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Dear Colleague

Implementation of Benefits Assessment under Special Rules in Scotland (BASRiS) Guidance and form for Terminal Illness, for Disability Benefits devolved to Scotland Purpose

1. This letter is to inform you that the new definition of terminal illness, supported by CMO guidance, will apply in Scotland, for those applying for disability benefits under terminal illness rules. The CMO guidance required by legislation has been endorsed by the CNO, and both Registered Medical Practitioners (RMPs) and Registered Nurses (RNs) are required by legislation to take account of the guidance while making a clinical judgement about terminal illness (**Annex C**).

2. There will be a phased introduction of Scotland's new disability benefits. **Annex B** sets out when the current Department for Work and Pensions (DWP) system will continue to apply and when the new Social Security Scotland system will apply.

3. This letter also advises you of the further support available to clinicians aimed at helping to ensure the smooth implementation of this change, with additional information and background in **Annex A**.

4. It also provides you with information about the early implementers ("pilots") during the roll out (**Annex A**) and the Outline Framework, a scoping document aiming to outline the analysis of the effectiveness of implementation of the CMO guidance supporting fast-tracked access to disability assistance for patients with terminal illness (**Annex D**).

Key Objectives

5. Scottish Government took responsibility for disability assistance in Scotland in April 2020. Three new benefits Child Disability Payment; Adult Disability Payment; and Pension Age Disability Payment will be launched. These replace the Department for Work and Pension's (DWP's) DLA (Child), Personal Independence Payment (PIP) and Attendance Allowance (AA). The national launch of

From the Chief Medical Officer
Dr Gregor Smith
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Addresses

For action

All Registered Medical Practitioners and Registered Nurses

For information

Medical Directors, NHS Board
Directors of Nursing, NHS Board
Directors of Public Health, NHS Board
Primary Care Leads
COPFS
Chairs, NHS Board and Special Board
Chief Executives, NHS Board and Special Board
Chief Officers of Integration Joint Boards
COSLA and SOLACE
British Medical Association
Royal College of Nursing
General Medical Council
Nursing and Midwifery Council
Medical and Dental Defence Union of Scotland
Medical Protection Society
Medical Defence Union
Academy of Medical Royal Colleges and Faculties in Scotland
NHS National Services Scotland (NSS)
Care Inspectorate
Independent healthcare
Hospices
Chief Executive, Social Security Scotland

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Scotland's new benefits will be preceded by early implementers ("pilots") in a few local authority areas. Additional information and background is in **Annex A**.

Legislation

6. The devolution of these benefits brings several changes for the Scottish benefits system and is designed to expedite the process and to ensure those in need are able to receive the support they require, as soon as possible and for as long as it is needed.

7. **The new terminal illness definition moves away from the 6 month time limited definition of expectation of death that DWP currently uses.** It is an important distinction in the approach between the rest of UK and Scottish systems; the new Scottish definition does not require an explicit time frame, within which death is reasonably expected to occur. The new definition is included in the Social Security (Scotland) Act 2018, and slightly amended by the Social Security Administration and Tribunal Membership Act 2020, which states:

"An individual is to be regarded as having a terminal illness for the purpose of determining entitlement to disability assistance if, having had regard to the (Chief Medical Officer's (CMO)) guidance, it is the clinical judgement of an appropriate healthcare professional that the individual has a progressive disease that can reasonably be expected to cause the individual's death."

The 2020 Act included that 'appropriate healthcare professional' must include RMP and RN.

8. The CMO guidance, supporting this new definition, as required by the Social Security (Scotland) Act 2018, has been developed with the help of clinicians and third sector organisations with an interest in this area. **It is a legal requirement that, when making your clinical judgement, you pay regard to this guidance.** In the best interests of patients, RMPs and RNs will be expected to promptly complete the Benefits Assessment under Special Rules in Scotland (BASRiS) form for relevant patients. Section 7 - 'CLINICAL ASSESSMENT OF TERMINAL ILLNESS' and bullet points 5 to 8 (highlighted in bold) in section 8 - 'FACTUAL INFORMATION THAT MUST BE INCLUDED', provides further detail on the new definition.

9. The BASRiS form provides clinical advice to Social Security Scotland and provides confirmation to it, that in the clinical judgement of the clinician completing the form, that the named individual is terminally ill according to the new definition. Social Security Scotland is responsible for making the decision related to the award of appropriate benefits. This advice, along with information from other sources, will help them to make a decision regarding the benefits to which the individual is entitled.

