

SOCIAL RENEWAL ADVISORY BOARD: CALL FOR IDEAS**Deadline: 23rd October****Email/Queries: socialrenewal@gov.scot**

ORGANISATION:	Child Poverty Action Group In Scotland
CONTACT NAME AND EMAIL:	Kirsty McKechnie kmckechnie@cpagscotland.org.uk
BRIEF SUMMARY OF ORGANISATION:	Child Poverty Action Group in Scotland works for the one in four children in Scotland growing up in poverty. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good. We also provide expert training, advice and information on social security to frontline workers to make sure families get the financial support they need.
DEMOGRAPHIC SUPPORTED:	Families
IDEA THEME:	Reducing child poverty

YOUR IDEA: What needs to change to build a Fairer Scotland, learning from the response to the COVID pandemic?

CPAG in Scotland welcomes the opportunity to respond to the Social Renewal Board's call for ideas about how to build a Fairer Scotland.

Summary

Children who already faced a higher risk of poverty have been disproportionately impacted by the pandemic and will be particularly vulnerable during economic recession. Rising child poverty places high costs on society as a whole. It should therefore be of the utmost priority that families with children are able to easily access adequate financial support. The Early Warning System has identified a number of gaps in social security support for children and young people. This submission outlines how those gaps in support might be addressed at the same time as tackling rising child poverty.

Recommendations for the Scottish Government

- Increase the value of the Scottish child payment
- Until the Scottish child payment is fully rolled out, bridge the gap through school clothing grants
- Provide further assistance to school aged children through the extension of free school meals
- Provide assistance for families affected by the benefit cap and two-child limit
- Promote take up of existing benefits
- Introduce council tax reduction changes
- Consider making Scottish child payment a type of assistance rather than a top up benefit
- Undertake an independent review of disability assistance
- Provide support to migrants where possible
- Support local authorities to improve administration of discretionary support
- Consider longer term mechanisms for delivering discretionary awards

Learning from the response to the Covid 19 pandemic

The impact on children

The economic downturn is already having a disproportionately damaging impact on families with children, particularly those on low incomes. Even before Covid nearly one in four children in Scotland were growing up in poverty.¹ The prevalence of insecure low paid work and cuts in UK social security over the last decade means that many families entered this recession lacking financial security. The pandemic has hit low-income families disproportionately hard. Women's poverty rates, and subsequently child poverty rates, are likely to rise as a result of low-paid women being at particular risk of Covid-19 job disruption, including unemployment, enforced reduction of hours and being furloughed.²

¹ <https://www.gov.scot/collections/child-poverty-statistics/>

² <https://www.closesthegap.org.uk/content/resources/Disproportionate-Disruption---The-impact-of-COVID-19-on-womens-labour-market-equality.pdf>

Recent research published by CPAG found that across the UK eight out of ten survey respondents between May and August reported a significant deterioration in their living standards due to a combination of falling income and rising expenditure. Even among those whose employment had not been disrupted – including those who were not working before the pandemic - the majority reported a worsening in their financial situation.³ IPPR analysis of Standard Life Foundation Financial Impact Tracker polling found that 49 per cent of households with dependent children in Scotland were by May 2020 already in serious financial difficulty or struggling to make ends meet, compared to ‘only’ a third of all households. Just 15 per cent of households with dependent children reported feeling financially secure.

With changes to the job retention scheme at the end of October it is likely there will be many more redundancies and increased reliance on social security.⁴

If the UK Government ends the £20 a week (£1,040) a year uplift to the standard allowance within universal credit and tax credits in April 2021, introduced in response to the Covid 19 pandemic, this loss of income will plunge a further 300,000 children in the UK into poverty.⁵

Long term cost impacts of rising poverty

These levels of poverty do not just damage individual children and families they create huge costs for society as whole. Analysis in 2016 estimated that poverty across the UK results in additional public spending of £69 billion a year, or 20 per cent of the relevant service areas: health; education; justice; adult and children social services and housing.⁶ Earlier analysis (2013) for CPAG put the costs of child poverty alone at £29 billion a year.⁷ Children who grow up in poverty are more likely to experience chronic ill health, poor mental health, or behavioural and emotional problems, than their more affluent peers.⁸ Poverty has costs, personal, social and financial, for the individual, the family, the community, the whole society and the economy.⁹ Failure to make full use of social security powers to address and prevent rising poverty now will have a significant long term impact on public finances.

