

Chair of the Poverty and Inequality Commission
Bill Scott



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Dr Witcher
Chair of the Scottish Commission on Social
Security
By email to: info@socialsecuritycommission.scot

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Dear Dr Witcher

Thank you for inviting the Poverty and Inequality Commission to share its views on the draft Winter Heating Assistance (Low Income) (Scotland) Regulations 2022. Our [Commission responded](#) to the Scottish Government consultation earlier this year, and it is a subject that our [Experts by Experience Panel](#) consider to be especially important in the current cost of living crisis, so we welcome the opportunity to make a further contribution to you on LIWHA.

To inform our response, we held a meeting with six members our Experts by Experience Panel to consider the areas you were particularly interested in seeking comment on from us.

How extending eligibility to people in receipt of “in work” benefits may work

You indicated SCoSS were interested in how extending eligibility to recipients of non-means tested benefits, including Personal Independence Payment, Disability Living Allowance and their Scottish replacements could work.

When we originally consulted with our Experts by Experience Panel for the SG LIWHA consultation, we heard how they strongly supported extension of LIWHA to households containing recipients of adult and child disability benefits, because these households are both at greater risk of poverty and also face higher energy costs. Our more recent discussions with our Panel members under the present context of increasingly concerning energy price rises underlines the importance of doing everything possible to ensure people in these groups do not fall into deeper poverty over the winter.

The Commission does not expect there to be insurmountable technical issues in being able to extend eligibility, though we note that the Scottish Government stated in its response to the consultation that, as it would increase caseload and complexity, expanded eligibility would not be deliverable by winter 2022. In [its response to the LIWHA consultation](#) the Scottish Government says it “will continue to review the eligibility criteria for LIWHA after the launch of the benefit.” The Commission would be interested in hearing from the Scottish Government what their assessment is of when and how an expansion to non-means tested benefits could happen, their inclination towards doing so, and we would welcome if SCoSS were to follow a similar line of scrutiny using the levers it has available to it.

In principle, the Commission believes that LIWHA could be paid as an annual supplement to all those in receipt of the non-means tested disability benefits, in a similar way to that used

for payment of Carers Allowance Supplement. Following this approach would deliver relatively well-targeted assistance to disabled children and adults.

Disability charity Scope and fuel poverty charity National Energy Action (NEA) [estimate that](#) if, as is expected, average energy bills [rise to over £3,000 per annum](#) in October, 2.1 million households across the UK where one or more members are disabled will be pushed into fuel poverty – compared to 900,000 households today. This would be around 200,000 households in Scotland.

The main obstacle to supporting this group more effectively by expanding the LIWHA to include all those in receipt of disability benefits, would appear to be the associated direct costs to the Scottish Government and potential administrative fees that would have to be paid to the UK DWP (as they continue to administer the payment of a large proportion of DLA and PIP claims).

As of [November 2021](#) there were approximately 140,600 people in Scotland entitled to and claiming Disability Living Allowance of which nearly 43,900 were children aged under 16 and around 60,700 were aged over 65. As of [October 2021](#) there were 297,000 people entitled to and claiming Personal Independence Payment in Scotland of which 54,000 were aged over 65.

Considering the cost of living crisis and the support that is being provided by the UK Government [cost of living package](#), the Commission believes it is important for support from the Scottish Government to be targeted to those who may miss out or only received limited support from the UK Government scheme. The UK Government have provided substantial additional financial cost of living assistance to those aged over state pension age. Therefore, it would be best if additional support like the LIWHA were targeted to disabled children and adults of working age who will only receive a £150 cost of living payment from the UK Government, if they do not qualify for the low income or pensioner component.

We estimate that, if a supplement equivalent to the proposed rate of LIWHA was paid to all those entitled to Children's DLA/Children's Disability Payment and all those of working age entitled to either DLA or PIP this would be around £16 million per annum. If a supplement was also paid to those aged over 65 this would add around £6 million to the annual costs bringing the total cost of extension to around £22 million per annum (i.e. doubling the current estimated annual costs for LIWHA of £20 to over £42 million).

The qualifying week approach

The Commission welcomed the Scottish Government's decision in its response to the consultation to move the single qualifying week to November (from September), bringing it closer to the payment date in February. However, the Commission remains concerned that the use of the qualifying week approach alone will deprive some of those with fluctuating earnings and/or in insecure employment (such as part-time agency workers or those on "zero hours" contracts) of any support because their earnings may take them out of entitlement in the qualifying week.

In addition, new claimants who make their claim after the qualifying week in November will be deprived of any assistance yet their heating needs and incomes this winter may well be

identical to those claiming in the qualifying week. Although the Commission accepts that some cut-off date(s) will be operationally necessary, our Panel members with lived experience of poverty have raised questions on the fairness of the intended approach for people who will fall outside of eligibility due to fluctuating incomes. One Panel member told us:

“Usually I would agree with having a qualifying week but given the scale of the crisis we are facing, I’m concerned that some very vulnerable people may miss out on the financial help they desperately need...We need to be able to try and help the most people possible. By setting an arbitrary date, it will cut out a lot of people who should be eligible.”