Implementation

10. Child Disability Payment (CDP) is being launched first on the 22 November 2021 preceded by the early implementers of CDP in 3 "pilot" areas - Dundee, Perth and Kinross and Western Isles which commence on 26 July 2021. Further information on the pilot is provided in **Annex A**. The other two benefits will follow in due course. **Annex B** provides a table detailing the dates each definition will apply and consequently whether a new BASRiS form and/or a DS1500 form should be completed.

11. The new definition of terminal illness for the purposes of assessing eligibility will be used from the relevant day of commencement for each of Scotland's new disability benefits. An

accompanying Framework for audit of effectiveness of implementation of CMO guidance has also been developed (**Annex D**).

12. Several additional sources of support have been developed to ensure that clinicians are well-prepared to implement the required changes. These have been developed in conjunction with clinicians, the GMC and the NMC to ensure relevance to professional regulatory requirements.

These include :

- [‘frequently asked questions’](#)
- [factsheet for clinicians](#) outlining the changes
- [leaflet](#) for patients and those who support them
- [Clinical Helpline](#) managed by Social Security Scotland

All supportive information will be available in a single place, providing a [‘hub’ of information](#) on the guidance section of Social Security Scotland’s website.

13. The DWP’s terminal illness definition will continue to be required for Scottish clients accessing those benefits which continue to be the responsibility of the UK Government, such as Employment Support Allowance and Universal Credit. Where a client already has a BASRiS form the DWP can use the information, as part of their suite of medical information, to determine whether the individual meets their definition and is therefore eligible for the reserved benefit under the DWP rules.

Action

14. We would be grateful if you could familiarise yourself with the new definition and CMO guidance in advance of when the new BASRiS process is to commence. We would urge you to take full advantage of the support on offer.

15. Your professional and timely support will be very valuable to your patients when they need it most.

We greatly appreciate your valuable assistance in this important matter.

With kind regards

Yours sincerely,

Gregor Smith

Amanda Croft

Dr Gregor Smith
Chief Medical Officer

Professor Amanda Croft
Chief Nursing Officer

ANNEX A

Additional Information and Background

CMO Guidance

The [CMO Guidance](#), required by legislation, is intended as a practical document and a tool to support clinicians, in reaching their clinical judgement to complete the Benefits Assessment under Special Rules in Scotland (BASRiS) form for terminal illness. It includes the necessary processes to follow and the required legal, ethical, professional and other important factors to take into account while completing the BASRiS form.

This guidance supports clinicians to interpret and apply this definition consistently. To meet the definition the individual should have an illness:

- a) that is advanced and progressive or with risk of sudden death, AND;
- b) that is not amenable to curative treatment, or treatment is refused or declined by the patient for any reason, AND;
- c) that is leading to an increased need for additional care and support.

The guidance also contains information to facilitate clinical decision making e.g.:

- criteria to be considered (sections 7, 8 and 9 in the guidance),
- detailed condition specific indicators (Annex B in the guidance),
- a number of worked examples, (Annex C in the guidance) and
- practical information relating to the new process (Annex A in the guidance).

The guidance will also be useful to others with an interest in this area.

Eligibility to complete the new BASRiS form (Section 10 in the guidance)

RMPs and RNs who are involved in the diagnosis of terminal illness for the purpose of accessing disability assistance and thus those able to complete a BASRiS form must meet **all** of the following criteria:

- must have appropriate skills, knowledge and experience to undertake the role and;
- must be involved with the diagnosis and / or care of the patient and;
- must be acting in their professional capacity and;
- must work in accordance with a clinical governance framework and the requirements of your employers and/or contractual arrangements and;
- must hold current registration with the General Medical Council or the Nursing and Midwifery Council.

Overlap between the DWP system and the new Scottish BASRiS system (Annex E in the guidance)

As Scotland's new disability benefits are launched in a rolling programme, the new definition will only apply to individuals where the relevant new Scottish disability benefit has been implemented in Scotland. Additionally, the DWP definition will continue to apply for access to reserved benefits such as Employment Support Allowance and Universal Credit.

Pilot for Child Disability Payment

The national launch of Child Disability Payment is on 22 November 2021 but this will be preceded by a pilot in three local authority areas; Dundee City, Perth and Kinross, Western Isles. This means that for children resident in these local authority areas the new terminal

illness definition will apply from 26 July 2021 and consequently a BASRiS form should be completed and sent to Social Security Scotland instead of the DS1500 form being sent to DWP. The pilot will roll into the national launch in November 2021.

