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# Independent Review of Discretionary Support

February 2022



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# **Independent Review of Discretionary Support**

January 2022

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We would not have been able to complete the Review without the help of Anne Murdoch and David Tarr, Department for Communities, who guided us through the complexities of the Discretionary Support scheme, facilitated access to so many of the people we needed to hear from, and responded to the multiple requests made by the panel with good humour and expertise. We are indebted to them for their support. A further debt of gratitude is owed to Dr Alexandra Chapman, Ulster University, who provided invaluable analysis of the survey data, despite the challenging time scale of the work. Thanks also to Liam Edwards, Ulster University, for his research on comparative Discretionary Support schemes in Scotland, England, Wales and Ireland.

Finally, a sincere thanks to those who gave us valuable feedback on evolving drafts of the report – Les Allamby, Siobhán Harding, Professor Neville Harris and Walter Radar. Their constructive challenges have helped improve our work. All errors remain our own.

## About the Panel

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**Dr Ciara Fitzpatrick\*** is a Lecturer in Law at Ulster University. Ciara's research focuses social security law, socio-economic rights and access to justice. Ciara was one of the academic leads on the development of the

UK's first ever claimant led guide to Universal Credit, produced by a group of UC claimants from Northern Ireland. Prior to becoming a Lecturer, Ciara was the Communications and Policy Officer at Law Centre NI, an organisation which uses the law for social change and provides free legal assistance and representation. She is a founding member of the NI Cliff Edge Coalition and was also the President of the St Patrick's Conference of St Vincent De Paul in North Belfast.

**Kevin Higgins** is Head of Policy and Research at Advice NI, the umbrella organisation for the independent advice network in Northern Ireland which deals with over 500,000 enquiries annually on social security benefits, housing, consumer, employment and debt issues. He has worked in the advice sector in Northern Ireland for 30 years, both as an advice worker and in addressing social policy issues raised by Advice NI members and responding to consultations. Kevin was part of the Welfare Reform Mitigations Working Group chaired by Professor Eileen Evason and is an independent member of the Department for Communities Joint Standards Committee.

**Ursula O'Hare** is the Director of Law Centre NI, an awarding winning regional not for profit that uses the law to change people's lives. The Law Centre's vision is of a just and equal society and we advocate for law and policy change in pursuit of this vision. Before becoming Director, Ursula led the policy advocacy work at the Law Centre having spent the early part of her

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**Gerry McConville** has worked with Falls Community Council for over 20 years, the last 10 as Director of the organisation. He has over 30 years experience working on different issues at a community level. His background is in community development, social justice and conflict resolution. As Director of FCC Gerry has developed a range of community initiatives which tackle issues at ground level. He also is involved in policy development and currently represents the community on the DfC Emergency Leadership

Group which was established as a response to COVID 19 and is currently overseeing the redevelopment of the old St Comgalls school as part of a £7m capital regeneration project which is set for completion in early 2022.

**Dr Mark Simpson\*** is a Senior Lecturer in Law at Ulster University. He carries out interdisciplinary research with a focus on the social rights of citizenship, taking in social security, poverty and social and economic rights. Mark is particularly interested in how devolution is changing the UK welfare state and the social union. His current projects include supporting universal credit claimants in Northern Ireland (UC:Us) to document their experiences of, and help others navigate, the social security system and a forthcoming book on Social citizenship in an age of welfare regionalism.

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\*Dr Ciara Fitzpatrick was a member of the panel from May to August 2021 and was then on maternity leave;

\*Dr Mark Simpson was a member of the panel from September to October 2021

# Executive Summary

Discretionary Support (DS) is a scheme that is designed to provide emergency loans and grants to claimants who find themselves in extreme, exceptional or crisis circumstances which present a significant risk to the health, safety or well-being of the claimant or a member of the claimant's family. This report looks at how well DS is working in meeting emergency needs and sets out what could be done to improve it.

## Key findings and recommendations:

### 1. The impact of Discretionary Support

DS has a profound impact on recipients and can make the difference between someone living in or escaping from destitution. DS is meeting needs that go beyond hardship and relate to those fundamental to human survival: food, clothing and a safe home. The levels of need and consequential demand for DS can be attributed to system failures elsewhere, including in our employment and social security systems that create income inadequacies. DS needs to be maintained, the budget needs to be protected and the Executive needs to be prepared to expand the budget by keeping DS under review, paying particular attention to the impact of recommendations that are implemented.

### 2. Identifying those in most need

DS has a cash limited budget to meet an unlimited demand and so it is necessary to identify those most in need. Under the existing system, lone parents and large families have been disadvantaged by the income threshold and by the inclusion of some income from disability premiums. The social security system already does a considerable amount of means testing for the main income-replacement benefits and it makes sense to build on this work so that claimants on income-replacement benefits, including UC, should be passported through the income threshold. For those who are not in receipt of benefit but are on a low income, we recommend a staggered income threshold to replace the single income threshold. For single adults we recommend a threshold of £13,000. For working age couples, we recommend a threshold of £20,000. We recommend a child-premium of £5,000 per child, to be added to the relevant single or couple rate. For pensioners, we recommend an income threshold of £21,000 for single pensioners and £31,000 for pensioner couples. We also recommend that the Department considers what a suitable premium might be in relation to disability costs which, like the child premium, would be added to the relevant single or couple rate.

### **3. What help should be given?**

Claimants can struggle to pay back loans. While loan repayment was manageable for some, others did not have enough money to make the necessary repayments and some felt unable to accept a loan in anticipation of repayment being too difficult. Grants provide a more effective form of financial relief for those already struggling to meet their basic needs. Grants should therefore be prioritised and the DS budget allocation of £16 million should be focused only on grants. Loans have not yet reached the point of being too expensive to administer, and loan repayments are used to fund additional loans for DS. This relatively self-sustaining fund, of approximately £6 million, should be focused on loans.

### **4. Supporting claimants to apply**

There is a lack of public awareness of DS that needs to be addressed so that those who might benefit know what support is available under DS and how to access it. That should begin with changing the name of DS to something that better describes what the scheme provides. The move to online applications has been positive and claimants are also supportive of telephone applications, but the absence of face-to-face support during Covid-19 has been difficult for some, as has the absence of paper applications. Staff must also ensure they are empathetic in dealing with applicants and supporting them to make their application. A statutory commitment to treating claimants with dignity and respect should be incorporated into the Regulations.

### **5. Decisions and reviews**

Decision makers must apply the statutory criteria for DS that require claimants to be in an extreme, exceptional or crisis situation. These criteria should not be reduced to just considering 'crisis' and an extreme, exceptional or crisis situation does not need to be triggered by a specific event, but can instead be the result of a build-up of need. Departmental guidance on how the criteria can be interpreted should be published. Efforts to ensure that claimants understand the reason for the decision on their application must continue. Where claimants wish to challenge a decision they should be able to request a review as part of the call communicating the decision to them, rather than having to make a further phone call to do this. The Department should consider whether information on review outcomes could be communicated more effectively, so claimants understand better that requesting a review means they will still be able to access the contested award immediately and that the review cannot remove the award from them.

### **6. Removing the Universal Credit Contingency Fund and the Covid self-isolation grant from DS**

DS needs to be focused on its core business of addressing needs, to ensure clarity and awareness of the purpose of DS grants and loans for extreme, exceptional or crisis situations. The inclusion of the Universal Credit Contingency Fund and the Covid self-isolation grant within DS were practical,

operational measures that enabled these grants to be awarded, but they do not constitute the core function of DS and should no longer be part of it. Separate schemes specific to these distinct grants should be set up, with the Contingency Fund located either with other mitigation measures or directly within UC, and the Covid grant located outside the Department for Communities.

### What Discretionary Support provides

DS was introduced in 2016 and replaced the Community Care Grant and Crisis Loan provisions of the Social Fund. The DS scheme is open to those whose annual income falls below a set level, based on 45 hours of pay at the National Minimum Wage, and excluding income from some social security benefits. Claimants can receive a maximum of one grant and three loans in any rolling 12-month period for household items or living expenses. Operationally this equates to one grant for household items and one grant for living expenses, if eligible.

### Understanding what works and what doesn't

In order to understand how DS has been working, the panel spoke with people familiar with the DS scheme – those who had experience of applying for DS as well as those who have a professional connection to the scheme, including those who support claimants to apply and those with policy or operational responsibilities for different elements of the scheme. There were a

number of issues for the panel to consider, from policy questions on whose or what needs should be prioritised, to operational concerns around application processes and how decisions on awards are made.

Our analysis of the evidence from claimants and stakeholders was used as the basis for our findings and recommendations. Our frame of reference for how DS should work was based on understanding how claimant dignity should be respected within the DS system. We examined how support for emergency needs have been provided in England, Scotland, Wales and Ireland to identify lessons learned from these different schemes. In particular, we identified the value of the Scottish approach which creates a legal obligation to treat claimants with dignity and respect.

### Why DS is important

The circumstances that lead people to DS can be stark. The financial circumstances of claimants left them unable to manage economic shocks, such as a household appliance breaking down. A sudden crisis or a build-up of need over time had the effect of pushing people into extreme poverty and destitution. The options open to those on social security benefits or in low paid work to manage these financial needs were limited. DS therefore provided a lifeline for many claimants to cope with the extreme situation they were in. As claimants told us:

**“It was a lifesaver.”**

**“It was definitely a massive help to me during hard times.”**

**“I wouldn’t even like to think the impact [not getting the grant] would have had on me because... I literally had no money.”**

**“I really would not have coped without this help.”**

DS is a cash-limited scheme which means it cannot meet all of the needs that all claimants have, and the impact of not getting a DS award could be extremely difficult to manage. Because the cash-limited budget has to be managed it is important that it can go to those who are likely to be most at risk of destitution.

### What needs to be done to improve it?

- Protect the budget for DS and keep it under review
- Prioritise grants over loans, so claimants are eligible for 3 grants and 1 loan, with an additional grant for items needed by those who move into unfurnished social housing
- Passport those on income replacement benefits, including tax credits, through

the income threshold. For those not on benefits adjust the income threshold to reflect household composition

- Increase awareness of DS by changing the name so people understand what it is for
- Ensure the eligibility criteria relating to extreme, exceptional or crisis circumstances captures need that builds up over time rather than just arising from a one-off situation
- Remove the Universal Credit Contingency Fund and the Covid self-isolation grant from the DS scheme

### Conclusion

The main finding to arise from the report is that the DS scheme is of critical importance and should be protected. The need for DS is likely to increase because too many individuals are unable to meet their essential needs from the income they receive through social security benefits or employment and so they remain at high risk of destitution. Tackling the failures in other parts of our social and economic systems that drive up the need for DS will always be more effective than providing emergency, cash-limited relief under DS. Until that happens, DS will need to be redirected to those closest to or already in destitution.

# 1. Introduction

Discretionary Support (DS) has been in place in Northern Ireland since 2016 and provides financial support to individuals in crisis situations. In June 2021, the Department for Communities (DfC) commissioned an independent, expert review of DS, to look at how the scheme was working and to provide recommendations on how it could be improved. On 14 June 2021, the members of the DS Independent Review Panel met to consider how we would conduct our review within our Terms of Reference, which included the commitment to provide a report to the Minister for Communities for 1 October 2021. The time limitations were premised on providing DfC with sufficient time to review any recommendations made by the panel, to bring these recommendations to the Northern Ireland Executive and to bring forward regulations to implement agreed changes before the end of the current Northern Ireland Assembly mandate of May 2022.

The limited time that the panel had meant it was necessary to prioritise aspects of the review, and we were led largely by the evidence on what the most critical issues were, as defined by potential and actual DS recipients and those who support them in making applications, as well as others connected to the DS system including operational staff and

departmental policy leads. The two biggest policy issues that we were tasked with reviewing were the Annual Income Threshold (AIT) and the current allocation of awards through both grants and loans.

The context of our review was within the existing £16 million budget allocation and while it would be very easy to make recommendations on expanding the DS budget – an issue that we think the Executive should consider, particularly if the budget needs to be increased in-year as a result of any recommendations that have been implemented – we have also made clear in our report that demand for DS is a symptom rather than a cause of unmet need. Fixing DS to meet all of the need that exists ignores the structural problems in social security and employment systems that drive people to financial crisis. A social security system based on dignity and respect is one that should be focused on ensuring adequacy of income so that claimants are not left to rely on DS. Equally, a wage system that leaves people unable to afford basic needs does not offer dignity to workers.

It is also the case that DS is discretionary – it is not a rights-based entitlement and so refusal of an award can legitimately be made on the basis that there are insufficient funds to provide emergency relief. This is entirely

different from the rights-based entitlements within social security benefits which claimants are entitled to receive if they meet the statutory requirements, regardless of how much of the social security budget has already been spent. The best way to improve DS would therefore be to ensure that fewer people reach crisis and fewer people need to rely on DS as a palliative response to treat the symptoms of poverty and destitution. As this report has been completed, the UK government has ended the UK-wide temporary uplift to Universal Credit that was introduced at the start of the pandemic, that would cost £6 billion per year to retain. This has been replaced by a one-off UK Household Support Fund of £500 million, with £14 million of this allocated to the Northern Ireland Executive. It is not within the Panel's capacity to advise on how this funding could be spent, but we note with concern that a rights-based entitlement under Universal Credit has been replaced – in England – by a cash-limited discretionary fund for emergency access to basic needs. There have been no announcements made on how the devolved Executives in Northern Ireland, Scotland and Wales will use the funding.

DS provides a hugely significant form of support. It is to the credit of the Department and the Northern Ireland Executive that funding for crisis support has been retained and protected and it is clear that DS should remain as a protected system of emergency support. Our recommendations are focused on making improvements to the existing

scheme, based on what people familiar with using it, working with it and within it, have told us are issues that require change to be made. We have benefited from the work of Howard Reed and Jonathan Portes in understanding the depth of deprivation across different household types, allowing us to align our recommendations with evidence of where the greatest levels of poverty and deprivation exist in Northern Ireland.

DS meets fundamental human needs and can mean the difference between a claimant living in or escaping from destitution. The history of social security indicates that such a scheme will always be necessary and, unfortunately, that there will continue to be needs that a cash-limited discretionary fund cannot meet. That does not mean that these needs should not be met – as of right – elsewhere in the social security, employment, education, health and social care systems. Our dual hope with this report is that DS can be directed more precisely to those in greatest need of the basic items required to avoid destitution, and that the levels of need which are driven by system failures elsewhere might be reduced so that reliance on DS becomes exceptional rather than automatic.

## 2. The development of Discretionary Support

### 2.1 Summary

We have been asked to review whether DS is meeting need and what recommendations can be made to ensure that it can better meet need. Our terms of reference require us to consider these recommendations in the context of the existing budget for DS, of approximately £16 million per annum. DS was introduced in 2016 and replaced the Community Care Grant and Crisis Loan provisions of the Social Fund. Its purpose is to provide emergency loans and grants to claimants who find themselves in extreme, exceptional or crisis circumstances which present a significant risk to the health, safety or well-being of the claimant or a member of the claimant's family. The eligibility criteria are set out in the Discretionary Support Regulations (Northern Ireland) 2016 (the 2016 Regulations), which stipulate that the scheme is open to those whose annual income falls below a set level, based on 45 hours of pay per week at the National Living Wage. Some forms of income are exempt from this threshold, as stipulated in Schedule 3 of the 2016 Regulations. Claimants can receive a maximum of one grant and three loans in any rolling 12-month period. Operationally this equates to one grant for household items and one grant for living expenses, if eligible.

