditions. We also believe there is a strong argument for people who receive a Certificate of Vision Impairment to be passported to appropriate assistance through the new system.

**Question 19. Do you agree or disagree with the proposal to have no set award**

**durations but to set an award review date when a decision on a Disability**

**Assistance application is made?**

Disagree.

**Q20. If you disagreed, please could you explain why.**

There are people with vision impairment who access services provided by Royal Blind and Scottish War Blinded for who there is no prospect of recovering their sight or their vision impairment improving, including young people supported by our specialist education provision. We believe it is not appropriate or necessary for reviews to be undertaken at any point in such circumstances, and agree with a number of other organisations who have supported the case for life-long awards and the removal of reviews where the individual’s condition will not change. We believe that the Scottish Government should ensure the complete removal of any future “review” in circumstances where the individual’s condition will not change.

Where there is reasonable medical evidence that an individual’s condition may improve, we believe that review periods should be as long as possible.to this effect.

We also believe that where people wish to supply information on a change of circumstances, in these instances there should be an obligation for a new determination to be made, so that there is an opportunity to appeal the decision.

**Question 21. Do you agree or disagree with the proposal to set an award**

**review date 5-10 years in the future for a person with a condition unlikely to**

**change.**

Disagree.

**Question 22. If you disagreed, please could you explain why.**

While we believe a review should be undertaken if an individual requests one, and welcome the move away from shorter review periods, as highlighted in our response to the previous question, given our experience of working with people with vision impairment whose sight will not improve we believe in such circumstance it is not appropriate or necessary for reviews to be undertaken.

**Question 23. Do you agree or disagree with the proposal that a change of**

**circumstances should be defined as a change which has an impact on the**

**level of assistance a person receives?**

Agree.

**Question 25. Do you agree or disagree with the proposal that clients have 31**

**days to request a redetermination?**

Disagree.

**Question 26. If you disagreed, please could you explain why.**

People with vision impairment may find such a time limit change for a wide range of circumstances. We welcome the provision for flexibility where there is a “good reason.” We believe it will be important this should not be interpreted too narrowly, but more broadly believe there is a good case for a longer period for clients to request a determination.

**Question 27. We have proposed that Social Security Scotland have a period of**

**between 40 and 60 days to consider a redetermination of Disability**

**Assistance? Do you agree or disagree with this proposal?**

Disagree.

**Question 28. If you disagreed, please explain why.**

We know from the experience of people with vision impairment who access our services that the period when decisions on entitlement are being made can be stressful, and so believe it is desirable for the duration for such processes to be as short as they can be, while allowing an appropriate of time for an informed, fair and evidence-based decision to be reached. We believe 60 working days is too long for a redetermination to be concluded.

**Question 39. Do you agree or disagree with the proposed approach that, generally, where there is a break in a client’s eligibility to receive the benefit, e.g. due to being in residential care, they will cease to receive the benefit?**

Disagree.

**Question 40. If you disagreed, please could you explain why.**

We believe there needs to be more clarity around these proposals. Royal Blind supports children and young people through residential care provision. The charity provides residential care to some pupils at the Royal Blind School, as well as to young adults, including a transitional service for young people living with vision impairment and other complex needs between the ages of 17-25. If people secure a place in residential care, this does not improve their financial provision, and there may still be a range of additional financial pressures on unpaid carers which will continue.

Careful consideration should be given as to how these proposals will affect unpaid carers, and details should also be provided on how quickly and easily will benefits be reinstated if a person returns home.

**Question 41. Please outline any comments or experience you would like to**

**share with us about overpayment recovery and the current DWP approach to**

**deductions?**

We note that the consultation states “Where an overpayment is made as a result of Agency error it will not be pursued unless under exceptional circumstances such as a large and obvious overpayment.” We believe it would be helpful and important to provide more detail on a “large and obvious overpayment”. We also believe it would be helpful to define what the thresholds will be for minimum and maximum rates for amounts that may be deducted from Disability Assistance.

**Question 42. Do you agree or disagree with our proposal to provide entitlement to Disability Assistance for Children and Young People to clients aged 0-18 years?**

Agree.

**Question 44. Do you agree or disagree with our proposal to extending eligibility, for those in receipt of Disability Assistance for Children and Young People before the age of 16, to age 18?**

Disagree.

**Question 45. If you disagreed, please could you explain why.**

We welcome the inclusion of 16 to 18 year olds but believe this should be extended to age 21. It is widely recognised in Scotland that this is a difficult transition period for disabled people. The ILF Scotland Transition Fund, for example, is available for applications between 16 and 21.

We recognise that some young adults with disabilities who leave school will require ongoing adult support and are not able to live alone. In 2010, Forward Vision was set up by managers from the Royal Blind School, who found there was a lack of appropriate places for young blind disabled adults to go to when they left school. The transitional service for 17–25 year olds provides a supportive environment where young people with vision impairment and additional support needs are given the extra time they often need to prepare for adult life.

Extending this eligibility would create consistency in entitlement and ensure that the negative impacts of existing transition points are not compounded by assessments to determine eligibility.

**Question 46. Do you agree or disagree with our approach to the eligibility rules for the different components of Disability Assistance for Children and Young People?**

Agree.

Royal Blind supports the approach set out by CPAG in Scotland:

“Case law has established that ‘requires’ means ‘reasonably requires’, rather than ‘medically requires’. So someone claiming DLA has a legal right to entitlement if they ‘reasonably require’ the attention. Therefore the regulations for disability assistance in Scotland should include a similar route to entitlement; that when the claimant ‘reasonably requires’ attention from another person they are entitled to DACYP.”