In summary, children already faced a higher risk of poverty, are disproportionately impacted by the pandemic and are particularly vulnerable during economic recession. Furthermore rising child poverty places high costs on society as a whole. It should

³ <https://cpag.org.uk/sites/default/files/files/policypost/Poverty-in-the-pandemic.pdf>

⁴ <https://www.ippr.org/blog/outlook-for-scotlands-workforce-furlough-job-losses>

⁵ <https://www.jrf.org.uk/blog/autumn-budget-keep-doing-right-thing-and-keep-lifeline>

⁶ <https://www.jrf.org.uk/report/counting-cost-uk-poverty>; Bramley, G., Hirsch, D., Littlewood, M. and Watkins, D. (2016) *Counting the cost of UK poverty*, York: Rowntree Foundation.

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<https://cpag.org.uk/sites/default/files/Cost%20of%20child%20poverty%20research%20update%20%282013%29.pdf>

⁸ <https://cpag.org.uk/scotland/child-poverty/facts>

⁹ Treanor, M. (2020) *Child Poverty: aspiring to survive*, Bristol: Policy Press.

therefore be of the utmost priority that families with children are able to easily access adequate financial support.

Gaps in social security support

Evidence gathered through CPAG in Scotland's Early Warning System¹⁰ during the pandemic identified a number of groups of children and young people facing specific gaps in social security support. We set out how we think the Scottish government could respond to these gaps throughout this submission.

Students

Students who do not have disabilities or dependants are usually not entitled to universal credit (UC). They often supplement their student income with casual work. If students are not able to find work during the economic down turn they will not have a social security safety net to fall back on.

A full time student lost his zero hour's contract job due to coronavirus. As a student he is not entitled to UC as he does not have any children or disabilities. #273

16/17 year olds

There is a gap in support for 16 or 17 year olds who are still living at home with their parents, who are not in education but have not been able to start work or training. Their parents are no longer entitled to child benefit or tax credits for them if education is interrupted for more than six months, but the young people are not entitled to any benefits in their own right, putting a strain on the household's income.

A lone parent's 17 year old daughter was due to start an apprenticeship in March but this was put on hold due to COVID 19. The daughter is no longer a qualifying young person for child benefit and, in addition, is not a dependent child for the purposes of UC, but neither does she fall into a category of 17 year olds who can claim UC themselves. Mum has been furloughed and will be entitled to a small amount of UC, but no additional amounts in respect of her daughter. #826

Migrants

The Covid 19 pandemic has particularly highlighted the lack of social security support afforded to migrants. Recurring themes in Early Warning System evidence include the following situations.

- Many EU nationals are unable to establish a right to reside that will entitle them to means-tested benefits.

¹⁰ <https://cpag.org.uk/scotland/ews> Our Early Warning System collects and analyses case evidence about how changes in the benefit system are affecting the wellbeing of children, their families and the communities and services that support them. We analyse queries made to our advice service, submissions from frontline workers, including welfare rights advisors, housing officers and support workers

- Unemployed EU nationals who are receiving UC are at risk of losing their right to reside/entitlement to UC unless they can demonstrate that they have a genuine prospect of work – which is increasingly difficult in the current employment market.
- Many people from outside the EU, who are resident in the UK, will have a condition attached to their visa that stipulates that they have no recourse to public funds. This limits the support they can access, including access to benefits.
- People from abroad are often incorrectly refused benefits they should be entitled to.
- Households with mixed immigration status experience hardship due to reduced levels of benefit entitlement.