Awards can be made for household items or living expenses. Schedules 1 and 2 of the 2016 Regulations specify what items or expenses may be included or excluded from the scheme. Claimants can apply by phone or via an online claim form, with some limited face to face provision for those deemed to need this support. Decisions on applications can be reviewed internally for a First Review. They can then go to an independent Second Review conducted by the Office of the Discretionary Support Commissioner. The only outcome available on both reviews is that that the award will either remain the same or be increased.

### 2.2 Our Terms of Reference

The Independent Review Panel was appointed in May 2021 and tasked with reporting to the Minister for Communities by October 2021. The Panel's terms of reference sets out our objectives:

The purpose of the Panel will be to complete a comprehensive review of Discretionary Support to identify areas of improvement and to make recommendations to the Department by 1 October 2021. Any recommendations should be made in the context of the Department's allocated budget of £16m for 2021/22. If the Panel wishes to make recommendations that

would be likely to require additional funding this will be in the knowledge that the allocation of appropriate funding will be a matter for the Executive.

The Review Panel is expected to specifically consider:

- The policy intent of Discretionary Support and options for policy change;
- Operational delivery of Discretionary Support and options for improvement;
- The identification of those groups of people who are deemed to be in most need of and require access to Discretionary Support. This will include reviewing the current Discretionary Support eligibility criteria and specifically the use of an Annual Income Threshold;
- How best to allocate the available funding to afford the greatest levels of protection. This will include reviewing the criteria relating to the award of loans and grants including the current maximum number of awards that can be made in a rolling 12-month period;
- Comparable emergency financial support delivered elsewhere in Britain or Ireland.
- Prioritisation of recommendations taking into account the Department's annual budget for the Discretionary Support Fund.

The panel's approach in meeting our Terms of Reference is set out in Section 2 of this report.

### 2.3 The Discretionary Support scheme

The Discretionary Support (DS) scheme has been operational in Northern Ireland since 28 November 2016. DS was introduced as a result of the UK-wide Social Fund – specifically Community Care Grants and Crisis Loans – having been ended by the UK Coalition Government as part of its package of welfare reforms under the Welfare Reform Act 2012.<sup>1</sup> It was agreed that HM Treasury would transfer an amount equivalent to the previous funding provided for the abolished elements of the discretionary Social Fund to the devolved Executives in Northern Ireland, Scotland and Wales and to Local Authorities in England. Each jurisdiction was then free to determine how it would use the devolved funds. Section 3 of our report sets out how comparable schemes were developed in Britain in response to this, as well as how Discretionary Support is provided in Ireland.

In Northern Ireland, the decision was taken to allocate funding of approximately £16 million per annum to deliver a Northern Ireland specific scheme of Discretionary Support, to replace the Social Fund Community Care Grants and Crisis Loans. This figure reflects the recommendation by the Welfare Reform Mitigations Working Group Report that an annual budget of £16 million would be

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1 The abolition of these elements of the Social Fund in Northern Ireland is provided for under article 76 of the Welfare Reform (NI) Order 2015

provided.<sup>2</sup> The Department conducted a consultation on what a replacement for the Social Fund might look like,<sup>3</sup> the outcome of which was the creation of a Discretionary Support scheme, implemented under the Discretionary Support Regulations (Northern Ireland) 2016. The Explanatory Memorandum to the 2016<sup>4</sup> regulations states that:

**“The Department’s policy for Discretionary Support is to ensure a necessary but temporary response to particular and pressing needs facing the most vulnerable. It aims to address the high level risk to their health, safety and/or well being and assist them to avoid falling further into unmanageable debt and greater dependency.”**

This policy objective is set out in Regulation 10 which specifies the basic eligibility criteria that allows for a DS award to be made where:

**“an extreme, exceptional or crisis situation presents a significant risk to the health, safety or well-being of the claimant or a member of the claimant’s immediate family.”**

Eligibility criteria are set out in the Regulations, including through the Schedules that specify excluded items and services. Guidance on how these criteria are to be applied are contained in the DS Eligibility Guide for decision makers.

Awards can be made as either an interest-free loan or a non-repayable grant to assist with a range of crisis situations. There is no upper limit on the amount that a claimant can receive as a grant, however the amount of a loan will take into account the ability to repay and existing debt to the Department. The current debt threshold is £1,500, raised from the original threshold of £1,000 as part of the Covid measures to increase DS eligibility. Claimants who have debt in excess of this threshold will not be eligible for a DS loan, but may be eligible for a DS grant. The Regulations provide for a mix of emergency loans and grants – up to three loans and one grant for household items or other expenses and a further grant for living expenses in a rolling 12-month period. Operationally this equates to one grant for household items and one grant for living expenses, if eligible. There is an exception to these limits if a person is claiming as a result of a “disaster” causing the loss of possessions or property.

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2 Welfare Reform Mitigations Working Group, Report (2016) available at: <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/ofmdfm/welfare-reform-mitigations-working-group-report.pdf>

3 Department for Social Development, Provision of Discretionary Support: A consultation on the service design (2013) available at: <https://www.webarchive.org.uk/wayback/en/archive/20130502092654/http://www.dsdni.gov.uk/index/consultations/provision-of-discretionary-support-2013.htm>

4 The Discretionary Support regulations (Northern Ireland) 2016 SR 2016, No. 270

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Regulation 11 specifies what can be supported through a DS loan and Regulation 12 sets out what a DS grant can cover. DS awards can assist with living expenses where a claimant has no means of meeting immediate costs for themselves or their immediate family. Awards can also be made to cover the cost of household items (including white goods and basic furniture), travelling expenses and rent in advance. Schedules 1 and 2 list the items and services for which DS loans and grants cannot be provided. The focus for DS is on basic items necessary for cooking food, keeping food fresh, washing clothes, a place to sleep, a place to sit and privacy, and so the list of excluded items includes anything that goes beyond these basic needs. That means that costs related to housing repairs, educational or training needs, IT or personal security measures – among others – are not eligible for DS support. There is no flexibility for decision makers to allow for exceptions to these excluded items.

The claimant's annual income, or in the case of a couple their joint income, must be below a statutory threshold known as the Annual Income Threshold. The Income Threshold is based on the National Living Wage (NLW) which is automatically adjusted whenever this rate increases. Since 1 April 2021 the NLW sets an hourly rate of £8.91 and now applies to those aged 23 upwards, rather than those aged 25 upwards as had originally

been the case. Under Regulation 15 of the 2016 Regulations, the income threshold was originally set at 40 hrs per week at National Living Wage. In response to the COVID-19 pandemic Minister Harghey introduced an emergency increase to the income threshold, via amending legislation. Under Regulation 2 of the Discretionary Support (Amendment No. 2) (COVID-19) Regulations (Northern Ireland) 2020 the threshold was raised to 45 hours at the NLW, meaning that the current income threshold is £20,849.<sup>5</sup> This threshold applies to all claimants, regardless of household circumstances, meaning that the same threshold is applied to a single person without children as to a couple with four children. Schedule 3 to the 2016 regulations sets out the sums that are disregarded for the income threshold and Schedule 4 sets out the capital to be disregarded. The threshold does not include income tax, national insurance or pension contributions. Income from some social security benefits is excluded, including income from Attendance Allowance, Disability Living Allowance, Personal Independence Payment, Child Benefit, Guardians Allowance, Discretionary Housing Payments, Housing Benefit, Independent Living Fund, Child Maintenance and payments made under the Welfare Supplementary Payments scheme. Child tax Credits and Working Tax Credits are not excluded and so will be counted as part of a claimant's annual income. The Regulations stipulate that the need for

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5 The Discretionary Support (Amendment No. 2) (COVID-19) Regulations (Northern Ireland) 2020, SR 2020, No.67

DS must have arisen in Northern Ireland and be satisfied in Northern Ireland. Age and residency requirements mean that claimants must normally be at least 18 years old, or 16 if they have no parental support and that they must be ordinarily resident and present in Northern Ireland. Regulations 13 and 14 identify persons who are excluded from DS including prisoners detained or on temporary release, people in residential care, students in full time third level education, someone involved in a trade dispute, and a person who is subject to a sanction applied by the Department. The latter three categories of persons may, however, be eligible for DS in the case of a disaster, and DS guidance has been amended to enable some consideration of the excluded groups, albeit unlikely that they would be able to qualify for a DS award.

Two additional award schemes have subsequently been added to DS. The first is the Universal Credit Contingency Fund (UCCF). The UCCF is part of a series of mitigation measures designed to protect claimants in Northern Ireland from some of the adverse impacts of the UK-wide welfare reforms, which were implemented in Northern Ireland under the Welfare Reform (NI) Order 2015.<sup>6</sup> The Contingency Fund was introduced with effect from 1 November 2017, and payments

are made through the Discretionary Support Scheme using the legislative provisions of the 2016 Regulations. The fund provides for a non-repayable, discretionary grant to alleviate short-term financial hardship experienced by UC claimants while they are waiting on their first full Universal Credit payment. The UCCF grant is counted as one DS living expenses grant in a 12-month period, so a UCCF award means claimants are not eligible for any living expenses grant.

The Discretionary Support Self Isolation Grant is a non-repayable tax-free grant to help with short term living expenses for those on low incomes who are experiencing financial difficulties as a result of being told to self-isolate due to Covid-19. The grant was introduced under the Discretionary Support (Amendment) (COVID-19) Regulations (Northern Ireland) 2020.<sup>7</sup> Claimants are eligible to apply where they, or any member of their immediate family, have been diagnosed with COVID-19 or are required to self-isolate in line with Government guidance. Unlike the other DS schemes, eligibility extends to full-time students suffering financial hardship as a direct result of COVID-19. As this is part of the DS scheme, claimants must also satisfy the basic eligibility criteria of having an extreme,

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6 The dissolution of the Northern Ireland Assembly in January 2017 prevented the Department from making statutory provision for mitigation payments on the introduction of Universal Credit. The Department has, however, been making administrative payments in lieu of mitigation payments to eligible Universal Credit claimants. The administrative payments are being made in accordance with the agreed policy as detailed in the draft Universal Credit (Welfare Supplementary Payment) Regulations and under provisions in successive Budget Acts

7 Discretionary Support (Amendment) (COVID-19) Regulations (Northern Ireland) 2020 SR 2020, No.44

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exceptional or crisis situation which places them or their immediate family's health, safety or wellbeing at significant risk and come within the annual income threshold, as well as satisfying the remaining eligibility criteria. Claimants may be awarded more than one Discretionary Support Self Isolation grant in a 12-month period if they continue to experience financial difficulties as a result of self-isolation. The award is based on the number of people in the household as well as the period of financial need and other individual circumstances. Any award made will normally be payable from the date of application to the day before the person's next income is due to be received (for example the next benefit payment), although subsequent enhancements to the grant have been made including providing for an increase in the duration and value of the grants awarded. The amount payable for children is based on the Income Support rate for children as it is higher than in Universal Credit. There is no limit on the number of children that can be included in an award.

## 2.4 Application, decision-making and review

The original model for DS applications was telephone only with face-to-face provision in Jobs and Benefits Offices for claimants who required additional support. In its report on the Review of welfare mitigations schemes, the Department noted that it was

reviewing operational aspects of the delivery of Discretionary Support, including looking at potential changes to the information technology and reviewing telephony and other processes to ensure all available tools and techniques are being used to provide optimum operational delivery.<sup>8</sup> In early 2020, plans already in development by the Department were expedited in response to Covid, enabling enhancements to the telephony service to be implemented. An online application process was initiated in March 2020.

The core operational delivery model now begins with a team of Administrative Officers receiving calls to the service and operating an initial triage to reduce call waiting, answer queries and assist callers in making a full application if applicable. Callers who have the IT availability and who are confident in doing so will be asked to self-serve in making their online application; callers who are unable to do so will have their application completed by a member of the triage team on their behalf. All completed claims are directed to a separate team of Financial Support Officers who make a call back to each claimant to assess circumstances, need, gather any additional information required and decide the optimum route for help. The claimant will receive the decision on their application via a phone-call, which is then followed up with a letter detailing the outcome decisions and the reasons for the decision.

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8 DfC, Review of welfare mitigations schemes, (2019) p47, available at: <https://www.communities-ni.gov.uk/publications/review-welfare-mitigation-schemes>

If the claimant is unhappy with a DS decision, they have the right to ask for a review within 28 days of the initial decision. This First Review is carried out by a Departmental Review Officer. If the claimant is unhappy with the outcome of the First Review, they can ask for a Second Review by the Discretionary Support Commissioner, who is independent of the Department.<sup>9</sup> The DS Commissioner's Annual Report notes that the first and second reviews should be "comprehensively considering all matters relating to the case in question starting with the law; material facts and then the views expressed by the claimant."<sup>10</sup>

That means that the review is not restricted to the facts raised by the claimant. The view of the DS Commissioner's Office is final. The only way in which the Commissioner's decision can be challenged is by judicial review. Judicial review is the process by which the courts oversee the legality of decisions made by public bodies. A decision can be unlawful if it is illegal, irrational or involves procedural impropriety, or if there is a breach of the European Convention on Human Rights.

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9 See Office of the Discretionary Support Commissioner, Report for the period 1 April 2020 – 31 March 2021 (2021), para.3-5, setting out the DS Commissioner's role.

10 Office of the Discretionary Support Commissioner, Report for the period 1 April 2019 – 31 March 2020 (2020) para.43

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## 3. The panel's approach

### 3.1 Summary

The Independent Review Panel was tasked with identifying how well the current Discretionary Support (DS) scheme was working in meeting needs and what could be done to improve the scheme's potential to achieve this. We have approached this task in two interconnected ways. First, we collected empirical data on how the DS scheme has been working, through interviews, focus groups and workshops with a range of people connected to DS, in their personal or professional capacity. We have used this data as the basis for our findings and recommendations. The second aspect of the panel's approach has been to situate these findings and recommendations within a framework that can respect the dignity of DS claimants, which we see as directly connected to issue of what a person's essential needs are. We draw on academic analysis to articulate what the boundaries of dignity and respect can mean, in practice and in law. This section sets out our data collection and analysis methods and our detailed analysis of what dignity and respect mean in social security. We incorporate research that sees dignity as requiring a minimum level of resources and the legal framework within which this can be protected. We utilise

the framework developed by Patrick and Simpson that sets out the distributional, relational and intrinsic dimensions of dignity to incorporate the voice of the claimant.<sup>11</sup>

### 3.2 Data collection and analysis

The panel sought evidence of how the system was working from people with experience of making a Discretionary Support (DS) claim and those who have provided support to claimants; from operational and policy staff within DS; the DS Commissioner; and the political parties and their constituency office staff.

To understand the claimant experience we focused on gathering interview and survey data. In total, we completed one-to-one telephone interviews with 30 claimants, with interviews lasting between 5 and 40 minutes, with most lasting 10-15 minutes. Interviewees were recruited mainly through DS, with claimants asked at the end of the decision-making process whether they were content for a panel member to contact them. 26 interviews were conducted with claimants from this recruitment method. Two claimants contacted panel members directly and were interviewed by those panel members. The remaining 2 claimants were recruited by Law Centre NI from their

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11 R Patrick and M Simpson, 'Conceptualising dignity in the context of social security: bottom-up and top-down perspectives' (2020) 54(3) Social Policy and Administration 475

client base and were interviewed by a panel member. Of the 30 claimants interviewed, 7 had been unsuccessful in their claim with the remaining 23 being wholly or partly successful. 13 were male and 17 were female. All but 2 were in receipt of social security benefits. 28 interviewees were living in either social housing or private rented accommodation. One was an owner-occupier and one was living with their carer who was an owner-occupier.