Social Security Scotland intend to learn from the pilot and will conduct research activities in this period allowing them to identify issues and make improvements in advance of the full national launch of Child Disability Payment.

Special Rules Terminal Illness (SRTI) route to receiving disability assistance (Annex G in the guidance)

Individuals who meet the new terminal illness definition will be able to receive disability assistance through the fast tracked SRTI route. This will allow the patient's application for disability assistance to be processed differently, under special rules, resulting in the fast tracking of their application and entitlement to the highest rates of the components (care and/or mobility) relevant to the benefit.

Support for Clinicians - The Clinical Helpline

Social Security Scotland will provide a helpline whereby a clinician completing a BASRiS form can seek assistance regarding how they can access the guidance, what the process of decision making is and how the guidance can best be navigated by that clinician. Where appropriate this will include speaking with one of Social Security Scotland's clinical practitioners. Social Security Scotland cannot comment on individual cases as this might prejudice subsequent decision making.

If a clinician continues to have an unresolved query regarding a specific situation or circumstances, Social Security Scotland cannot discuss this but where appropriate they can recommend the clinician contacts the CMO office who may be able to provide additional support in complex cases.

Importantly, while both tiers of support can provide help and advice to clinicians, the decision (judgement of whether someone is terminally ill according to the new definition) remains the responsibility of the clinician.

Information on contacting the helpline can be found [here](#).

The BASRiS form (Annex D in the guidance)

BASRiS forms will be distributed in numbered batches by Social Security Scotland in advance of the launch of the Child Disability Payment. If you think your organisation should have received the forms, but has not, please use the ['hub' of information](#) for details on how to request BASRiS forms for your organisation.

Work is underway to develop a digital BASRiS form.

The 'hub' of information will provide up to date information regarding this development.

ANNEX B

Table detailing when Scotland's new definition applies by age group (including pilot for Child Disability Payment)

Children and Young People (aged 0 -16)	Disability benefits: DLA (Child) (DWP) or Child Disability Payment (Social Security Scotland)	
	26 July 2021 onwards for children resident in pilot area (Dundee, Perth & Kinross and Western Isles).	Use new definition and CMO Guidance. Complete a BASRiS form and send to Social Security Scotland to support Child Disability Payment application.
	26 July 2021 – 22 November 2021 Scotland (except children resident in pilot areas)	Continue to use DS1500 and send to DWP to support DLA (Child) application.
	22 November 2021 onwards – all of Scotland	Use new definition and CMO Guidance. Complete a BASRiS form and send to Social Security Scotland to support Child Disability Payment application.
Young People aged 16-18 already in receipt of Child Disability Payment¹	Use new definition and CMO Guidance. Complete a BASRiS form and send to Social Security Scotland to ensure young person receives highest rates of Child Disability Payment.	
Adults aged 16 to State Pension Age²	Disability benefits: Personal Independence Payment (PIP) (DWP) or Adult Disability Payment (Social Security Scotland)	
	Spring 2022 onwards in pilot area (Local Authorities not yet announced)	Use new definition and CMO Guidance. Complete a BASRiS form and send to Social Security Scotland to support Adult Disability Payment application.
	Spring 2022 – Summer 2022 Scotland (except those in pilot area)	Continue to use DS1500 and send to DWP to support Personal Independence Payment application.
	Summer 2022 onwards – all of Scotland	Use new definition and CMO Guidance. Complete a BASRiS form and send to Social Security Scotland to support Adult Disability Payment application.
Adults State Pension Age and Older	Disability benefits: Attendance Allowance (DWP) or Pension Age Disability Payment (Social Security Scotland)	
	Continue to use DS1500 form and send to DWP to support application for Attendance Allowance until Pension Age Disability Payment is launched (date tbc)	

The [‘hub’ of information](#) of Social Security Scotland’s website will contain up to date information regarding the launch dates of Adult Disability Payment and Pension Age Disability Payment. It will also include an easy way to check whether a BASRiS form or a DS1500 is appropriate.

¹ Children and young people up to the age of 16 are eligible to apply for Child Disability Payment. For those who are already in receipt of Child Disability Payment the award can continue until the child is 18 years old.

² Adults (including young people) aged 16 to state pension age are eligible to apply for Adult Disability Payment.

ANNEX C

CMO Guidance



Disability Benefits -
CMO guidance re term

ANNEX D

Framework for Audit of Effectiveness of Implementation of CMO guidance



Disability Benefits -
Framework for audit c