An EU national couple, their parents, their baby and three other children are living together in a two bedroom flat and would like to be rehoused somewhere that is less overcrowded. However at the moment it does not appear that anyone in the household can establish a right to reside that will entitle them to any benefits. #1766 (21/7/20)

An EU national lone parent was receiving UC and statutory maternity pay, but now that her baby is ten months old she has been told to attend a genuine prospect of work interview. If she cannot demonstrate a genuine prospect of work, she will lose entitlement to UC and child benefit. #1707 (14/7/20)

A client joined her husband in the UK on a spousal visa which states that she has no recourse to public funds. Husband is in receipt of UC for himself and their daughter but no additional amount for his wife. She has recently been diagnosed with a terminal illness but is not eligible to claim personal independence payment (PIP) because of her immigration status. #1622 (8/7/20)

Pregnant women

Loss of employment or reduction in earnings due to Covid means that some women are not meeting the qualifying criteria for statutory maternity pay and are having to claim maternity allowance instead. Whilst the two are paid at the same rate, it has important consequences for UC and subsequently passported benefits. For example:

Two clients are both pregnant with their first child and have no housing costs. The client who is receiving maternity allowance (MA) is not entitled to UC (and therefore not a best start grant [BSG]) because her maternity allowance is taken into account in full in the UC calculation. The client who is receiving statutory maternity pay (SMP) is entitled to UC because although SMP is paid at the same rate as maximum MA, SMP is treated as earnings and therefore only partially taken into account in the UC calculation.

Maternity allowance is paid to people who have not worked for long enough or earned enough to satisfy the conditions for SMP, so parents with less stable employment and

lower earnings may not be able to access assistance from the BSG. The main groups who will lose out will be lone parents of one child with no housing costs or couples where the partner's earnings mean that there is only a small UC entitlement and the difference in treatment of SMP and MA wipes it out.

Domestic abuse

The increase in domestic abuse during lockdown has been widely reported.¹¹ Our Early Warning System reports have highlighted that the social security system and the way benefits are administered mean that people escaping domestic abuse are not guaranteed to secure the financial means to survive quickly enough to establish themselves independently.¹²

Inadequacy of support

Benefit cap and two-child limit

Unemployment and reduction in income through furlough have led to more families being affected by the benefit cap.¹³ Predicted increases in unemployment will make it harder to escape the cap. Delays in assessments for disability benefits during Covid have also contributed to some families not being able to escape the cap.¹⁴

Furthermore whilst UC and tax credits were increased by £20 a week to help low income households during the pandemic, the benefit cap was not increased concurrently, which means the families with the lowest incomes are not benefiting from this increase.

A lone parent with four children started a part time job in February. This client's monthly earnings fall below the earnings threshold so the cap is applied and her UC is reduced by £220 a month and £95 to repay her UC advance. She will not benefit from the increase in the standard allowance because of the cap, or from the pause on deductions from UC because that does not include deductions to repay UC advances #561 (27/4/20)

Some claimants who have lost their job or seen their earnings reduce will have benefited from a nine month grace period before the benefit cap is applied. However from Christmas 2020 onward, people who lost their job during the pandemic will start to see the cap applied to their benefits.

In future larger families will lose out even more because the application of the two-child limit will mean that they will not receive a sufficiently high amount to be capped. This has implications for any mitigation response as the current route for mitigating the benefit cap is through discretionary housing payments.

¹¹ <https://www.gov.scot/publications/domestic-abuse-forms-violence-against-women-girls-vawg-during-covid-19-lockdown-period-30-3-20-22-05-20/pages/3/>

¹² <https://cpag.org.uk/welfare-rights/resources/article/social-security-and-domestic-abuse>

¹³ <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-may-2020>

¹⁴ <https://cpag.org.uk/policy-and-campaigns/report/impact-covid-19-families>

Worse off on universal credit

A number of people who were receiving tax credits claimed UC following a drop in their hours or income as a result of the pandemic. They were either advised to make the UC claim, or not advised that in doing so that their tax credits would stop, and have subsequently found themselves worse off on UC or not entitled at all.