We also ran an online public survey from 9 July 2021 to 20 Aug 2021 and received 742 valid responses, using Survey Monkey. The survey was a mixture of 11 multiple choice and 9 open questions, with 5 further questions on household composition, age, sex, ethnicity and income source. The survey was posted on a website created for the project, which was hosted by Ulster University.<sup>12</sup> The survey was promoted through broadcast media, social media and by a Department for Communities (DfC) mail shot sent via text to 13,500 DS users who had contacted DS between 1 June 2021 and 5 August 2021.

We ran a series of workshops with advisers from the voluntary and community sector. In total, 7 workshops were completed with advisers and volunteers from:

- Advice Space
- Ballynaveigh Community Development Association

- Clanmill Housing
- Community Advice Causeway
- Community Advice Antrim and Newtownabbey
- Community Advice Fermanagh
- Community Advice Lisburn & Castlereagh
- Community Advice Newry Mourne & Down
- Dove House, Derry & Strabane
- East Belfast Alternatives
- East Belfast Independent Advice Centre
- Employers for Childcare
- Falls Community Council
- Foodbanks within the Trussell Trust network
- NIACRO
- Rural Communities Network
- STEP
- WAVE Trauma

A workshop with migrant sector organisations was facilitated by Law Centre NI. Meetings were held with Age NI and with the Women's Regional Consortium to capture their insights. We also received written submissions from the Cliff Edge Coalition NI, Extern, Participation & Practice of Rights and St Vincent de Paul.

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12 See: [www.ulster.ac.uk/discretionarysupportreview](http://www.ulster.ac.uk/discretionarysupportreview)

We conducted 2 workshops with DS operational staff, attended by approximately 30 staff members. The workshops lasted a total of 5 hours. We interviewed staff responsible for establishing and running the DS scheme. These interviews lasted approximately one hour. We also interviewed the DS Commissioner in his role as independent reviewer of the decisions of DS inspectors.<sup>13</sup> This interview lasted one hour.

Finally, we spoke to politicians and their constituency staff, extending invitations to all of the MLAs who sit on the NI Assembly Communities Committee. We were able to meet with representatives from the Alliance Party, DUP, PBP, Sinn Féin, and SDLP and we received a written submission from the Green Party. Meetings with each of the political representatives lasted approximately one hour.

The data analysis therefore focused on the qualitative data from the interviews, focus groups, workshops and meetings and the combined qualitative and quantitative data from the online survey. The raw data from the survey was transferred from Survey Monkey to Excel where it was collated and cleaned.<sup>14</sup> The quantitative data from the multiple choice questions were analysed in Excel while the qualitative data from the open ended questions were coded using a deductive approach. Claimant

interviews were transcribed by an external transcription service from the audio recordings. Workshops and other interviews were transcribed by panel members who were attending. Emergent themes from these data were coded and analysed using the software package NVivo.

Our empirical data was supplemented by desk-based research, looking at both academic and policy outputs relevant to DS. The majority of academic research focused on the learnings from the Social Fund, as well as its predecessor schemes, and the problems of discretionary provision within a rights-based system of social security. Policy papers covered issues from poverty and destitution, to minimum income standards and in-work poverty, as well as specific issues around the impact of social security reforms and the Covid-19 pandemic on different population cohorts. Finally, our research reviewed the available government and policy papers on the different forms of discretionary relief provided in England, Ireland, Scotland, and Wales, as well as background papers from the DfC on the DS system, including reports from the DS Commissioner.

We note that there are considerable data gaps on section 75 data in relation to DS applications and awards. While this is unfortunately a common experience across many government services it does

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13 See Article 136(6) of the Welfare Reform (NI) Order 2015

14 This data collation, cleaning and initial analysis was done on behalf of the panel by Dr Alexandra Chapman, Ulster University.

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mean that we are not able to understand the equality characteristics underpinning DS data. We are aware that the online application process introduced in Spring 2021 provides an option for claimants to submit their data and that follow-up data collection with DS claimants is progressing. Data can only be collected on a voluntary basis and so it is not clear what response rates will be to improve this data collection.

### 3.3 Dignity and respect

Social security has long been recognised as having a key role to play in the protection of individuals' dignity. This connection is explicitly made in the Universal Declaration of Human Rights and is reflected in the national law of various countries. Dignity, as this section will outline, is a contested concept with numerous possible interpretations. However, a recurring theme in the literature on the subject is an attempt to identify the minimum a person requires for an acceptable or tolerable way of life. The various discretionary funds that exist in different parts of the UK have a common purpose of providing exceptional assistance in crisis situations, when an individual's regular source of income – often the mainstream social security system – is unable to cover the cost of what would be regarded as the most essential goods or services in a modern society. Almost by

definition, the schemes offer, or ought to offer, last-resort protection for individual dignity. Yet at the same time, research by the review team and others shows that discretionary funds (including but not limited to the DS scheme and its equivalents in Great Britain) can operate in a way that users perceive undermines their dignity.

### 3.4 Dignity in the context of social protection

Dignity runs like a thread through human rights law, from the Declaration of the Rights of Man and the Citizen (1789) to the Universal Declaration (1948) and the modern, international system of rights protection it inspired. Despite its pervasiveness, the actual meaning and status of dignity as a legal concept are unclear.<sup>15</sup> It is possible to argue that people possess a specific right to have their dignity protected, as the Charter of Fundamental Rights of the European Union appears to suggest. Article 1 states: "Human dignity is inviolable. It must be respected and protected." Alternatively, the protection of dignity can appear as more of an overarching objective for all human rights. This seems to align more closely with the approach of the European Court of Human Rights, which has declared the protection of dignity to be the "very essence" of the European Convention.<sup>16</sup> In this guise, a more cynical perspective suggests that dignity

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15 Dignity is an equally important, and equally contested, concept in multiple other disciplinary fields – see the various contributions to C McCrudden (ed), *Understanding human dignity* (Oxford: Oxford University Press, 2013)

16 *Pretty v United Kingdom* (app 2346/02) [2002] 35 EHRR 1

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“features so prominently in the international human rights instruments because it is wide enough to mean nothing”<sup>17</sup> – its value mainly as a useful fiction capable of uniting the ideologically opposed framers of the Universal Declaration of on Human Rights (UDHR).<sup>18</sup> A further interpretation of the inviolability of dignity holds that all humans possess an inherent dignity that can never be taken away, no matter how bad their treatment or living conditions.<sup>19</sup>

In the context of social protection, it perhaps matters little whether dignity exists as a standalone right or not, since social security-related rights are recognised as particularly key to its protection. Article 22 UDHR states:

**Everyone, as a member of society, has the right to social security and is entitled to realisation... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.**

In part this is because, as the Scottish social security principle recognises,

“social security is itself a human right and essential to the realisation of other human rights.”<sup>20</sup> McCrudden’s definition of dignity illustrates this dual importance of the right to social security. He argues that, at heart, dignity has four main elements, each protected by human rights law.<sup>21</sup>

McCrudden’s four-point definition of dignity

- prohibition of inhuman or degrading treatment and humiliation
- the conditions for self-fulfilment and autonomy
- protection of group identity and culture
- the conditions for the satisfaction of essential needs

For the most part, the avoidance of degrading living conditions, autonomy, cultural participation and the satisfaction of one’s essential needs will require access to a minimum level of financial resources, although charitable assistance and free cultural activities may have some contribution to make.<sup>22</sup>

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17 D Friedman, ‘A common law of human rights: history, humanity and dignity’ (2016) 4 European Human Rights Law Review 378, 390

18 C O’Mahony, ‘There is no such thing as a right to dignity’ (2012) 10(2) International Journal of Constitutional Law 551

19 C McCrudden (ed), *Understanding human dignity* (Oxford: Oxford University Press, 2013)

20 Social Security (Scotland) Act 2018 asp 9 s1(b)

21 C McCrudden, ‘Human dignity and judicial interpretation of human rights’ (2008) 19(4) European Journal of International Law

22 In *R (Limbuela) v Secretary of State for the Home Department* [2005] UKHL 66 the House of Lords held that it was acceptable for the state to rely on charity to ensure people had sufficient access to essential needs to avoid degrading treatment, as long as adequate charitable provision existed.

Other definitions of dignity similarly emphasise its dependence on a minimum level of resources. Boyle states that the protection of dignity requires the realisation of a minimum core of social rights.<sup>23</sup> This presumably implies something like the first of the minimum core obligations of the right to social security, set out below.<sup>24</sup>

A minimum core of social rights, as envisaged by the Committee on Economic, Social and Cultural Rights, General Comment 19.

A social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least:

- essential health care
- basic shelter and housing
- water and sanitation
- foodstuffs
- the most basic forms of education

This definition reduces dignity to a question of the avoidance or prevention of destitution. McCrudden's definition is more expansive, speaking to the fact that social security claimants' experiences of indignity – often easier to recognise than dignity itself – are at least as likely to centre on benefit rules that are perceived to deny autonomy, interactions with the system that are experienced as degrading or humiliating treatment by society at large.<sup>25</sup> Indeed, building on such findings, Patrick and Simpson suggest that, in the field of social security specifically, the protecting of dignity must take account of three dimensions of the claimant experience.<sup>26</sup>

The UK's highest-profile attempt to explicitly build a social security system based on respect for individual dignity is currently underway in Scotland.<sup>27</sup> Its architects understand dignity primarily in relational terms.<sup>28</sup> In Germany, the courts' understanding of dignity in the context

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- 23 K Boyle, *Economic and social rights law: incorporation, justiciability and principles of adjudication* (Abingdon: Routledge, 2020)
- 24 Committee on Economic, Social and Cultural Rights, 'General comment no 19: the right to social security' (E/C.12/GC/19, Geneva: United Nations, 2008) para 59
- 25 See, for example, A Eleveld, T Kampen and J Arts (eds), *Welfare to work in contemporary European welfare states: legal, sociological and philosophical perspectives on justice and domination* (Bristol: Policy Press, 2020); J Whelan, 'Work and thrive or claim and skive: Experiencing the 'toxic symbiosis' of worklessness and welfare reciprocity in Ireland' (2021) *Irish Journal of Sociology* 29(1):3-31; Scottish Government, *About your benefits and you* (Edinburgh: Scottish Government, 2018); R Patrick, 'Living with and responding to the "scrounger" narrative in the UK: exploring everyday strategies of acceptance, resistance and deflection' (2016) 24(3) *Journal of Poverty and Social Justice* 245; T Jensen, and I Tyler, 'Benefit broods: the cultural and political crafting of anti-welfare commonsense' (2015) 34(4) *Critical Social Policy* 470
- 26 R Patrick and M Simpson, 'Conceptualising dignity in the context of social security: bottom-up and top-down perspectives' (2020) 54(3) *Social Policy and Administration* 475
- 27 Social Security (Scotland) Act 2018 asp 9 s1(d); the treatment of claimants with dignity and respect would have been a core element of the UK social security charter envisaged by a proposed, but unadopted, amendment to the Bill that would become the Welfare Reform Act 2009 – Hansard, *Welfare Reform Bill deb*, 3 March 2009, col 283
- 28 M Simpson, *Social citizenship in an age of welfare regionalism: the state of the social union* (Oxford: Hart, forthcoming)
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of social security has the guarantee of a minimum acceptable income at its heart.<sup>29</sup> However, the next section argues that the design of a Discretionary Support scheme must take account of its potential role in realising at least two of Patrick and Simpson's dimensions of dignity (the distributional and relational) – even if the nature of such a scheme means its contribution in the distributional dimension will necessarily be limited.

Patrick and Simpson's three-dimensional definition of dignity in the context of social security.

- Distributional dimension – benefits must provide sufficient income for a minimum standard of living
- Relational dimension – the social security system must treat its users with respect in everyday interactions
- Intrinsic dimension – individuals' sense of self-worth must not be detrimentally affected by reliance on familial or charitable assistance; negative media, political or societal portrayals of benefit receipt; or being pushed into unsuitable employment.

### 3.5 Dignity in the context of Discretionary Support

Patrick and Simpson's conception of dignity drew on the findings of research that focused on the mainstream social security system, in particular on income-replacement benefits. The Scottish Parliament's devolved social security competences are dominated by disability and carer benefits, so it is in those fields that most Scottish Government research, policy development and system design has occurred (although some smaller low-income benefits and certain employment support functions have also come under devolved control). Discretionary Support occupies a particular niche within the social security system, but this is no reason to exclude it from a wider vision for "a social security system that treats everyone with dignity and respect as valued members of society."<sup>30</sup> Indeed, the particular contribution that a Discretionary Support scheme can make to the protection of dignity is likely to be an important one given applicants' likely circumstances when they seek help.

### 3.6 The distributional dimension

The definitions of dignity outlined above agree that a minimum standard of living is an essential component. It is possible to debate where that minimum standard ought to be

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29 IT Winkler and C Mahler, 'Interpreting the right to a dignified minimum existence: a new era in German socio-economic rights jurisprudence?' (2013) 13(2) Human Rights Law Review 388; V Gantchev, 'Welfare sanctions and the right to a subsistence minimum: A troubled marriage' (2020) 22(3) European Journal of Social Security 257

30 This vision statement emerged from participatory research with social security claimants in Northern Ireland – R Patrick and M Simpson with UC:Us, Universal credit could be a lifeline in Northern Ireland, but it must be designed with the people who use it (York: JRF, 2020) 26

located, as Section 3 of this report illustrates – subjective views of dignity may well regard the inability to enjoy ordinary social activities as undignified.<sup>31</sup> Legally grounded definitions are more likely to hold that dignity requires access to at least the most essential living needs. Section 3 of this report argues that the proper role for a Discretionary Support scheme is to offer some last-resort protection against inability to access essential needs (that is, destitution) or degrading living conditions in exceptional circumstances, rather than routine mitigation of wider, ongoing sources of hardship in the mainstream social security system.<sup>32</sup> Research over the last decade has made clear that destitution remains a significant problem in the UK, affecting at least 2.4 million people in 2020 according to one definition,<sup>33</sup> so even in this highly residual role the workload for discretionary schemes is potentially heavy. Destitution tends to result from the interaction of various factors, but problems with the mainstream social security system have been ‘heavily implicated’ as a

cause.<sup>34</sup> Some form of discretionary safety net that can be used to help people meet essential needs – particularly significant one-off expenses – when mainstream benefits are inadequate to do so has remained a constant feature of poverty relief in the UK even as a more rights-based approach to social protection was adopted from the early 20th century. Periodic efforts to reduce complexity and discretion have sometimes had the side-effect of restricting eligibility, leading some to conclude that discretion can never be wholly eliminated from poverty relief.<sup>35</sup> Conversely, in England, the existence of local, discretionary schemes has been treated as a means of justifying measures that reduce the adequacy of the main benefits – particularly housing-related benefits – during the legislative process and in the courts.<sup>36</sup>

This trend has perhaps been less pronounced in Northern Ireland, where welfare supplementary payments have been used to shield most claimants from the effect of

31 M Simpson, G McKeever and AM Gray, *Social security systems based on dignity and respect* (Glasgow: EHRC, 2017)

32 Examples of the latter approach include Scotland’s use of discretionary housing payments to make up loss of housing benefit income experienced by under-occupying social tenants and, to a lesser extent, Northern Ireland’s universal credit contingency fund. Arguably this approach was adopted for reasons of expediency – Holyrood’s lack of devolved competence for housing-related benefits and three years without a sitting Assembly at Stormont – than because it was the ideal means of achieving the desired policy outcome.