Our Panel members recognised the advantage of the qualifying week, with the aims of simplifying and allowing automation of the process. However, they also suggested that there should be some way for people to manually apply if they become eligible during a longer period. For example, one suggestion for how this could work was by adopting a wider eligibility period – during which payments of LIWHA would not automatically be made if they fell outside of the November qualifying week, but if people met the eligibility criteria during the wider period then they could manually apply for LIWHA. One suggestion was for a longer qualifying period, e.g. 1 November to 31 March where people could manually apply if they met the eligibility criteria during this period, but they just happened to fall outside of it during the November qualifying week. A Panel member told us:

“Setting a qualifying week is fine, if there is some sort of safety net to capture people who would be eligible afterwards.”

Areas of the Cold Weather Payment that could be retained and any specific, alternative targeted support for people who could lose out a result of the changes

You were particularly interested in any areas of the Cold Weather Payment that could be retained, and specific alternative approaches that could be considered. Panel members we discussed the LIWHA Regulations with considered both of these issues together as some of their ideas related to both topics.

The Commission previously fed back to the Scottish Government during the consultation earlier this year that both the Commission and our Experts by Experience Panel were concerned that people living in colder rural areas could lose out, as they would only receive the £50 LIWHA compared to the total value of three or more £25 payments previously, should the weather conditions be sufficient to trigger them. The Commission recommended at the time that extra funding be given to Local Authorities covering rural areas that experience particularly cold weather (e.g. Highlands & Aberdeenshire) via the Winter Support Fund.

In addition, the Commission would encourage the Scottish Government to assess whether aspects of the current Cold Weather Payment rules could be retained but only come into effect once the area covered by a weather station has experienced its third continuous seven day period when average day time temperatures were zero degrees centigrade or below. At that point a further, extended cold weather period, supplement could be paid – the amount of such a supplement to be half the rate of the LIWHA payment at that time. Further supplements would become payable after each subsequent seven day continuous period of cold weather. This would be a blended approach making sure all eligible households received some support whilst guaranteeing that households located in colder areas did not

lose out. Similarly, Panel members have suggested that a fund could be set up for people who would be eligible for additional payments for three or more spells of cold weather to either manually apply to (as in our response to the qualifying week criteria above) or automatically pay people in the regions experiencing multiple cold weather spells when the trigger was met.

If some variation of the current Cold Weather Payments is retained in order to ensure people who experience three or more spells of eligible cold weather do not lose out, our Panel made some recommendations to us about the existing system that are important to consider. They told us that they were concerned that the way temperature was measured for CWP can miss out more isolated rural areas that experience worse weather than the weather station they are linked to for the purposes of CWP:

“The old system never quite worked. Weather stations they use are in towns that were more centralised and warmer. They don’t pick up on cold weather spells further away – I live on a hill that gets a lot of cold weather and [more] snow than my neighbours for example. The previous approach denied certain people payments and excluded people who should have been eligible.”

There were also concerns amongst many Panel members that the threshold of seven consecutive days is too high and unforgiving of variance:

“The problem with seven consecutive days is also that a single ‘warmer day’ can break the eligibility, so you could have eleven freezing days, but the sixth day was warmer [so] you get nothing.”

In response our Panel members believed that if some aspects of the CWP rules are retained, instead of a binary rule where one day above zero results in the CWP trigger not being met, it should instead be based on an average or range that allows some variance.

We also discussed with our Panel other measures that could support people who may receive fewer payments because of the change in rules. They suggested to us that, similarly to what the Commission previously recommended to the Scottish Government in its consultation response, that a fund could be created for people, particularly in rural areas, where the weather may be colder and who have additional heating challenges (such as reliance on oil and solid fuels or have poorly insulated homes). One particular concern for our Panel was to ensure any additional support should be flexible enough to support those in rural communities who primarily use off grid fuel sources – additional support should not, for example, be credited directly to on grid energy accounts.

Any new evidence relating to the value of the payment

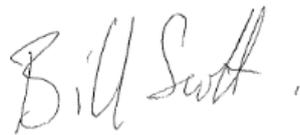
At the time that the Scottish Government was putting together its Low Income Winter Heating Allowance proposals the cost of energy had not yet increased, though we had some indication that it would. Thus, the proposals focussed on the certainty of receiving a £50 payment each year as opposed to the uncertainty that resulted in the majority of households eligible for Cold Weather Payments getting no help at all in most winters.

However, the value of the proposed £50 LIWHA has now fallen in relation to the actual cost of fuel, and will fall further going into the winter. From April of this year customers experienced a 54% increase in the energy price cap increasing the bills of low income, prepayment, customers [by £708 a year](#). As mentioned previously, this is widely expected to

increase substantially again in October 2022 and energy costs post-October could be more than double what they were a year ago. Taking this into account, in order to retain its ability to meet the additional fuel costs that households experience in the winter months the LIWHA would need to increase accordingly. Although additional cost of living assistance has been put in place for low income households this winter by the UK Government package there is no guarantee that these one-off payments will be made available in future years, yet the cost of fuel could remain high. Therefore, the Commission would urge that the value of the LIWHA is increased in line with the rise in energy prices.

Our Panel agreed in the strongest terms with the need to up the value of the payment, telling us that the £50 will have been “swallowed up already” by the debt and rising costs being faced by people in poverty, and that it was as stark as describing an increased value of payment as “money that is going to be needed to keep people alive, and if funds need to be moved from elsewhere in the budget to keep people alive [this winter], that’s what needs to happen.”

I hope the comments from the Commission and our Panel on the draft Winter Heating Assistance (Low Income) (Scotland) Regulations 2022 are helpful and I am very happy to discuss further any of the issues we have raised above.



Bill Scott
Chair of Poverty and Inequality Commission