A widowed parent who was receiving tax credits started self-employment in January this year but had to stop working due to Covid. She contacted DWP who advised her to claim UC, however due to receiving widowed parent's allowance and her husband's pension, her income is too high. She is not entitled to UC, but submitting the claim also stopped her tax credits award. #783 (12/5/20)

A couple with three children were receiving tax credits but applied for UC and to the Self-Employed Income Support Scheme when dad had a loss of income due to Covid. One of the children is disabled and mum is their carer. They are worse off on UC than they were on tax credits #869 (18/05/20)

A client was working part time and receives the disabled worker element in her tax credits and disability premium in her HB. When she was furloughed the Jobcentre advised her to claim UC which she did, but is now worse off because there is no disabled worker element and no disability premium in UC. #1543 (2/7/20)

What needs to change?

The remainder of our response concentrates on measures that could be taken both in the short and longer term in response to the needs and gaps identified above.

Our recommendations are intended to ensure Scottish social security plays its fullest possible role to achieve the child poverty targets set out in the Child Poverty (Scotland) Act, including that by 2023 less than 18 per cent of children are living in relative poverty, and that by 2030, less than 10 per cent. The delivery of best start grant payments and forthcoming roll out of the Scottish child payment are key benefits that will help the Scottish government deliver on these ambitions, and which we have strongly supported. However it is vital that

- i) the value of the Scottish child payment is now reviewed in the context of the pandemic and recession; *and*
- ii) the delivery of the payment is kept under constant review to ensure take up and reach are in line with policy expectations.

The Scottish government's initial ambition for the Scottish child payment is for a take up rate of 83 per cent and a reduction in the number of children in poverty by 30,000 on full roll out in 2022 - a three percentage point fall.¹⁵ However with levels of child poverty forecast to rise by 50,000 by 2023/24 as a result of cuts to UK social security, analysis by

¹⁵ <https://www.gov.scot/publications/scottish-government-position-paper-scottish-child-payment/>

the JRF Foundation and IPPR Scotland¹⁶ suggested, even pre-Covid, that just to stop child poverty rising in Scotland would require a doubling of the payment to £20 a week.

It is therefore vital that Scotland's ambitious child poverty delivery plan is underpinned by an equally ambitious budget. In assessing the role of Scottish social security the Scottish Parliament must look at the totality of Scottish budget and tax and spending powers. Scottish social security is a key tool in the Scottish government's toolbox for tackling poverty. If it is to play its full role in ending child poverty and realising the principles agreed for it by the Parliament, it must be an absolute priority for investment.

Increase the value of the Scottish child payment

The Scottish child payment (SCP) was welcomed by CPAG as a game changer in tackling child poverty in Scotland. However, as described above, analysis prior to the Covid 19 pandemic highlighted that, even though it would reduce child poverty by three percentage points, against a rising tide of child poverty this would still fall well short of meeting the interim child poverty target.¹⁷

The number one priority for change to Scottish benefits is an increase to the value of the Scottish child payment. CPAG, along with other members of the End Child Poverty coalition, urges that the value of the payment is at the very least doubled to £20 per week. Even pre-Covid such an increase was necessary just to ensure child poverty stopped rising. With the impact of the pandemic and associated economic recession the need for a significant increase is more pressing than ever. Investment now could save extra spending on needed services later when greater poverty has created worse problems.

We welcome the Scottish government's commitment to continuing to prioritise the roll out of the Scottish child payment, with applications to be received from next month and first payment from February for children under six. We recognise there may be operational barriers preventing roll out of the Scottish child payment to children over five before the current timetable of 2022 but we urge government and Social Security Scotland to continue to identify opportunities to accelerate roll out so that the payment reaches all eligible children as soon as possible.

Bridge the gap to roll out of the Scottish child payment

Given the impact the pandemic and recession is already having on low income families there is an urgent need for financial support to support families through this winter and bridge the gap to first payment of the SCP. A relatively straightforward way to achieve this for under sixes would be to provide an initial backdated lump sum payment with the first Scottish child payments in February and March to bridge the gap between the opening of applications in November and first payment.