33 S Fitzpatrick, G Bramley, J Blenkinsopp, J Wood, F Sosenko, M Littlewood, S Johnsen, B Watts, M Treanor and J McIntyre, *Destitution in the UK* (York: Joseph Rowntree Foundation, 2020)

34 C Fitzpatrick, G McKeever and M Simpson, ‘Conditionality, discretion and TH Marshall’s “right to welfare”’ (2019) 41(4) *Journal of Social Welfare and Family Law* 445, 446

35 See J Meers, ‘Discretion as blame avoidance: passing the buck to local authorities in “welfare reform”’ (2019) 27(1) *Journal of Poverty and Social Justice* 41; C Fitzpatrick, G McKeever and M Simpson, ‘Conditionality, discretion and TH Marshall’s “right to welfare”’ (2019) 41(4) *Journal of Social Welfare and Family Law* 445

36 J Meers, ‘Discretion as blame avoidance: passing the buck to local authorities in “welfare reform”’ (2019) 27(1) *Journal of Poverty and Social Justice* 41; J Meers, ‘Panacean Payments: The Role of Discretionary Housing Payments in the Welfare Reform Agenda’ (2015) 22(3) *Journal of Social Security Law* 115

policies like the social sector size criteria and household benefit cap, limiting reliance on discretionary housing payments compared to England and Wales. Nonetheless, other potential causes of inadequacy, notably cuts to the local housing allowance and almost a decade of real-terms cuts to the value of the main income-replacement benefits until 2020, have affected Northern Ireland as much as any other part of the UK.

Research by Fitzpatrick and others illustrates both the desperate circumstances that lead destitute individuals (mainly in Great Britain) to seek discretionary assistance schemes, and the problems they can experience in having what they perceive as urgent needs met. An application might only be contemplated when ‘I’d probably been without food for three days’, but this did not necessarily mean help would be forthcoming. In some cases, the decision maker did not appear to have been convinced that the situation was as urgent as the applicant believed. In others, people could be excluded from support by seemingly arbitrary rules – such as the need to have a keypad meter to receive help with energy costs – or because the scheme ran out of money or suddenly closed.<sup>37</sup> Consequently, participants could regard discretionary schemes as having more in common with charitable sources of support than as an integral part of the social security system.

To protect dignity, then, Discretionary Support needs to offer fairly reliable support with the satisfaction of essential living needs in the last resort. This principle can act as a guide to the minimum needs with which a scheme must be able to offer assistance, although that is not to say that it would be undesirable for it to extend to other needs. The minimum core requirements of the right to social security, conferred by the International Covenant on Economic, Social and Cultural Rights, set out above, are one possible standard. The right to social assistance within the European Social Charter similarly requires states to ensure people can access their means of subsistence, even if they fail to comply with the rules for mainstream benefits, but does not stipulate what these are in the same way as the Committee on Economic, Social and Cultural Rights (CESCR) has done. The definitions of destitution set out in section 3 of the report, from Fitzpatrick and others’ research and in particular the asylum support system, are more detailed, but whichever list is chosen, some of the needs included are undeniably vague. Other provisions of human rights law can be referred to in an effort to add clarity, but this too can give contradictory indications. To give one example, whereas CESCR suggests that the right to adequate housing, where one can live “in security, peace and dignity,” must imply minimum standards of privacy, space, security, lighting, ventilation,

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37 C Fitzpatrick, G McKeever and M Simpson, ‘Conditionality, discretion and TH Marshall’s “right to welfare”’ (2019) 41(4) *Journal of Social Welfare and Family Law* 445, 454

infrastructure and habitability,<sup>38</sup> a UK court has held that a local authority complied with the right to respect for family life when it placed a family in overcrowded, rodent-infested accommodation that had been deemed a health hazard in an environmental health inspection.<sup>39</sup> These may imply quite different things about the housing-related costs with which Discretionary Support needs to provide assistance in order to protect dignity. On occasion, when someone's circumstances are so dire that they are at risk of inhuman or degrading treatment, article 3 of the European Convention on Human Rights (ECHR) may transform a discretionary power to provide assistance into an obligation to do so. However, such cases will be rare and the standard of living the state is required to support very meagre, not necessarily commensurate with what is required to protect dignity.<sup>40</sup>

There is an argument that the dignity of the poorest members of society can only be truly protected by a rights-based social security system that offers sufficient support to enable everyone to meet their basic survival needs. However, that is not the case at present. In the absence of a shift to a

significantly more generous model of social protection, one that allows claimants to save small amounts of money in addition to meeting their subsistence needs, some kind of ad hoc assistance with significant one-off costs is always likely to remain. That being the case, a Discretionary Support scheme provided as a public service must offer a reasonably dependable, if last-resort, means of paying for essentials. If discretionary schemes 'appear little more reliable than charity', as in the experience of some destitute individuals,<sup>41</sup> they will not reliably protect dignity. Reasonably transparent criteria (to the extent that this is possible in a scheme intended to meet diverse needs with diverse causes), consistently applied across the country, without arbitrary bars to receiving support and with sufficient funding to ensure assistance is available year-round can help ensure the scheme does represent a credible means of allowing people to meet their most basic needs in an emergency. This may start to make the 'discretionary' scheme look and feel somewhat more rights-based, but in practice the line between the two is blurred anyway.<sup>42</sup>

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38 Committee on Economic, Social and Cultural Rights, 'General comment no 4: the right to adequate housing' (E/1992/23, Geneva: United Nations, 1992) para 8

39 *R (C and Others) v Southwark LBC* [2016] EWCA Civ 707

40 *R (On the Application of Limbuela) v Secretary of State for the Home Department* [2005] UKHL 66; G McKeever, M Simpson and C Fitzpatrick, *Destitution and paths to justice* (London: Legal Education Foundation, 2018)

41 C Fitzpatrick, G McKeever and M Simpson, 'Conditionality, discretion and TH Marshall's "right to welfare"' (2019) 41(4) *Journal of Social Welfare and Family Law* 445, 454

42 TH Marshall, 'The right to welfare', *The right to welfare and other essays* (New York: Free Press, 1981)

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### 3.7 The relational dimension

How people feel they have been treated in their interactions with the social security system are often central to their experiences of (in)dignity in the receipt of benefits. When the relational dimension of dignity is not upheld, individuals may suffer treatment they experience as degrading or humiliating (which is not necessarily the same as treatment that would be legally recognised as degrading contrary to article 3 ECHR) or feel stripped of autonomy. How applicants and claimants are viewed and treated by those who administer the system, as well as how they feel about the interaction, can have a bearing on the distributional impact of dignity to the extent that it affects the likelihood of support being awarded, withheld or withdrawn.<sup>43</sup> Discretionary awards were an important element of supplementary benefits in the UK (a predecessor to income support and universal credit), but the Supplementary Benefits Commission would ultimately turn against discretion in part because of the possibility it opens up for ‘moral judgements’ about the deservingness of applicants to play a role in decisions about whether or not to make an award.<sup>44</sup> Research on discretionary schemes shows that these may be subject

to intense scrutiny of the applicant’s lifestyle and expenditure, bringing potential for moral judgements thereon, questioning about irrelevant matters, the quiet application of behavioural conditionality in a way that the underpinning Regulations do not appear to envisage and the wording of application forms in a way that subtly limits the circumstances in which assistance may be given.<sup>45</sup>

The Scottish welfare fund – which plays a similar role to Northern Ireland’s Discretionary Support scheme – has a statutory commitment to dignity that predates that in the Social Security (Scotland) Act 2018 by more than three years. This commitment is firmly rooted in the relational dimension of dignity, stating that:

**“In exercising its functions under [the Act or any subordinate Regulations], a local authority must take reasonable steps to ensure that applicants for assistance... are treated with respect, and that their dignity is preserved.”<sup>46</sup>**

Putting in place a rhetorical commitment to dignity is the easy part of the equation. Defining what treatment with dignity means and putting

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43 C Altreiter and B Leibetseder, ‘Constructing inequality: deserving and undeserving clients in Austrian social assistance offices’ (2015) 44(1) *Journal of Social Policy* 127; D Caswell and M Høybye-Mortensen, ‘Responses from the frontline: how organisations and street-level bureaucrats deal with economic sanctions’ (2015) 17(1) *European Journal of Social Security* 31

44 Supplementary Benefits Commission, *Annual report* (London: SBC, 1975) 12

45 J Meers, ‘Awarding Discretionary Housing Payments: Constraints of time, conditionality and the assessment of income/expenditure’ (2018) 25(2) *Journal of Social Security Law* 102; J Meers, ‘Forms of fettering: application forms and the exercise of discretion in the welfare state’ (2020) 42(2) *Journal of Social Welfare and Family Law* 221

46 Welfare Funds (Scotland) Act 2015 asp 5 s5

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this into practice in the specific context of a Discretionary Support or other social security scheme is a different matter. However, some Scottish Government officials interviewed by Simpson argued that the point is not to define with precision a term that has long divided academics across multiple disciplines, but to avoid situations where service users feel they have been treated with indignity or disrespect.

**“We have never at any point attempted ... to define what treatment with dignity means because we have always understood that to be an impossible task ... There may be 200,000 different ideas ... But that to an extent is the point, it is not about setting a definition as to what this treatment entails, it’s about seeking in every single instance to meet the individual’s expectations.”<sup>47</sup>**

Across the emerging Scottish social security system, manifestations of this approach include the removal of intrusive and unnecessary questioning, the dismantling of adversarial relationships and the creation of an organisational culture that respects claimants, trusts their accounts of their circumstances and helps them navigate the

application process rather than simply waiting to assess completed applications.<sup>48</sup> That is not to say that users of the UK or Northern Irish system will inevitably experience these problems, but it is clear that some people’s experiences have been far removed from the Scottish aspiration. The quote below illustrates the difference that can be made when staff have the time to take a holistic look at an individual’s circumstances, the knowledge to understand what the individual ought to do to improve their situation and the motivation to share this information:

**One of the guys at the Jobcentre said, ‘You keep getting sanctioned. I know that you’ve got health problems and stuff like that. Maybe you should apply for ESA.’ When I called up over the phone, another gentleman suggested to me, ‘Apply for a PIP to get help out of the situation’... I worked up quite a good relationship with a guy at my local Jobcentre... he told me what was available to me... He went out of his way to help me to make sure I got the help that I needed... A lot of other people were dismissive and left me to rot in the situation.”<sup>49</sup>**

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47 M Simpson, *Social citizenship in an age of welfare regionalism: the state of the social union* (Oxford: Hart, forthcoming)

48 M Simpson, *Social citizenship in an age of welfare regionalism: the state of the social union* (Oxford: Hart, forthcoming) – officials in Northern Ireland argued that its devolved system has long aspired to offer a more compassionate, empathic service than the DWP model, albeit with less fanfare than developments in Scotland.

49 C Fitzpatrick, G McKeever and M Simpson, ‘Conditionality, discretion and TH Marshall’s “right to welfare”’ (2019) 41(4) *Journal of Social Welfare and Family Law* 445

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There are several important components to the claimant's treatment in a way that restored dignity here. The social security staff he encountered were willing to look for reasons other than laziness for non-compliance with benefit conditions; wanted to help him; and had the knowledge to do so effectively. There are lessons here for how Discretionary Support staff should treat applicants, but also potentially for their understanding of the wider system – so that looking at a person's circumstances in the round might not just improve empathy towards the unenviable situation they are in, but could help unlock other sources of support that could help avoid a reoccurrence of the crisis.

### 3.8 The intrinsic dimension

The intrinsic dimension of dignity is not wholly within the gift of those who design and operate the Discretionary Support scheme. Logically, an individual's sense of self-worth is likely to be damaged if they are unable to meet their most basic needs or feel they have not been treated with respect in an interaction with a public authority. However, other factors are likely to be relevant too. If significant sections of the media, political elite and society routinely

view claimants of low-income benefits with “disgust” or “like summat they stood on,”<sup>50</sup> then this is bound to affect some claimants' perception of themselves – and might also affect how staff treat them.<sup>51</sup> Ultimately, a life lived in shame is unlikely to be a life lived in dignity. Consequently, the Scottish project to build a social security system based on dignity and respect has ambitions beyond how the devolved system works, with official commitments to:

**“Promote a positive view of social security, explaining it is a public service to be proud of – a human right there for all of us who need it; publicly challenge the myths and stereotypes about social security to help reduce stigma and negativity [and] change the language on social security – introducing more positive words to describe the service and the people who use it.”<sup>52</sup>**

Scottish politicians interviewed in 2020 believed strongly in the power of political leadership to expound and win public buy-in to a modern ‘Scottish myth’ that imagines the country as a solidaristic, tolerant and

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50 T Jensen, and I Tyler, ‘Benefit broods: the cultural and political crafting of anti-welfare commonsense’ (2015) 34(4) *Critical Social Policy* 470, 470; R Patrick, ‘Living with and responding to the “scrounger” narrative in the UK: exploring everyday strategies of acceptance, resistance and deflection’ (2016) 24(3) *Journal of Poverty and Social Justice* 24(3) 245, 251; see also M Simpson, G McKeever and AM Gray, *Social security systems based on dignity and respect* (Glasgow: EHRC, 2017)

51 R Patrick and M Simpson, ‘Conceptualising dignity in the context of social security: bottom-up and top-down perspectives’ (2020) 54(3) *Social Policy and Administration* 475

52 *Social Security Scotland, Our Charter* (Dundee: Social Security Scotland, 2019)

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largely social democratic society.<sup>53</sup> This is a far more ambitious undertaking than the design of a Discretionary Support scheme, but there is space to consider what can be done at system and political level to try to minimise stigma around the scheme and social security more broadly.

### 3.9 A fourth dimension? The voice of the user

A role for the service user in the development and evaluation of social security policy and practice is not explicitly included in Patrick and Simpson's model of dignity. However, is an important part of the Scottish approach,<sup>54</sup> one that Scottish Government officials have argued flows naturally from a commitment to dignity and respect,<sup>55</sup> and has received some academic and political interest in Northern Ireland in recent years.<sup>56</sup> In that spirit, this independent review has relied heavily on survey and interview data from people with experience of the current DS scheme – but this is not a substitute for direct involvement of experts by experience in the actual policy and operational development of its successor. User experience may have a particularly valuable role to play in

determining how the relational and intrinsic dimensions of dignity can be realised. There are lessons to be learned from current and previous exercises in co-design to ensure that this role is a meaningful, even transformative, one and not merely tokenistic. The Scottish example is an important one – claimant-led development of the social security charter has been recognised by the Scottish Parliament as an 'exemplar' for the future design and reform of public services<sup>57</sup> – but not the only one.<sup>58</sup>

### 3.10 Conclusion

Respecting and protecting claimant dignity should be a minimum aspiration for any social security system. Residual, discretionary schemes providing support in a crisis have an important role to play in delivering on this aspiration, given that applicants will by definition come to them in circumstances when access to basic living needs is at stake, often along with their self-esteem. There is no straightforward, agreed definition of dignity, whether in general or in the narrower context of social protection, and there can be no guarantee that what a social security agency does

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53 M Simpson, *Social citizenship in an age of welfare regionalism: the state of the social union* (Oxford: Hart, forthcoming)

54 Social Security (Scotland) Act 2018 asp 9 s1(f); see the reports various reports on the work of the social security experience panels at <https://www.gov.scot/collections/social-security-experience-panels-publications/>

55 M Simpson, *Social citizenship in an age of welfare regionalism: the state of the social union* (Oxford: Hart, forthcoming)

56 R Patrick and M Simpson with UC:Us, *Universal credit could be a lifeline in Northern Ireland, but it must be designed with the people who use it* (York: JRF, 2020); response to AQO 29/17—22, NI Assembly debate 3 February 2020, vol 125 no 5 p42

57 Scottish Parliament Official Report, 2 October 2018, col 28

58 For an overview, see M Simpson, G McKeever and AM Gray, *Social security systems based on dignity and respect* (Glasgow: EHRC, 2017)

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with a view to protecting dignity will match what every claimant thinks is required to do. Nonetheless, having regard to the three (or possibly four) dimensions of dignity set out in this section in the design and delivery of the service will make it more likely that the scheme will live up to this standard. To reiterate, the scheme should help claimants access their minimum subsistence needs to the extent that it is a suitable vehicle for doing so – the mainstream social security system should be doing the heavy lifting here. Claimants must feel they are

treated with respect and empathy in their interactions with the system, whatever the outcome of their application. More broadly, the scheme should be designed, marketed and politically discussed in a way that reduces stigma and protects users' self-esteem, to the extent that this is within the power of the responsible authority. Finally, consideration should be given to how people with experience of DS in the past can be involved in improving it for the future, above and beyond their contribution to this report.