**Question 48. Do you agree or disagree with the proposal to make a £200 Winter Heating Assistance payment to families in receipt of the highest rate care component of Disability Assistance for Children and Young People?**

Agree.

**Question 50. Do you agree or disagree with our proposal to use a points based**

**system to assess eligibility in relation to Disability Assistance for Working-Age**

**People?**

Disagree.

**Question 51. If you disagreed, please could you explain why.**

We believe alternative approaches to a points based system should be considered and consulted on. Many people with vision impairment applying for PIP have had a very negative experience of the application of the points based system, which has failed to recognise or understand the impact of their sight loss condition on their circumstances.

In the last three years, around 40% of blind and partially sighted people in Scotland had their applications for PIP rejected, but 16% of those decisions were overturned after an appeal. This highlights not only wasteful inefficiency in the current system, but that the current approach is causing unnecessary and unjustified distress and hardship to people applying for assistance who have vision impairment. We are aware people with other conditions are facing similar challenges. It is also clear a lack of understanding of sight loss conditions among assessors is contributing to this situation. We hope progress will be made through the approach taken by Case Managers and Specialist Advisers working within Social Security Scotland, but nevertheless believe there is a strong case for a more fundamental reassessment of how applications are assessed.

**Question 52. Do you have any suggestions about the most appropriate way to**

**assess eligibility in relation to mobility for Disability Assistance for Working Age People?**

An approach to assessing eligibility in relation to mobility should recognise the importance of incentivising and supporting disabled people to be as independent as they can be. It should be an enabling, not a demotivating process, whereas in the current system people with vision impairment have had experiences they refer to as ‘degrading’. People applying for disability assistance should not be penalised for using assistive technology which assists their mobility and helps them maintain their independence, nor should it lead to Case Managers underestimating the impact of that disability. For example, a person with vision impairment who can travel to an appointment using a cane, or by taxi, or with the assistance of a guide dog, will still face many other costs in other circumstances and other environments in enabling them to travel independently. However, this is too often not recognised by assessors currently. If eligibility in relation to mobility does not recognise these circumstances it can have a severely detrimental impact on the independence of a person with vision impairment.

**Question 53. Do you have any comments on the full list of descriptors**

**(provided at page 36) currently used to assess claims for Personal**

**Independence Payments?**

The current application of descriptors to assess claims for PIP is failing many people with vision impairment, and we are concerned that unjustified decisions not to make awards would continue with the list of descriptors set out in this consultation document. To give just one example of a significant number, we have been working with one person with vision impairment who accesses our services who was registered as partially sighted in 2009 following a brain injury and has not worked for ten years, but nevertheless his application for PIP was not successful. This decision is currently being appealed. He received no points against the descriptors used for his assessment because their application completely failed to recognise properly his daily living needs. Because he said he was able to prepare a bowl of cereal for himself, this was assessed as his being ‘able to prepare a cook a simple meal unaided’ – despite the fact that when he had attempted to cook a meal on another occasion items in the kitchen were burned presenting a fire risk. The assessment of his functioning vision failed to take account of the fact that his neurological vision impairment causes him to hallucinate. His problems dressing were not taken account of, nor did he receive any points on mobility despite the fact he requires a cane to negotiate any journeys.

We believe it is extraordinary that someone living with this level of vision impairment would receive no points after an assessment, but this is not an isolated case as we have highlighted. While it may be possible to provide a more detailed or appropriate list of descriptors to inform better decision making, their application risks not only failing to recognise the true impact of conditions such as vision impairment, but is also an approach founded on a medical model of disability. An application process which is focused on what people can’t do rather than what they can do is demotivating and debilitating in itself. We believe that the Scottish Government should to take an approach which is more progressive and promotes independent living.

**Question 54. What types of observations, as part of a face to face assessment,**

**do you believe are inappropriate?**

We are aware of cases where assessors have made judgements on a person’s vision function because they have looked at them directly during conversations, without an understanding that this simply might reflect the person responding to the sound of their voice. This type of observation is inappropriate, as for example is concluding someone can walk or sit down “unaided” when they have used a cane to guide themselves to a chair and to aid their balance when sitting down, which was the experience a person with vision impairment has described to us of a face to face assessment.

**Question 55. In relation to assessments, what are your views on acceptable**

**distances to travel?**

A person-centred approach should be taken in relation to this issue, recognising that for people with vision impairment and other conditions there can be significant barriers to travel, not least accessing public transport in communities for poor links. For some people with vision impairment it will be necessary to provide home assessments, and we concur with the view of the Alliance that the Scottish Government should not require anyone to travel longer than an hour to get to an assessment and that there should be additional flexibility as even this may not be appropriate in every circumstance.

**Question 56. What other circumstances should the Agency take into account?**

Accessibility in and around locations where assessments are to take place need to be fully considered. Not only venues for assessment need to be accessible for people with vision impairment and mobility problems, but surrounding infrastructure too. Difficulties in negotiating poorly maintained and cluttered pavements are frequently highlighted to us by people with vision impairment. It is also vital that before people are required to attend an assessment they are asked what additional assistance and guidance they will need on their arrival at the venue so they can attend the appointment.

**Question 60. Do you agree or disagree with our proposal that Disability**

**Assistance for Older People is provided to those who are state pension age or**

**older?**

Agree.

**Question 62. Do you agree or disagree with the proposed eligibility criteria for**

**Disability Assistance for Older People?**

Unsure

**Question 63. If you disagree, please could you explain why.**

We believe there should be clarity in regulations that those people who are over 65 and currently receive PIP or DLA will be transferred to the relevant replacement entitlement, as in many cases this will include a mobility component.