For school-aged children an additional school clothing grant should be made, using existing local authority payment mechanisms and therefore without requiring any additional capacity at Social Security Scotland. The current minimum school clothing grant of £100 is

¹⁶ <https://www.jrf.org.uk/report/making-most-scottish-child-payment>

¹⁷ <https://www.resolutionfoundation.org/app/uploads/2019/03/Wrong-direction-briefing-note.pdf>

well below the actual cost of school clothing over a year, especially given the need for extra warm clothing this year,¹⁸ allowing significant scope for a substantive increase within existing local government powers. CPAG, along with other members of the End Child Poverty coalition in Scotland, is calling for an additional payment of £250 to support families through the coronavirus crisis and initial recovery¹⁹.

Review SCP delivery to ensure that it is meeting take up and policy ambitions.

In order to identify any changes needed it is important that the Scottish child payment delivery is reviewed to ensure it is meeting take up and policy ambitions, as described above. Such a review will need to assess the following questions.

- Is take up as envisaged?
- Is it reaching those who most need it, including the priority groups identified in the Scottish child poverty delivery plan?
- Is it having the impact on child poverty levels it was designed to?
- Is that impact enough to ensure 2030 child poverty targets met, alongside the other child poverty delivery plan actions?

Alternative delivery mechanisms and different legislative basis for payment should be kept under review under this process, as described in more detail below.

Provide further assistance to school age children

Free school meals (FSM) are also an important benefit supporting families. They also place no burden on Social Security Scotland. The continued provision of FSM through lockdown and the school holidays has been widely welcomed and hugely valued by parents, particularly when provided as a cash payment when children are unable to be in school itself.²⁰ Simple ways to do more to support families would be to:

- Ensure cash replacements for free school meal continue to be provided during all periods children are unable to attend school during the pandemic.
- Extend eligibility for free school meals to all those families in receipt of UC, as called for by Marcus Rashford's Child Food Poverty Taskforce Provision, as a stepping stone toward extension of universal free school meal provision from P1-P3 to all pupils.

Provide assistance for families worst affected by UK social security policy

Fully mitigate the benefit cap

The number of households in Scotland affected by the benefit cap increased by 76 per cent in the first two months of lockdown.²¹ Mitigation is through discretionary housing payments (DHPs) - awarded at the discretion of local authorities.²² However evidence

¹⁸ As children are spending more time during and after school hours due Covid restrictions

¹⁹ https://cpag.org.uk/sites/default/files/files/policypost/ECP%20core%20briefing_final.pdf

²⁰ <https://cpag.org.uk/policy-and-campaigns/report/cost-learning-lockdown-family-experiences-school-closures>

²¹ <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-may-2020>

²² <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/04/discretionary-housing-payments-in-scotland-1-april-2019-to-31-march-2020/documents/discretionary-housing-payments-in->

submitted to the Early Warning System highlights that the use of DHPs to mitigate the benefit cap is inconsistent.²³ Guidance must be urgently provided.

Unlike with claimants affected by the 'bedroom tax', there is no guarantee that a DHP will be awarded for the benefit cap. Claimants complain of long processing times (in one case of six months, pre-Covid) and of increased anxiety of having to make repeat applications, not knowing whether a DHP will be granted or not.

CPAG believe that the Scottish government should guarantee sufficient DHP funds to local authorities to fully mitigate the benefit cap, as has been done in relation to the bedroom tax. At the very least, the Scottish government should publish DHP good practice guidance to Scottish local authorities as soon as possible. This guidance should be both publicly available and regularly updated. It should set out examples of situations in which local authorities can use their discretion to award a DHP – for example, if a house move is delayed due to the pandemic, and the claimant cannot get a benefit to help with the rent on both properties. Steps must also be taken at local authority level to improve processing times.