## 4. Context

### 4.1 Summary

Our review takes account of the context in which DS is operating, recognising that this is an important part of understanding how DS is working and the challenges facing it. The context for DS since its introduction in 2016 has been a period of significant changes to social security provision, particularly those introduced under the Welfare Reform (NI) Order 2015. They have included the introduction of Universal Credit to replace ‘legacy’ benefits, the replacement of DLA with PIP, and strict criteria that limits entitlement through a statutory benefit cap and the two-child limit. In addition, a benefit freeze was imposed from 2015 to 2020. At the outset of the Covid pandemic a temporary uplift was made to the Universal Credit standard allowance of £20 per week, a measure that was in place from March 2020 to October 2021. In Northern Ireland a unique mitigations package was introduced to help shield claimants from some of the negative impacts of the 2015 reforms and there is cross-party and Ministerial support for a new mitigations package to be provided. The panel’s view, however, is that DS should not be required to function as a top-up for benefit levels because we do not see DS as the mechanism by which any regressive impact of social security reforms can be tackled. The panel does, however, recognise that there is an income adequacy gap for individuals

on social security benefits and/or in low pay, particularly for lone parents, families with children and households with disabled people for whom welfare reforms have had the most regressive impact. This is the case under several different measures of income required to meet basic needs and to avoid destitution. Individuals suffering from income inadequacy will have little or no capacity to be financially resilient when faced with economic shocks and it is likely that these are the individuals who will need the support of DS to meet basic needs. It is also likely that these individuals will be least able to access affordable credit to meet their needs.

### 4.2 The social security and low-pay landscape

Discretionary Support (DS) was implemented as part of the Northern Ireland social security system at a time when other major changes were being made to social security entitlements. In particular, the Department was preparing for the roll out of Universal Credit and Disability Living Allowance was scheduled to be replaced by Personal Independence Payment. This inevitably meant significant upheaval in the system and for individuals who were claiming (or being transferred to) these new benefits. At the same time the benefit cap and the two-child limit were introduced, limiting the amount of benefit income a household can receive.

In recognising that the reforms would have a particular impact in Northern Ireland, the Northern Ireland Executive agreed a range of measures to mitigate some of the negative impacts of the reforms. Alongside this, the new DS scheme was set up.

From the outset, DfC has been clear that DS was not intended to be a benefit top-up. In evidence to the Committee for Social Development in 2012,<sup>59</sup> reviewing the consultation responses on the replacement scheme for the Community Care Grant and Crisis Loan provisions of the Social Fund, the Department stated:

**“we have had a good deal of stakeholder feedback [on the consultation on the new DS scheme] to suggest that the social fund has become a way of routinely topping-up benefit income. That is not what the scheme is about. We seek to refocus the new provision to address customer needs in situations of exceptional need and hardship and where there is a risk to health and safety, not to deal with ongoing costs, as we would simply not have sufficient funding to do that. We have responded to**

**stakeholder feedback about the financial pressures experienced by working customers, and a new scheme will be income-based so that we will be able to assist vulnerable customers who are working but who are on low incomes.”<sup>60</sup>**

The new “refocused” DS scheme, as part of the newly reformed social security landscape, would therefore need to deliver the policy objective of meeting exceptional need and hardship in a context which was very different from that of its predecessor schemes under the Social Fund. This includes a stagnant growth in real earnings and rising housing costs,<sup>61</sup> with gaps in household income requiring more people to look to the safety net of social security.

The DS scheme does not only cater for households that are out-of-work or in receipt of low income benefits, but can be accessed by those on low incomes, including those who are in work but still in poverty. There are some groups who are more likely to experience in-work poverty and have a harder time escaping poverty. The sector, number of hours and hourly pay, location, someone’s gender, ethnicity and age, and barriers such as availability of childcare and

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59 The Committee for Social Development was the predecessor to the Communities Committee

60 Committee for Social Development, Discretionary Support Policy: DSD briefing (NI Assembly Official Report, 11 October 2012), p4

61 New Economics Foundation, The UK’s living standards crisis: the case for a living income (2021) available at <https://neweconomics.org/2021/06/the-uks-living-standards-crisis>

transport all determine whether someone is in poverty, and whether they are able to escape it through work.<sup>62</sup> Employment can reduce the risk of poverty compared to being unemployed but more than half of people in poverty are now in a working family and working single parents have seen the fastest rise of poverty.<sup>63</sup> In 1997/98, 10% of UK workers were trapped in poverty; the 2018/19 figures show that almost 13% of workers are.<sup>64</sup> The DfC's Expert Advisory Panel on an anti-poverty strategy notes that:

**“[By] April 2020, an estimated 10% of employees in NI were paid an hourly rate below the statutory minimum and a quarter (25.3%) were paid less than the real living wage.<sup>65</sup> Both the voluntary real living wage and the statutory [National Living Wage] are important mechanisms for addressing the poverty of working age families. At present, however, many low paid workers have their incomes supplemented through tax credits and Universal Credit. For those in zero-hours**

**and intermittent employment, the complexity of Universal Credit is a demonstrable deterrent in seeking variable hours or short-term employment.”<sup>66</sup>**

Work does not always offer a guaranteed exit from poverty.

An additional context has arisen from the global pandemic caused by Covid-19, which has had a significant impact on household incomes. The UK government's response to the pandemic was to provide financial support for those who lost their jobs or livelihoods. This support was delivered predominantly through a furlough scheme that replaced up to 80% of wages; a self-employment income support scheme that provided grants of up to £7,500 where trading profits were reduced because of Covid-19; and through an uplift to the standard allowance for Universal Credit, equating to an additional £20 per week, with an equivalent (although now phased out) uplift to Working Tax Credits. The importance of Universal Credit in supporting those in

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62 JRF, UK Poverty 2020/21 (2021) available at: <https://www.jrf.org.uk/report/uk-poverty-2020-21>

63 JRF, UK Poverty 2019/20 (2020) available at: <https://www.jrf.org.uk/report/uk-poverty-2019-20>

64 JRF, UK Poverty 2019/20 (2020) available at <https://www.jrf.org.uk/report/uk-poverty-2019-20-work>

65 The Anti-Poverty Strategy Expert Advisory Panel's report sets out the difference between the national living wage and the real living wage: "The wage floor is set by Westminster on a UK-wide basis and the policy aim is to raise the NLW (introduced in 2015) to two-thirds of median UK earnings by 2024. This should not be confused with the campaign for a 'real' living wage which sets the wage floor at a higher level. Some employers voluntarily subscribe to this living wage floor. But many do not ..." See Recommendations for an anti-poverty strategy (2020), p29, available at: <https://www.communities-ni.gov.uk/publications/report-anti-poverty-strategy-expert-advisory-panel>

66 Anti-Poverty Strategy Expert Advisory Panel, Recommendations for an anti-poverty strategy (2020), available at: <https://www.communities-ni.gov.uk/publications/report-anti-poverty-strategy-expert-advisory-panel>

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low paid work or unemployed was borne out by the fact the number of UC claimants in employment more than doubled across the UK between February and August 2020, from 854,000 to nearly two million and the number of unemployed UC claimants rose by 1.2 million to 2.3 million.<sup>67</sup> In Northern Ireland, there were 57,920 households (65,200 claimants) on UC in February 2020. By August 2020 this had risen to 114,530 households (132,640 claimants), and the latest figures show that by May 2021 this had risen again to 116,810 households (134,070 claimants) on UC.<sup>68</sup> The impact of Covid-19 is likely to continue for some time and while the hope is that this impact will be temporary, it remains necessary to consider that temporary impact as part of the overall landscape in which DS operates.

#### 4.3 Mitigating the impact of reforms

The cumulative impact of the reforms to the tax and social security system introduced since 2010 in Northern Ireland, including the mitigations package, has been examined by Reed and Portes.<sup>69</sup> While some of the reforms have been progressive in improving the financial position of some claimant groups, there is also evidence of where that

impact has been most regressive. Lone parents, children and people with disabilities feature prominently in those groups for whom tax and benefit changes have had a regressive impact: households with greater numbers of functional disabilities; households with children, and particularly lone parent households and households with 3 or more children; and households with disabled children have been hit hardest.

Northern Ireland has benefited substantially from the mitigations package that has accompanied the 2015 welfare reforms and we are conscious that the mitigations package is being reviewed by an independent panel to advise DfC on how a future package could be most effective.<sup>70</sup> We see it as being rightly focused on how changes to existing benefit entitlements and delivery could be made to avoid, minimise or mitigate against future regressive impact. We do not see DS as the mechanism by which regressive impact can be tackled. Our review is not focused on identifying ways in which core benefit entitlement and delivery could be improved, or on how benefit rates could be

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67 SSAC, Review of the temporary Covid-19 measures (2020) p12, available at: <https://www.gov.uk/government/publications/a-review-of-the-covid-19-temporary-measures>

68 DfC, Universal Credit Statistics: May 2021 (2021) available at: <https://www.communities-ni.gov.uk/articles/universal-credit-statistics>

69 H. Reed and J. Portes, Cumulative impact assessment of tax and social security reforms in Northern Ireland (2019) available at: [https://nihrc.org/uploads/publications/Final\\_CIA\\_report\\_Oct\\_2019.pdf](https://nihrc.org/uploads/publications/Final_CIA_report_Oct_2019.pdf)

70 Department for Communities press release on the welfare mitigations review, available at: <https://www.communities-ni.gov.uk/news/communities-minister-hargey-commissions-welfare-mitigations-review>

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adjusted. On this point, therefore, we do not see DS as a top-up scheme for benefits.

While this is the case, it is also clear that those most affected by regressive tax and social security measures, as identified by Reed and Portes, will be those with the least financial resilience to manage crisis or emergency needs, and addressing these needs is the purpose of DS. This context is inescapable. For that reason we think it is important to understand what could be considered basic needs, that the state would provide or the individual could secure for themselves, in order to understand how exceptional circumstances could arise that would require support through DS.

#### 4.4 How are basic needs defined?

We start from the question posed by John Veit-Wilson: how can we know whether people have access to sufficient levels of income without determining what level of income is sufficient?<sup>71</sup> Section 2 sets out what the human rights standards are for enabling dignity and respect, not all of which relate directly to income standards, but these help to conceptualise why minimum standards of income are important. We focus in this section on some of the social science definitions of poverty, deprivation and destitution that categorise the income and items that are necessary for each threshold definition. Some of these are based

on income thresholds relative to average earnings while others focus on an agreed list of items that a representative sample of the public believe are necessary for people to have and to be able to afford from their own resources. We include here the research on what the public see as the basic necessities, and resources required to obtain them, to avoid destitution. Standards of adequacy and necessity can also be derived from human rights obligations, both those incorporated into domestic law in the UK that the state is legally required to meet and international human rights treaties that the UK is a signatory to. It is also the case that the question of where these standards are set is a political one, in terms of ideological perspectives on what the standard should be, who should be responsible for meeting standard needs and the determination of budgets to address these issues. Our report does not seek to further politicise that question. Instead, we have focused on where existing research indicates a gap between the income from benefits and/or low wages and the resources necessary to meet needs that are identified through public consensus as basic necessities, which might be considered as part of the DS scheme that focuses on basic needs.

#### 4.5 Income based poverty measures

The NI Executive uses two main indicators of low-income poverty: relative and absolute

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71 J. Veit-Wilson, *Setting adequacy standards: How governments define minimum incomes* (1998) Bristol: The Policy Press

poverty.<sup>72</sup> As the annual Households Below Average Incomes (HBAI) Northern Ireland report for 2019/20 explains:

**An individual is considered to be in relative poverty if they are living in a household with an equivalised income below 60% of UK median income in the year in question.**

**This is a measure of whether those in the lowest income households are keeping pace with the growth of incomes in the population as a whole... An individual is considered to be in absolute poverty if they are living in a household with an equivalised income below 60% of the (inflation adjusted) UK median income in 2010/11.**

**This is a measure of whether those in the lowest income households are seeing their incomes rise in real terms.<sup>73</sup>**

The estimates of those living in poverty in Northern Ireland are based on a household's disposable income before housing costs (BHC) and after housing costs (AHC). Calculating poverty after housing costs can give a more

accurate measure of how much families have to live on, because poorer households tend to spend a higher proportion of their income on housing. The HBAI report shows that the highest housing costs for 2019/20 were in the Private Rented Sector, compared to social housing and owner-occupied costs.<sup>74</sup>

The 2019/20 HBAI report for Northern Ireland estimates that 17% of individuals in NI (approximately 313,000), were considered to be in relative poverty BHC and 13% (approximately 241,000), were considered to be in absolute poverty BHC. In relation to children, 22% (100,000) are in relative poverty BHC, with 17% (75,000) in absolute poverty BHC. In addition, 10% (44,000) of children lived in food insecure households. Overall, families without children are at the lowest risk of being in relative poverty BHC at 9% but single parent families are at the highest risk at 34%. When income AHC is considered, 17% of individuals are considered to be in relative poverty and 13% in absolute poverty. In relation to children, 17% are considered to be in relative poverty AHC and 13% in absolute poverty.<sup>75</sup> If we compare UC with the absolute and relative poverty lines, 9%

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72 Northern Ireland Executive, Child Poverty Strategy, available at: <https://www.communities-ni.gov.uk/publications/child-poverty-strategy>

73 DfC, Households Below Average Income Northern Ireland 2019/20: Quality and Methodology Information Report (2021), p 6, available at: <https://www.communities-ni.gov.uk/system/files/publications/communities/hbai-2019-20-quality-methodology-report.pdf>

74 DfC, Households Below Average Income Northern Ireland 2019/20 (2021) p10, available at: <https://www.communities-ni.gov.uk/system/files/publications/communities/hbai-2019-20.pdf>

75 DfC, Households Below Average Income Northern Ireland 2019/20 (2021), available at: <https://www.communities-ni.gov.uk/system/files/publications/communities/hbai-2019-20.pdf>

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of couples without children will be in relative poverty AHC; 16% of single adults without children and 37% of single adults with children will be in relative poverty AHC.<sup>76</sup>

#### 4.6 Needs based poverty measures

The relative income measure in the HBAI series is useful because it is based on robust data from the Family Resources Survey, which is verified by the Office for Statistics Regulation.<sup>77</sup> It is good at capturing income that includes social security benefits and earnings and has contextual information on individual and household circumstances. It is not, however, based on research about what people need. The DfC's Anti-Poverty Expert Advisory Panel has stated that:

**“The [Department’s new anti-poverty strategy] should be based on a definition of poverty that refers to social as well as material needs. The definition should be easily expressed as a measurable standard of living below which no-one should fall. For example: People are living in poverty if their income and other resources are so low that they are unable to meet their basic needs, including participation in society”.**<sup>78</sup>

There are a number of different measures that seek to capture what the public identify as basic needs, including the Minimum Income Standards, published annually by the Joseph Rowntree Foundation as well as deprivation measures that provide detailed lists of items ranked by representative samples of the public from most to least necessary.

#### 4.7 Minimum Income Standards

Research commissioned by the Joseph Rowntree Foundation on Minimum Income Standards (MIS) has sought to quantify what level of income people think is needed to afford a socially acceptable standard of living in Britain today, and to participate in society. It combines a ‘consensual’ methodology based on group discussions among members of the public who represent different household types to identify ‘necessary’ items, alongside expert advice on what budget is needed for nutritional requirements and adequate heating, using costed lists of essential items based on existing budget standards. The detailed lists of what is needed (rather than what is wanted) by different household types, covers:

1. food;
2. clothes;
3. accommodation;

76 DfC, Households Below Average Income Northern Ireland 2019/20 (2021), Supporting Table c3 tab 3\_7, available at: <https://www.communities-ni.gov.uk/system/files/publications/communities/hbai-2019-20.pdf>

77 <https://uksa.statisticsauthority.gov.uk/about-the-authority/uk-statistical-system/types-of-official-statistics/>

78 Anti-Poverty Strategy Expert Advisory Panel, Recommendations for an anti-poverty strategy (2020) para.4.14, available at: <https://www.communities-ni.gov.uk/publications/report-anti-poverty-strategy-expert-advisory-panel>

4. utilities;
5. fuel;
6. household goods;
7. personal goods and services;
8. transport; and
9. social and cultural activities.

Under the MIS, different income levels are set for different household types but it is important to note that the MIS does not represent an acceptable living standard for every individual. Instead, it draws a line below which it is socially unacceptable for any individual to live. For example, a stable income that allows people to participate in society would be £20,400 per annum for a single person; for a couple with no children it would be £27,340 (£13,670 each); for a couple with two children it would be £34,200; for a single parent with one child under two years old it would be £44,714. Based on these thresholds, a working-age adult or couple relying on out-of-work benefits gets less than half of what they need through current UC rates. Without the £20-a-week increase to UC, the proportion falls to around one third.

Similar concerns around the income adequacy gap that will arise from withdrawing the £20 UC uplift have been examined by the New Economic Foundation. It analysed weekly income thresholds as measured by relative poverty, absolute

poverty, and the MIS for different family types across the UK, and forecasts that:

**“by November 2021, when the emergency pandemic support has been removed, it is expected that nearly one in three (32%) of households, equivalent to 21.4 million people, will be living in households below the MIS. Nearly one in five (19%) will be living in households below 75% of the MIS and will therefore be at particularly high risk of material deprivation. A high proportion of children are projected to be living in households with income below this socially acceptable standard – 6.7 million children (45%) will be living in households with income below the MIS and 3.5 million children (23%) will be living in households at particularly high risk of material deprivation.”<sup>79</sup>**

All of this is in the context of the benefit freeze that was imposed from 2015-2020, which means that the real value of benefits fell substantially before the £20 uplift was applied.

#### 4.8 Material deprivation

Material deprivation is also a feature of the HBAI report. Measures of deprivation allow calculations of how many people cannot afford what most people regard as

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<sup>79</sup> New Economics Foundation, The UK's living standards crisis: the case for a living income (2021), p18, available at <https://neweconomics.org/2021/06/the-uks-living-standards-crisis>

necessities. The Poverty and Social Exclusion surveys (1983-2011) established the public view of socially-perceived necessities and how many households are going without these essentials. The following items were defined by representative cohorts of the population as necessities:

1. Heating to keep home adequately warm
2. Damp-free home
3. Two meals a day
4. Visit friends or family in hospital or other institutions
5. Replace or repair broken electrical goods
6. Fresh fruit and vegetables every day
7. Celebrations on special occasions
8. All recommended dental treatment
9. Warm waterproof coat
10. Attend weddings, funerals and other such occasions
11. Meat, fish or vegetarian equivalent every other day
12. Curtains or window blinds
13. Household contents insurance
14. Enough money to keep your home in a decent state of decoration
15. Hobby or leisure activity
16. Appropriate clothes for job interviews
17. Table and chairs at which all the family can eat
18. Taking part in sport/exercise activities or classes

19. Two pairs of all weather shoes<sup>20</sup>.  
Regular savings (of at least £20 a month) for rainy days
21. Regular payments to an occupational or private pension

The list, dating from 2012, does not include a telephone, washing machine or television, even though they were seen as a necessity by the majority of adults, as they did not pass a majority of the statistical tests for validity and reliability. An “unexpected, but necessary, expense of £500” was also seen as a necessity.<sup>80</sup> For children, there are overlaps with some of the necessities identified for adults but with a greater frequency for nutritional needs (so, three meals a day instead of two), more specific items of new clothing and items deemed necessary for play, education and social participation:

1. A warm winter coat
2. Fresh fruit or vegetables at least once a day
3. Three meals a day
4. New, properly fitting, shoes
5. A garden or outdoor space nearby where they can play safely
6. Books at home suitable for their ages
7. Meat, fish or vegetarian equivalent at least once a day
8. A suitable place to study or do homework
9. Indoor games suitable for their ages

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<sup>80</sup> Poverty and Social Exclusion Survey, Deprivation tables: overview, available at: <https://www.poverty.ac.uk/pse-research/deprivation-tables>

10. Enough bedrooms for every child of 10 or over of a different sex to have their own bedroom
11. Computer and internet for homework
12. Some new, not second hand, clothes
13. Outdoor leisure equipment
14. At least four pairs of trousers, leggings, jeans or jogging bottoms
15. Money to save
16. Pocket money
17. Construction toys
18. Celebrations on special occasions
19. A hobby or leisure activity
20. Toddler group or nursery or play group at least once a week for pre-school aged children
21. Children's clubs or activities such as drama or football training
22. Day trips with family once a month
23. Going on a school trip at least once a term
24. A holiday away from home for at least one week a year

Those who are unable to afford (as opposed to choosing not to have) three or more necessities for adults and two more for children are defined as being in multiple deprivation.

The HBAI report includes the Combined Low Income and Material Deprivation

measure that focuses on child poverty within families. This includes being able to afford certain goods and services, divided into 21 child and adult items, with a further list identifying pensioner deprivation items.<sup>81</sup>

**Child items:**

1. Outdoor space / facilities to play safely
2. Enough bedrooms for every child 10 years or over and of a different gender
3. Celebrations on special occasions
4. Leisure equipment such as sports equipment or a bicycle
5. At least one week's holiday away from home with family
6. Hobby or leisure activity
7. Swimming at least once a month
8. Have friends round for tea or a snack once a fortnight
9. Go on school trip at least once a term
10. Go to a playgroup at least once a week

**Adult items:**

1. Money to decorate home
2. Hobby or leisure activity
3. Holiday away from home one week a year not with relatives
4. Home contents insurance
5. Friends round for drink / meal at least once a month

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81 DWP, Households Below Average Income publication- Severe child poverty indicator technical note (2010) available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200714/hbai\\_severe\\_poverty\\_technical\\_note\\_0910.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/200714/hbai_severe_poverty_technical_note_0910.pdf)

6. Make savings of 10 pounds a month or more
7. Two pairs of all weather shoes for each adult
8. Replace worn out furniture
9. Replace broken electrical goods
10. Money to spend on self each week
11. Keep house warm

**Pensioner items:**

1. At least one filling meal a day
2. Go out socially at least once a month
3. See friends or family at least once a month
4. Take a holiday away from home
5. Able to replace cooker if it broke down
6. Home kept in a good state of repair
7. Heating, electrics, plumbing and drains working
8. Have a damp-free home
9. Home kept adequately warm
10. Able to pay regular bills
11. Have a telephone to use, whenever needed
12. Have access to a car or taxi, whenever needed
13. Have hair done or cut regularly
14. Have a warm waterproof coat
15. Able to pay an unexpected expense of £200

The in/ability to afford these items is used to score the level of deprivation. As the HBAI report explains:

**“respondents are asked whether they have access to a list of 21 goods and services including for example, affording to go on school trips or affording a warm winter coat. If they can’t afford a given item, this is scored in the material deprivation measure, with items more commonly owned in the population given a higher weighted score. A child is considered to be in low income and material deprivation if they live in a family that has a total score of 25 or more out of 100 and an equivalised household income BHC below 70% of the median.”**

Based on this measurement 8% of children in Northern Ireland are in combined low income and material deprivation.<sup>82</sup>

#### 4.9 Destitution

The most extreme form of poverty is destitution. Destitution has been the subject of major research since 2016 that provides a consensual definition of destitution based on an agreed list of basic needs with an income threshold necessary to afford them:

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82 DfC, Households Below Average Income Northern Ireland 2019/20 (2021), p7, available at: <https://www.communities-ni.gov.uk/publications/households-below-average-income-northern-ireland-201920>

1. Shelter (have slept rough for one or more nights),
2. Food (have had fewer than two meals a day for two or more days),
3. Heating your home (have been unable to do this for five or more days),
4. Lighting your home (have been unable to do this for five or more days),
5. Clothing and footwear (appropriate for weather) and
6. Basic toiletries (soap, shampoo, toothpaste, toothbrush), or
7. Had an income that was so low, and no savings, so that you would be likely to lack these essentials in the immediate future

The research sets the weekly income threshold (after housing costs) needed to avoid destitution as £70 for a single adult, £100 for a couple and £20 per child.<sup>83</sup> Individuals who are unable to meet these needs through their own resources are defined as destitute so the ability to meet them through charity or family does not exclude someone from being defined as destitute. In the 2020 destitution report, individuals experiencing destitution most commonly lacked food (reported by 57%), followed by clothing (49%) and basic toiletries (43%). One third (32%) of destitute households had no income at all, including almost half (46%) of destitute migrant households.

There are legal definitions of destitution in legislation relating to asylum and social security. Under asylum regulations, as interpreted in *R (Refugee Action) v Secretary of State for the Home Department* [2014], essential needs are defined as:

1. sufficient food,
2. essential toiletries,
3. access to primary healthcare and urgent secondary treatment,
4. means to travel to appointments,
5. means of communication with emergency services,
6. access to education for children and a contribution to wider socialisation costs,
7. suitable clothing,
8. household cleaning products,
9. nappies and formula milk,
10. non-prescription medication, and
11. a minimum level of social participation.

In *R(A) v National Asylum Support Service* [2004] it was recognised that essential needs include, where appropriate, any additional support required as a result of disability. The regulations presume these needs are accessible on an income of £34 per week but while *R (Refugee Action) v Secretary of State for the Home Department* (2014) held that this income was not adequate to meet needs, it remains unclear what the income threshold should be. Even where an

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83 JRF, *Destitution in the UK* (2020) available at: <https://www.jrf.org.uk/file/57091/download?token=RUTqeIbh&filetype=full-report>

individual's income does not cover these expenses, however, an individual will only be destitute if, additionally, these needs are also inaccessible from family, friends or charity.<sup>84</sup>

Under social security legislation (not including DS), the needs that are required to avoid destitution are much sparser, and cover accommodation, heating, food, hygiene and clothing.<sup>85</sup>

#### 4.10 Credit, loans and debt

Poverty and income inadequacy are important risk factors for debt and a need for credit or loans, particularly where unpredictable peaks in essential costs mutate into crisis or emergency situations. The Consumer Council has examined the levels of discretionary or disposable income for households in Northern Ireland and found that average weekly discretionary income of the lowest 25% of earners in Northern Ireland is -£8.69 a week. As the Consumer Council explains, "These households must therefore take out loans or use overdrafts to pay for essential goods and services."<sup>86</sup>

Additionally, the lowest earning quartile of households in Northern Ireland is very sensitive to price shocks which affect how much they have to spend on necessary items, so where the costs of goods or services rises the impact on their already negative discretionary incomes is significant. For example:

**"A 5% rise in food spending makes the discretionary income deficit of the lowest earning quartile £2.37 a week larger, a 27% rise. A 20% rise in food spending causes the deficit to increase by £9.48, a rise of 109%."**<sup>87</sup>

In research by StepChange, based on analysis of 190,484 debt advice client files and survey responses from 668 clients,<sup>88</sup> unexpected expenses were found to be a particular challenge: 82% of respondents said they would not be able to meet an unexpected expense of £300.<sup>89</sup>

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84 The Immigration and Asylum Act 1999, s95, provides for support for asylum seekers to ensure access to "essential needs." The Asylum Support Regulations 2000 further define these needs, as listed above.

85 See Universal Credit Regulations 2013; Jobseeker's Allowance Regulations 1996

86 Consumer Council, Discretionary Income and Living Costs Changes (2020), available at: [https://www.consumercouncil.org.uk/sites/default/files/2020-09/Discretionary\\_income\\_and\\_living\\_cost\\_changes\\_in\\_Northern\\_Ireland.pdf](https://www.consumercouncil.org.uk/sites/default/files/2020-09/Discretionary_income_and_living_cost_changes_in_Northern_Ireland.pdf)

87 Consumer Council, Discretionary Income and Living Costs Changes (2020), p 16, available at: [https://www.consumercouncil.org.uk/sites/default/files/2020-09/Discretionary\\_income\\_and\\_living\\_cost\\_changes\\_in\\_Northern\\_Ireland.pdf](https://www.consumercouncil.org.uk/sites/default/files/2020-09/Discretionary_income_and_living_cost_changes_in_Northern_Ireland.pdf)

88 Total sample size was 4,972 adults

89 StepChange, Problem debt and the social security system (2020), p3, available at: <https://www.stepchange.org/Portals/0/assets/pdf/social-security-mini-brief-report.pdf>

This pattern of debt is further evidenced in research by the Northern Ireland Women's Regional Consortium. The research demonstrated how an event like a cooker breaking down creates serious financial difficulties where someone is on a low income, is borrowing to make ends meet, has little access to affordable credit and has poor financial literacy:

**“these borrowers have no option other than to turn to high cost credit which can leave them vulnerable to unmanageable problem debt and poverty.”<sup>90</sup>**

High cost credit can include both legal and illegal lending. The former is regulated but interest rates are much higher than with high street banks or Credit Unions. The latter is unregulated and extortionate. Research into illegal lending has highlighted the reasons that people borrowed from illegal lenders were related to key vulnerabilities, including poverty-related issues:

**“Paying bills and providing for daily living expenses are the two most-cited reasons for requiring a sub-prime loan, which is contrary to the typical stereotype of the ‘reckless’ consumer who gets into financial difficulty by**

**purchasing luxury items ... [A] reas ... have become increasingly deprived, with a lack of well-paid work ensuring that people have become dependent on lending to supplement their household incomes. Universal Credit was repeatedly identified as a driver for illegal lending ... [particularly] the harm caused by the four-to five-week waiting times and issues with short-term benefits loans that were then repaid from future benefits, ensuring that benefit claimants were always short of the funds they needed to support their household, obliging them to look to other means of getting money.”<sup>91</sup>**

Research for Christians Against Poverty reported that low income from work and/or benefits was common among those accessing illegal lending:

**“In most cases they have no alternative, even if, as is often the case, they know the illegal lenders have links to paramilitary groups. Due to their own circumstances, their families cannot help them and they do not**

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90 Women's Regional Consortium, Making Ends Meet: Women's Perspectives on Access to Lending (2020), p5, available at: <https://womensregionalconsortiumni.org.uk/wp-content/uploads/2021/04/Making-Ends-Meet-Womens-Perspectives-on-Access-to-Lending.pdf>

91 Ulster University and Consumer Council, Illegal Money Lending and Debt Project (2020), p8 [https://www.consumerCouncil.org.uk/sites/default/files/2020-07/Illegal\\_Money\\_Lending\\_Report.PDF](https://www.consumerCouncil.org.uk/sites/default/files/2020-07/Illegal_Money_Lending_Report.PDF)

**have access to any other sources of finance or credit.”<sup>92</sup>**

The Women’s Regional Consortium debt research charts similar patterns of behaviour that women in debt followed, where high cost borrowing was a last resort – often coming after other sources of support had been exhausted or eliminated – but that it also featured as a regular and reliable source of income.<sup>93</sup> DS has not been able to displace these high cost and dangerous credit sources.