The two-child limit

In future fewer larger families will be affected by the benefit cap because the application of the two-child limit means that they will not receive a sufficiently high amount to be capped. Consideration must also be given to how the two-child limit can be mitigated. Whilst there is no limit on the number of children eligible for the Scottish child payment, entitlement is based on receipt of a qualifying benefit in which the two-child limit does apply. Some families with some earnings would be entitled to UC or tax credits if it were not for the application of the two-child limit, and will therefore not be entitled to the Scottish child payment either. This problem also prevents full mitigation of the bedroom tax through DHPs (as households with no entitlement to UC or housing benefit cannot be awarded a DHP. But increasing the DHP budget and targeting this increase on families not receiving the child element for all of their dependent children would be a short-term approach that would help most of those who are liable for rent. If the legal basis of the Scottish child payment was changed away from being a 'top-up' then there would be no requirement to receive a reserved benefit to qualify (see below).

Promote take up of existing benefits

The take-up rate for the majority of means-tested benefits is relatively low, with around one in five people not claiming their entitlement.²⁴ This represents more than £20 billion a year unclaimed across Britain – and that is without taking account of any UC shortfall as

scotland-1-april-2019-to-31-march-2020/discretionary-housing-payments-in-scotland-1-april-2019-to-31-march-2020/govscot%3Adocument/DHP%2Bto%2BMarch%2B2020.pdf

²³ <https://cpag.org.uk/policy-and-campaigns/consultation-response/response-scottish-government-consultation-housing-2040>

²⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757268/income-related-benefits-estimates-of-take-up-2016-17.pdf

there are no published estimates yet of UC take-up.²⁵ While the DWP and HMRC regularly publish take-up rates for (most) means-tested benefits, tax credits and child benefit, there have also been no estimates of take-up rates for PIP and none for other disability benefits since a study in 1998 estimated that between a half and two thirds of people potentially eligible for a disability living allowance care component, for example, did not claim.²⁶

Early Warning System evidence highlights that disability benefits have been particularly affected during Covid due to difficulties making and maintaining claims without support, problems participating in telephone assessments and appeals, some PIP awards stopping and uncertainty about whether others would be extended. Furthermore a number of severely disabled and terminally ill people did not receive the additional amounts that they were entitled to.²⁷

Promoting take up and ensuring that individuals have access to advice and support to make claims and challenge decisions if things go wrong has the potential to increase families' incomes and subsequently boost the economy.

Introduce council tax reduction changes

In January 2020, the Scottish government confirmed that the council tax reduction (CTR) scheme 'is currently in the process of being revised with the objective of using information captured by DWP for UC cases to make sure councils can deliver the same level of CTR as would be the case if they were on legacy benefits.'²⁸ CPAG understands that this work has been delayed due to the pandemic. In a situation where UC claimant numbers are rising rapidly, it becomes more urgent than ever to ensure that a shift from tax credits to UC does not leave low income families with more council tax to pay.

As part of this process it would also be possible to increase the generosity of CTR for families, whether they are getting UC or the benefits that it replaces.

As part of a wider review of the most appropriate way to deliver financial support, it is worth considering the extent to which the delay in reforming the CTR scheme has resulted from the need to engage with a variety of local authority IT suppliers and train staff teams in different areas. When CTR was introduced, it was a logical choice to leave it in the hands of the people who were still processing housing benefit claims based on identical rules. However, as UC replaces housing benefit (and particularly in the future - once pensioners also begin to transfer to the pension credit housing costs element instead of housing benefit)²⁹ this should be reconsidered.

Consider making SCP a type of assistance rather than a top up benefit

²⁵ <https://www.entitledto.co.uk/blog/2018/december/over-20-billion-still-unclaimed-in-means-tested-benefits/>

²⁶ https://www.niesr.ac.uk/sites/default/files/publications/021007_143834.pdf

²⁷ <https://cpag.org.uk/policy-and-campaigns/report/impact-covid-19-people-disabilities-and-their-carers>

²⁸ <https://www.gov.scot/publications/housing-social-security-second-follow-up-paper-welfare-reform/pages/4/>

²⁹ <https://www.legislation.gov.uk/ukpga/2012/5/schedule/4> It is currently unclear when this change will be made.

SCP was introduced as a top up benefit rather than a new type of assistance for ease of processing to allow it to be delivered as quickly possible. However this means that entitlement is reliant on a qualifying benefit, which will largely be UC.

Reliance on UC has significant impacts on entitlement to SCP.

- Whilst there is no two-child limit in SCP, some families who would be entitled to UC or tax credits if it were not for the application of the two-child limit will therefore not be entitled to SCP either.
- Many migrants are excluded from claiming any of the qualifying benefits.

Establishing SCP as a new type of assistance would allow the Scottish Government to widen entitlement criteria which could address some of the gaps in support highlighted.

[Undertake an independent review of disability assistance](#)

Children living in families affected by disability are at disproportionately high risk of poverty. CPAG, along with other members of the Scottish Campaign on Rights to Social Security (SCoRSS) recognises that whilst representing a significant proportion of social security spending, disability assistance will remain closely entwined with the reserved social security system and that that has an impact on the changes that can be made in Scotland. Nevertheless, we believed that this should not limit the ambitions of our vision for the future of disability assistance. SCoRSS have supported the Scottish Government's approach of a safe and secure transition, but there has also been an understanding that this was only a first step to creating a world-class, rights-based system of disability assistance. Along with other members of SCoRSS we have called for a commitment to undertake an independent review of disability assistance that makes recommendations about the direction of travel, and offers options for future changes to the system³⁰.

[Provide support to migrants where possible](#)

One area where Scottish government is heavily constrained by reserved legislation is in relation to providing social security benefits to migrants, and particularly 'persons subject to immigration control'. However, those people who cannot access the social security system can be instead supported through payments made by local authorities using their powers under s.12 of the Social Work (Scotland) Act 1968 or s.22 of the Children (Scotland) Act 1995.

Linking some Scottish benefits to entitlement to a qualifying UK benefit such as UC excludes some migrants from accessing the relevant Scottish benefit. Without a link to UK benefits the Scottish Government would be able to identify a broader eligibility criteria and provide greater help to more families in need. This has already been successfully done in relation to BSG pregnancy and baby payment which is available to anyone who is under the age of 18.

However, the other best start grant payments are not available as the test of responsibility for a child uses entitlement to reserved benefits that are listed as public funds.

As a 'top-up' to reserved benefits, Scottish child payment is not available to migrants who cannot access those benefits. Changing the legal basis to make it a form of assistance would allow the Scottish government to provide support to this group of families, who are at a significant risk of destitution if they lose employment, given the lack of financial support available to them at present.

In developing legislation on the new disability and carers' benefits, the Scottish Government has the opportunity to diverge from the 'past presence' test which excludes people (both UK nationals and migrants) from claiming these benefits unless they have been present in the UK for at least 104 out of the 156 weeks. This is much more restrictive than the test which was previously used in relation to disability living allowance (DLA) and attendance allowance (AA). That test only required a person to have been present in GB for 26 weeks out of the last 52. The more restrictive test causes major difficulties for disabled people and poses particular problems for families with disabled children if a parent cannot claim carer's allowance. Whilst the Scottish government response to the disability assistance consultation stated that the past presence test was being reviewed,³¹ the draft child disability payment regulations have maintained the current test.

A 15 year old has been refused DLA due to the past presence test, because he has only been in the UK for one year. Not only can the family not get DLA for the child, but his dad will not be able to claim carer's allowance as the child is not in receipt of a qualifying benefit. #164

Support local authorities to improve administration of discretionary support

CPAG in Scotland is a partner in the Menu for Change project whose aim is to reduce the need for emergency food aid by ensuring people across Scotland get the cash, rights and food they need before they are in crisis. The key recommendations produced by the project in relation to the SWF are as follows:

- The Scottish Welfare Fund budget should be protected and increased, both for awards and for staff to deliver it. (The subsequent increased investment by the Scottish Government to the SWF in the 2020/21 budget and in response to Covid-19 is very welcome and needs to be sustained.)
- The Fund should act as a gateway to other services, helping to prevent future crises and reduce the need for food bank use.
- To ensure consistency and maximise the Fund's effectiveness, investment is needed in staff training and to improve IT infrastructure.
- Urgent action is needed to increase awareness of and referral to the Fund by local and national agencies.³²

Work with OPFS and Aberlour about access to the SWF during the pandemic led to the development of the following recommendations:

³¹ <https://www.gov.scot/publications/consultation-disability-assistance-scotland-scottish-government-response/pages/3/>

³² <https://amenuforchange.files.wordpress.com/2020/01/a-menu-for-change-scottish-welfare-fund-briefing-.pdf>

- Ensure community care grants are open across all local authorities and available to all those who require support to access essential goods and items.
- Simplify the application process to ensure it is consistent, easily accessible and includes easy read information, including information in relevant languages.
- Update and revise guidance for local authorities regarding the accessibility and administration of SWF to improve consistency of decision making and promote good practice across all areas.
- Ensure better promotion of SWF nationally and locally to promote knowledge and awareness of the fund amongst the general public.

The Early Warning System consistently receives cases where delays in delivering SWF can lead to tenants accruing rent arrears and/or drive up applications for discretionary housing payments:

A client in a care home signed a new tenancy agreement on 20th February but needed a SWF community care grant before he could move in. This was not granted until 20th March by which time he was unable to move due to Covid 19. Housing benefit have said that they will not pay the rent because he has not yet moved in. #517

Discretionary housing payments (DHPs) are a discretionary payment administered by local authorities that can be made to people who are receiving housing benefit or the housing element of UC. With the exception of bedroom tax, there is no guarantee that a DHP will be granted for shortfalls between rent charged and benefit support provided. Evidence gathered by the Early Warning System highlights the uncertainty this creates, and having to apply for DHPs repeatedly causes tenants anxiety about their ability to pay rent and the stability of their home.

Adviser reports that a local authority has been refusing DHP applications to tenants at risk of eviction, on the grounds that they cannot be paid for rent arrears. Arrears accrued because of the benefit cap, bedroom tax or non-dependant deductions being applied. DHP guidance and case law state that DHPs can be paid for rent arrears but when the adviser asked the local authority to use their discretion and revise their decisions the responses didn't address the points that she had raised and cited irrelevant factors. #8990 (6/12/19)

A refugee couple with 5 children are living in a 2 bedroom housing association flat. They have accrued significant rent arrears because they are subject to the benefit cap. They had been getting the housing element paid direct to the landlord but CAB organised for it to be paid to the tenants because their experience is that the local authority will not pay a DHP where the housing element is being paid to the landlord because it looks like there isn't a shortfall. They were awarded a DHP for six months which has just ended, but in the meantime the landlord requested an APA and the local authority will now not pay another DHP because it looks like there isn't a shortfall. #FW11

[Consider longer term mechanisms for delivering discretionary awards.](#)

At the time the Scottish welfare fund (SWF) and discretionary housing payments (DHPs) and council tax reduction (CTR) were introduced there was no centralised agency that could have delivered these kinds of supports. Now that there is we would urge the Committee inquiry, and the Scottish government, to consider whether it would be beneficial to individuals and more cost-effective to develop a centralised mechanism for

delivering discretionary payments through Social Security Scotland rather than devolving responsibility to 32 different local authorities with different priorities, budget constraints and IT systems. The case for doing this is all the stronger given the increasing use of the discretionary schemes to deliver blanket policies such as self-isolation payments, refugee family re-union crisis grants and full mitigation of the bedroom tax.

The smaller the degree of discretion granted to decision makers, the stronger the case for centralising a scheme. In reviewing the operation of devolved financial support, wherever it is currently delivered, it would be possible to develop solutions that better match the degree of discretion that is appropriate, and the usefulness of local knowledge in decision making. CPAG believes the Committee should take a broad view of what 'social security' means, rather than restricting the scope of its inquiry to entitlements currently delivered by Social Security Scotland.