#### 4.11 What does this mean for Discretionary Support?

The debate over what the purpose of social security should be is wide ranging and not one that can be settled within this report. As it stands, income-replacement social security benefits are not intended to replicate income from wages. The philosophical justification for this is that providing wage-equivalence would constitute a moral hazard, as it would remove the incentive for people to work if they could get the same income from social security benefits. Whether this philosophical position is justifiable or not, the reality is that there remains an adequacy gap between physical and social needs and income-replacement benefit levels, while income from work can also create the same income

inadequacy. Benefit and wage inadequacy continue to be drivers of poverty but the problems that are created in employment and social security systems, which are based on rights and entitlement, are not problems that can or should be fixed by a discretionary-based scheme of crisis support. Where system failure is driving demand for crisis support, that leaves the system of emergency support picking up the slack, so that instead of focusing on one-off crises and financial shocks it is stepping into the role of support for design flaws. That makes the challenge of improving Discretionary Support even greater: the interconnected nature of the different parts of the social security system means that reforming one part will not fix the problems in another. There is a need to have an overall improvement so the system can work in tandem with emergency support.

There is a further consideration which is that Discretionary Support straddles an uncomfortable space between rights-based entitlements that are strictly regulated and an awards scheme that is based on decision-maker discretion, bounded by regulations, that simultaneously demands flexibility and consistency. The DS Commissioner has addressed this in his annual report:

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92 P. Livingstone, Christians Against Poverty Research into illegal lending in Northern Ireland (2019) p11, available at: [https://www.consumerCouncil.org.uk/sites/default/files/2020-07/Christians\\_Against\\_Poverty\\_research\\_into\\_illegal%20lending\\_in\\_Northern\\_Ireland.PDF](https://www.consumerCouncil.org.uk/sites/default/files/2020-07/Christians_Against_Poverty_research_into_illegal%20lending_in_Northern_Ireland.PDF)

93 Women’s Regional Consortium, Making Ends Meet: Women’s Perspectives on Access to Lending (2020) available at: <https://womensregionalconsortiumni.org.uk/wp-content/uploads/2021/04/Making-Ends-Meet-Womens-Perspectives-on-Access-to-Lending.pdf>

**“I recognise that these support arrangements are ‘Discretionary’. However, I take the view that if Discretionary Support decisions are to be made equitably, those decisions must be based both on a clear understanding and a consistent interpretation of the Regulations and Departmental Guidance. [The Office of the Discretionary Support Commissioner’s] Inspectors’ decisions must also be based on the evidence and the facts of each case which is reviewed, using a consistent interpretation of regulations and guidance.”<sup>94</sup>**

In reality, this reflects the fettering of discretion that existed under the Social Fund, which was bounded by Guidance and Directions that adopted a different drafting style from a statutory rule, and did not prescribe individual needs in minute detail, but were otherwise indistinguishable from a statutory scheme. Again, there is considerable scope to debate whether Discretionary Support should have any role to play in a rights-based system of legal entitlement. Grover, for example, argues that there should not be any decoupling of social assistance support from a citizenship

denoted by rights and inclusion, especially where circumstances that are categorised as special or exceptional are, in reality, neither. Titmuss,<sup>95</sup> however, has argued that there is a need for a continual process of clarification and classification to respond to changing need or demand, where a discretionary system can be more responsive:

**“It is a need which clearly does not arise in the same way in schemes based on precedent and where there is presumed to be no discretion. Such schemes, of course, require the modernisation of the long itemised lists of “rights”; the risk here, however, is that responses to changing human wants may be inordinately slow because of their legal imprisonment in precedence and the cumbrous processes of gladiatorial combat. Schemes based on a mixture of basic rights and discretionary powers can lead to more innovation and creativity in the broader context of social needs.”<sup>96</sup>**

We recognise that discretionary payments have a long history in our social security system, and that there has always been

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94 Office of the Discretionary Support Commissioner, Report for the period 1 April 2020 to 31 March 2021 (2021) para.21, available at: <https://www.communities-ni.gov.uk/publications/office-discretionary-support-commissioner-annual-report-2020-2021>

95 C. Grover, “Abolishing the discretionary social fund: continuity and change in relieving “special expenses”” (2012) 19 Journal of Social Security Law 12-28

96 R. Titmuss, “Welfare ‘Rights’, Law and Discretion” (1971) Political Quarterly 113-32, 129

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a role for some form of discretionary support. As Buck and Smith have argued, there will remain an inevitable requirement to make help available in unpredictable circumstances, when financial and other crises arise.<sup>97</sup> To whom, and under what circumstances, such help should be made available raises questions of adequacy, needs, consistency and fairness. It is possible to argue, however, that those in need of DS are what Gray and Birrell describe as the “unambiguously deserving poor.”<sup>98</sup>

#### 4.12 Conclusion

DS is not a top-up payment for benefits or low-wages. It is intended to meet needs arising from an extreme, exceptional or crisis situation. The reality, however, is that social security benefits do not meet the level of income required for claimants to avoid poverty and they are not intended to provide cover for emergencies or unforeseen circumstances. Income from low paid and insecure work is also inadequate, with poverty (slightly) more prevalent for working families than for those on benefits. Inevitably, therefore, individuals on low incomes have to look beyond their standard income sources to meet often very basic needs. What constitutes basic needs, and the level of income required to resource them, continues to be a matter of debate. Relative poverty definitions will generate

a higher income threshold than absolute poverty definitions, while minimum income standards look to democratic definitions to understand basic needs. The most extreme form of poverty – that of destitution – provides the lowest common denominator for understanding what constitutes basic needs and the income threshold necessary to meet them. The choice of threshold against which we should measure need will continue to be contested, but the reality remains that if individuals have insufficient resources to cover the costs of basic items or living expenses they will either have to go without or try to source the money to buy them. The levels of debt in Northern Ireland indicate that low incomes are often dangerously supplemented by high cost and high risk borrowing. DS has a role to play here, but just as it is unable to function as an income corrector, to raise incomes to adequate levels, it is also not able to remove the need for additional credit sources. In the face of these challenges, many of which arise from system failures elsewhere, there is a question over what value a discretionary system of support can bring. Our findings, in section 5, explore that question, but additional support to help those furthest removed from having the resources for basic needs has always been part of the social security system and until adequate income is provided as a right, then that looks unlikely to change.

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97 T. Buck and R. Smith, *Poor Relief or Poor Deal? The social fund, safety nets and social security* (2016) London: Routledge, p214

98 AM Gray and D Birrell, ‘Coalition government in Northern Ireland: social policy and the lowest common denominator thesis’ (2012) 11 *Social Policy and Society* 15

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## 5. Discretionary payments schemes in Britain and Ireland

### 5.1 Summary

There is value in understanding the approach taken in other jurisdictions to providing additional financial support to individuals on low income and in urgent or exceptional need. While direct comparisons are difficult due to differences, there are elements of learning that can be taken from other schemes. England is perhaps the exception to this, since the availability of discretionary support is so inconsistent across different local authorities, where funds have not been ring-fenced, that it is difficult to assess the individual or overall impact of schemes. Scotland has established a Scottish Welfare Fund under statute, that provides grants on a priority need basis to those on income-replacement benefits, with some limited scope for claimants on low income but not on benefits to be considered for eligibility. Wales has implemented a Discretionary Assistance Fund that provides grants via Emergency Assistance Payments and Individual Assistance Payments. Ireland has continued to provide means-tested Urgent Needs Payments and Exceptional Needs Payments. The latter is a non-repayable grant, while the former can be a grant but may require claimants to repay some or all of the money.

### 5.2 Introduction

As noted in Section 1 of this report, Northern Ireland's DS scheme was designed to replace the Community Care Grants and Crisis Loans that were created under the Social Fund. The Social Fund was a UK-wide system that provided a combination of loans and grants to help people on low incomes meet exceptional expenses. It was preceded by two schemes which provided similar kinds of help. Between 1966 and 1980 people on Supplementary Benefit could obtain help through a discretionary system of exceptional needs payments which were not subject to a fixed budget. In 1980, a regulated system of single payments was introduced which provided financial assistance in prescribed exceptional circumstances as a matter of entitlement to qualifying claimants (although with a discretionary back-stop for cases where a payment was the only means of avoiding a serious risk to the health or safety of any member of the claimant's family).

By 1985, however, UK Ministers concluded that the cost of the regulated system had risen so rapidly as to be out of control. Under the Social Fund which succeeded it, only maternity, funeral and cold weather payments were made under the statutory scheme. All other payments (grants and

loans) were made at the discretion of the (then) Department of Health and Social Security,<sup>99</sup> working within fixed budgets, under directions laid down and guidance provided by the Secretary of State. The discretionary Social Fund was cash limited and provided repayable Crisis Loans, Budgeting Loans, and non-repayable Community Care Grants (CCGs).

Crisis Loans were interest free loans of up to £1,500 available to anyone over 16 years who did not have “sufficient resources to meet the immediate short term needs” of themselves and/or their family. It was not necessary for applicants for crisis loans to be in receipt of qualifying benefits, although they must have been likely to be able to repay the loan, and where loans were made to benefit recipients the repayments were then deducted in instalments from future benefit payments. Crisis loans were made to cover expenses arising in an emergency or following a disaster. Eligible expenses were living expenses; rent in advance (but not deposits) to secure non local authority accommodation; charges for board and lodging; travel expenses when stranded away from home, and repaying emergency credit on a pre-payment fuel meter. In the case of a disaster such as a fire or a flood a crisis loan could also be provided to meet other expenses, for example to replace

household items and clothing. A crisis loan for rent in advance could also be made despite the absence of an emergency or disaster, provided that the applicant had also been awarded a Community Care Grant to re-establish themselves in the community following a stay in residential or institutional care. Finally, crisis loans could also be made as “interim” or “alignment payments” to cover the period between a new claim and receipt of the first benefit payment.

Budgeting loans were also interest free loans of up to £1,500, available to those on Income Support, income-based Jobseeker’s Allowance, income-related Employment and Support Allowance and Pension Credit.<sup>100</sup> Eligible expenses were furniture or household equipment, clothing or footwear; advance rent or removal expenses for a new home; travelling expenses within the UK; back to work expenses; improving, maintaining or securing your home; maternity or funeral expenses; and repaying hire purchase or other debts taken out to pay for any of the eligible expenses.

Community Care Grants were made available to people in receipt of qualifying benefits who faced ‘exceptional’ financial pressures or who needed help to meet expenses in order to establish themselves in the community following a stay in residential or

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99 The DHSS was succeeded by the Department for Social Security in 1988, and then by the Department for Work and Pensions in 2001

100 Budgeting loans are still available in Northern Ireland to those on the list of qualifying benefits, which does not include Universal Credit: <https://www.nidirect.gov.uk/articles/budgeting-loans>

institutional care or to prevent them from going into residential or institutional care. Grants could also be awarded to people who were not in receipt of benefits but who were due to leave residential or institutional care within the following six weeks; to help families cope with the expense of caring for a prisoner or young offender who is on home leave; to help people set up home as part of a planned resettlement programme (e.g. where someone has previously been homeless), and to meet essential travel costs in certain circumstances.<sup>101</sup>

As a result of provisions in the Welfare Reform Act 2012, Community Care Grants and Crisis Loans were abolished and instead funding was made available to local authorities in England and to the devolved administrations in Scotland, Wales and Northern Ireland to provide such assistance in their areas as they saw fit.<sup>102</sup> In England the ‘non-ring fenced’ funds were transferred to local authorities for them to set up their own local welfare assistance schemes. The Scottish Government set up the Scottish Welfare Fund (SWF) which is a national scheme delivered through local authorities. The Welsh Government set up the Discretionary Assistance Fund (DAF).

This report focuses on reviewing the DS scheme set up in Northern Ireland but we have also considered the different schemes set up in England, Scotland and Wales, as well as the provision for urgent and exceptional needs in Ireland, to see what lessons Northern Ireland might learn.

### 5.3 England

In 2013, the then Minister for Pensions, Steve Webb MP, wrote to local authority chief executives in England setting out the indicative level of funding they would receive following the abolition of the discretionary Social Fund, and describing the Government’s intentions:

**“As you are aware, the Government has decided that it would not be appropriate to place a new duty on local authorities/devolved administrations in respect of the new provision you are planning. You need to be able to flex the provision in a way that is suitable and appropriate to meet the needs of your local communities. However, whilst we do not want or expect you to replicate the current scheme in either whole or part, it is incumbent upon me**

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101 Centre for Responsible Credit, The decline of crisis and community care support in England: why a new approach is needed (2017) available at: <https://barrowcadbury.org.uk/wp-content/uploads/2017/09/Centre-for-Responsible-Credit-Divide-in-Local-Welfare-Schemes.pdf>

102 The corresponding provision for Northern Ireland was under the Welfare Reform (Northern Ireland) Order 2015

**to say that it is the intention of the Government that the funding is to be used to provide the new provision. Whilst the Government recognises the difficulties relating to the boundary between providing financial support and social services, we expect the funding to be concentrated on those facing greatest difficulty in managing their income, and to enable a more flexible response to unavoidable need, perhaps through a mix of cash or goods and aligning with the wider range of local support local authorities/devolved administrations already offer. In short, the funding is to allow you to give flexible help to those in genuine need.”<sup>103</sup>**

From 2015-16, the Government included funding for local welfare provision in local authorities’ revenue support grant which could be used to finance revenue spending on any service.

In 2016, the National Audit Office reported that, between 2010-11 and 2015-16, the

Government reduced its core funding to local authorities by an estimated 37% as part of its strategy to reduce the UK’s budget deficit.<sup>104</sup> Over the same period, councils faced rising demand for some services due to population changes. The transfer of funding for local welfare provision came as councils were dealing with these pressures. Providing a local welfare assistance scheme is not a statutory requirement and with no dedicated funding stream and year-upon year budget cuts, some local authority areas in England no longer have a scheme.

A report by Greater Manchester Poverty Action in 2018, looking at trends over the financial years 2015/16, 2016/17 and 2017/18, found that the total budget across local authorities reduced from £330 million under the Social Fund to £47m.<sup>105</sup> The consequence of this was found to be that at least 22 (15%) of English local authorities did not have a scheme in place replacing the Social Fund, which meant 7.75 million people in England lived in a local authority area with no replacement scheme. The Children’s Society reported in 2019 that 23 of the councils in England no longer had any equivalent local welfare

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103 Cited in House of Commons Library Briefing, Localisation of the Social Fund (2012) available at: <https://researchbriefings.files.parliament.uk/documents/SN06413/SN06413.pdf>

104 National Audit Office, Local Welfare Provision (2016) available at: <https://www.nao.org.uk/wp-content/uploads/2016/01/Local-welfare-provision.pdf>

105 Greater Manchester Poverty Action, The decline of crisis support in England (2018) available at: <https://www.gmpovertyaction.org/wp-content/uploads/2018/09/The-decline-of-crisis-support-in-England-A-GMPA-REPORT.pdf>

assistance scheme, equivalent to 1 in 7 local authorities.<sup>106</sup> For the authorities that did replace some of the provision, the budget of each local scheme varied greatly from, for example Liverpool, which allocated £3.1m, to others that allocated less than £100,000.

There is inevitable variation not just in budget allocations but in what each scheme provides. Some councils offer vouchers to pay for food, fuel or clothing (in-kind support), or bigger basic living items such as beds, cookers and fridges. Others offer grants or loans with various conditions attached or make referrals to charitable organisations such as foodbanks. The Joseph Rowntree Foundation's 2018 report on Preventing Destitution found that the majority of local welfare assistance schemes in England do not provide cash, but vouchers or other support.<sup>107</sup> There is no consistency on the types of support offered and to whom – some are open to all residents, some require entitlement to means-tested benefits or longer-term residency at the local authority. There was a general aversion noted to using loans, rather than grants, on the basis that the cost of enforcement of loan repayments against those already struggling ultimately may cost the local authority more than the cost of a grant.

The Greater Manchester Poverty Action report makes clear that, due to such variation, direct comparisons between local authorities are not possible, but that the outcomes of schemes indicate a huge inconsistency of provision, with a variation in success rates of applicants from 12% (Derby) to 94% (Cheshire East). The total number of awards is reported to have reduced from 1.3m in 2010/11 to 161,000 in 2017/18. The Centre for Responsible Credit provides further insight into what 'awards' means.<sup>108</sup> Its 2017 report finds that the average award varies greatly from around £20 (for example, in Bournemouth) to an average of £500 (for example, in Cornwall). The median over England is £53, contrasted with the median under the Social Fund of £63.

There is evidence of a consensus – from the National Audit Office through to the different reports on the Social Fund replacement schemes – that the absence of a statutory requirement to provide a dedicated replacement for the Social Fund is problematic. In 2016 the National Audit Office noted:

**“Councils provide discretionary local welfare support, but increasing numbers are stopping**

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106 Children's Society, *Nowhere to Turn: Strengthening the safety net for children and families facing crisis* (2019) available at: <https://www.childrenssociety.org.uk/sites/default/files/2021-01/crisis-support-one-family.pdf>

107 JRF, *Preventing destitution: Policy and practice in the UK* (2018) available at: <https://www.jrf.org.uk/report/preventing-destitution-policy-and-practice-uk>

108 Centre for Responsible Credit, *The decline of crisis and community care support in England: why a new approach is needed* (2017) available at: <https://barrowcadbury.org.uk/wp-content/uploads/2017/09/Centre-for-Responsible-Credit-Dilemma-in-Local-Welfare-Schemes.pdf>

**doing so, and less is being spent overall now than in 2013. The consequences of creating this gap in provision are not understood, either in terms of impact on vulnerable people or of creating potentially costly additional care or medical needs in the longer term.”<sup>109</sup>**

For the Children’s Society and Greater Manchester Poverty Action, the impact is clear:

**“Central government’s hands-off approach to local welfare assistance schemes has failed and created a hole in the welfare safety net.”<sup>110</sup>**

Recommendations from these reports, as well as the Joseph Rowntree Foundation’s (JRF) research on destitution, prioritise restoring a comprehensive network of Local Welfare Assistance schemes across England. The JRF recommends adopting a national statutory scheme, like the Scottish Welfare Fund.<sup>111</sup>

## 5.4 Scotland

The Scottish Government announced that its new Scottish Welfare Fund (SWF) would begin operations in April 2013. The SWF was to be a national scheme, delivered through local authorities, and was intended as an interim scheme only, to last for a period of two years. The Welfare Funds (Scotland) Act 2015 established the SWF in 2016, as set out in the Welfare Funds (Scotland) Regulations 2016.

It was intended that the new scheme would be a national scheme with a single application form. In keeping with the Scottish Government’s commitment to retain the core purpose of the Social Fund, the broad objectives of the Scottish Welfare Fund are to support individuals on low incomes to provide a safety net in an emergency or when there is an immediate threat to health or safety, and enable independent living or continued independent living, preventing the need for institutional care.

Funding is split between “Crisis Grants” and “Community Care Grants”. Crisis Grants – like Crisis Loans – may be awarded “to meet expenses that have arisen as a result of an emergency or disaster in order to

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109 Statement by Amyas Morse, head of the National Audit Office, available: <https://www.nao.org.uk/report/local-welfare-provision/>. The statement was made on the publication of the National Audit Office report Local Welfare Provision (2016)

110 Greater Manchester Poverty Action, The decline of crisis support in England (2018), p5, available at: <https://www.gmpovertyaction.org/wp-content/uploads/2018/09/The-decline-of-crisis-support-in-England-A-GMPA-REPORT.pdf>

111 JRF, Preventing destitution: Policy and practice in the UK (2018) available at: [https://www.jrf.org.uk/file/51371/download?token=T\\_UChWEu&filetype=findings, p4](https://www.jrf.org.uk/file/51371/download?token=T_UChWEu&filetype=findings, p4)

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avoid serious damage or serious risk to the health or safety of the applicant or their family.” Community Care Grants – like Social Fund CCGs – could be awarded “to enable independent living or continued independent living, preventing the need for institutional care.” All awards are non-repayable and may be fulfilled in cash, cash equivalent, or, in the case of Community Care Grants, in-kind.

To apply, someone needs to be on a low income, but claimants can be passported to eligibility if they receive Income support; Income-based Jobseeker’s Allowance; Income-related Employment and Support Allowance; Universal Credit; or State pension credit. There is no set income threshold for those not on benefits, but local authorities are still expected to judge need on the basis of income and savings. The income threshold is therefore expected to be around the level a person would receive on benefits and the individual must be shown to be unable to access money, including their own or their partner’s capital or a DWP hardship payment.

The Regulations specify that the number of Crisis Grants that any person can receive should normally be limited to three in any rolling 12-month period. There is no limit on the number of Community Care Grants that can be awarded to an individual in a year although limitations on repeat applications apply.

The statutory guidance on the SWF is publicly available and defines the policy for the decision-making process, notably;

1. whether, taking the applicant’s situation and needs into account, the items applied for are of sufficient priority to warrant a payment from available funds
2. the nature, extent, severity and urgency of the need, and the impact that an award would have on the circumstances of the applicant
3. an application should be assessed, taking into account the vulnerability of the applicant and the likely consequences of refusal.
4. whether there is sufficient money available in the budget to pay a grant.<sup>112</sup>

A 2021 review of the SWF’s Crisis Grants, on behalf of Oxfam Scotland, Child Poverty Action Group in Scotland, Nourish Scotland and Poverty Alliance, concluded that:

**“Strengthening the Scottish Welfare Fund has the potential to help Scotland make better progress in reducing poverty and, with it, to reduce the number of people facing food insecurity.”<sup>113</sup>**

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112 Scottish Government, Scottish Welfare Fund: statutory guidance (2018) available at: <https://www.gov.scot/publications/scottish-welfare-fund-statutory-guidance/pages/5/>

113 D. Hilber and M.A MacLeod, The Scottish Welfare Fund: Strengthening the Safety Net – A Study of Best Practice (2018) available at: <https://www.inverclyde.gov.uk/menu-for-change>

There are, however, a number of recommendations made to enable this potential to be realised, including capacity to recognise that if demand for the Scottish Welfare Fund grows, the Scottish Government should increase investment in it accordingly. The report also recommends that awards are provided in cash rather than vouchers. Several of the recommendations are those that are already in operation in Northern Ireland, including not using an “eligibility checker” for online applications and giving applicants their decision over the phone initially, followed by a written decision. The Scottish Parliament’s Social Security Committee also provided some recommendations on how the SWF could be improved, as part of their enquiry into the role of social security in responding to Covid-19:

**“Discretionary payments are being used to plug gaps in national entitlement provision. Discretionary payments play an important role in addressing temporary short-term need or temporary gaps in provision but national entitlements should be available for longer-term need. Where appropriate, the Scottish Government should consider whether financial assistance**

**can be provided, to those in need, through social security entitlements. It is the view of the Committee that unless there are strong reasons not to, taking a rights-based approach to social security should mean delivery as a national entitlement.”<sup>114</sup>**

More direct feedback on the SWF comes from the Scottish Social Security Experience Panels. The 2019 report highlighted concerns around lack of awareness among potential applicants; difficulties in making the application; and not understanding the reason for the decision. Positive feedback focused on having a choice of how to apply, finding the process simple and quick, and finding staff to be helpful and supportive.<sup>115</sup> Recommendations focus on improving the information available about the Fund, faster processing times and ensuring consistency about how the fund works across different areas, ensuring staff are supportive and understanding and making sure that the fund is equipped to meet the needs of disabled applicants and can be flexible to individual circumstances – including in terms of how payments are made.

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114 Social Security Committee, The Social Security Response to Covid-19 (2021) SP Paper 992, available at: <https://sp-bpr-en-prod-cdnep.azureedge.net/published/SSC/2021/3/17/ff70672c-8008-4ad0-b379-92300c8d658d-1/SSCS052021R3.pdf>

115 Scottish Government, Social Security Experience Panel: Scottish Welfare Fund experiences (2019) available at: <https://www.gov.scot/publications/experiences-scottish-welfare-fund/>

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## 5.5 Wales

The Government of Wales Act 2006 “permits the Welsh Ministers to do anything they consider appropriate to achieve the object of promoting or improving the economic, social or environmental well-being of Wales [and] give financial assistance.”<sup>116</sup> The Welsh Assembly Government agreed to implement a replacement scheme for the Social Fund – the Discretionary Assistance Fund (DAF) – from 2013. The DAF is delivered on a national basis by Northgate Public Services on behalf of the Welsh Government and support is provided in the form of goods, cash or payment cards.

The Emergency Assistance Payment (EAP) is a grant to help pay for essential costs, such as food, gas, electricity, clothing or emergency travel. These smaller crisis grants are usually between £5-£100.<sup>117</sup> The Individual Assistance Payment (IAP) is a grant for white goods or furniture to help someone live independently in their home. IAPs are generally of higher value than EAPs.<sup>118</sup> A Freedom of Information request

shows that the average award for IAPs was £625 in 2013/14. By 2018/19 this had almost doubled to £1,122.<sup>119</sup> For EAPs the jump was from £33 to £59. EAPs can be paid via a Pay Point voucher, BACS payment or clothes voucher, while IAP are provided in the form of white goods from Co-op Electrical or an Argos voucher. All awards are non-repayable grants.

Eligibility is restricted to those on qualifying income-replacement benefits, namely Income Support; Income-based Jobseekers Allowance; Income-related Employment and Support Allowance; Guaranteed Credit element of Pension Credit; and Universal Credit. Individuals on low incomes who are not in receipt of a qualifying benefit are not eligible to apply. An applicant may be awarded a maximum of three EAPs in a rolling 12-month period. Claimants cannot apply for a grant if they have already received a grant in the last 28 days or already received 3 grants in the last year. Claimants must also have no other money (for example, savings) and considered all other legal and responsible lenders such as credit unions.

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116 Government of Wales Act 2006, Ch 32, ss 60, 70-71

117 EAPs averaged £67 in 2020-21, but this may reflect changes made at the start of the Covid-19 pandemic that increased eligibility for EAPs. See E. Harwood and S. Evans, *Is the Welsh Government removing emergency financial support too soon?* (2021) available at: <https://www.bevanfoundation.org/views/removing-emergency-support/>

118 Welsh Government, *Evaluation of the Discretionary Assistance Fund* (2015) available at: <https://gov.wales/sites/default/files/statistics-and-research/2019-07/150128-evaluation-discretionary-assistance-fund-en.pdf>

119 Welsh Government, *ATISN 12815 ET Discretionary Assistance Fund* (2018) (copy on file with author)

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The Welsh Government's evaluation of the DAF in 2015 was that the scheme was working well.<sup>120</sup> The provision of goods with use of local stores, rather than cash awards, was seen to be better, in part due to the good accessibility of providers, the possibility of contracting with suppliers for reduction in costs, and in saving claimants from the full cost of ownership and delivery of the goods, which created extra costs many had not anticipated. Access to applications was found to be appropriate and timely, offering access in English, Welsh and several other languages, as well as services specific to those with special needs. Possible improvements were identified, including simplifying the application forms, and clearer guidance as to what can and cannot be funded by the DAF. Overall, however, the application process, and services provided, by the administration of the DAF by Northgate was found to be robust and value for money. This was particularly the case in applications for IAP grants, which are "in the order of £1,000 or more", although value for money would be less evident in the lower value EAP awards, given that each application costs £34 to process which was often higher than the EAP award. A 2015 briefing on DAF by

Citizens Advice Cymru, however, highlighted issues with the application for the DAF, including lack of awareness of the scheme, the readiness to push applicants to the DWP's hardship fund instead, and a lack of knowledge about challenging refusals.<sup>121</sup> DAF decisions are subject to internal review (conducted by Northgate) and external review (conducted by the charity Family Fund Trust) as appeals to applications. It is unclear, however, if judicial review is an option if the second review fails.<sup>122</sup>

## 5.6 Ireland

Ireland's Supplementary Welfare Allowance (SWA) Scheme came into operation on 1 July 1977, two years after the Social Welfare (Supplementary Welfare Allowance) Bill was introduced in the Dáil. The scheme replaced the home assistance service for persons whose means were insufficient to meet their needs and those of their dependants. SWA is governed by the Social Welfare (Consolidation) Act, 2005,<sup>123</sup> and the Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 2007 to 2011.

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120 Welsh Government, Evaluation of the Discretionary Assistance Fund (2015) available at: <https://gov.wales/sites/default/files/statistics-and-research/2019-07/150128-evaluation-discretionary-assistance-fund-en.pdf>

121 Citizens Advice Cymru, Discretionary Assistance Fund Overview (2015) available at: [https://www.citizensadvice.org.uk/Global/Migrated\\_Documents/corporate/daf-briefing-final.pdf](https://www.citizensadvice.org.uk/Global/Migrated_Documents/corporate/daf-briefing-final.pdf)

122 S. Nason, Administrative Justice: Wales' First Devolved Justice System: Evaluation and Recommendations (2018) available at: <http://adminjustice.bangor.ac.uk/documents/AJWalesReportESRCDec18.pdf>

123 Social Welfare (Consolidation) Act 2005, s 202. See also Part 3, Chapter 9; Part 10, Chapter 3; Part 4, Schedule 3

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Under the Supplementary Welfare Allowance scheme, a claimant can apply for a basic payment and/or a supplement in respect of certain expenses a person may not be able to meet. The fund is split into two categories. First, an Urgent Needs Payment (UNP) may be made to meet an urgent need, for example, arising from a fire or flood, that requires immediate financial support. Depending on the circumstances, for example, if the applicant is working or if an insurance claim is settled, the applicant may have to pay some or all of this back at a later date. In a means test, the Department of Social Protection examines all sources of income. Sometimes a certain amount of income or income from particular sources is not taken into account and these are often referred to as income disregards. However, in the means test for an UNP, all capital/property (except the claimant's home) is taken into account and assessed as means – there are no disregards for capital. A claimant does not have to have habitual residence. The operational guidelines for UNPs make clear that payments can only be made for basic necessities, such as “food, clothing, fuel, household goods, shelter.”<sup>124</sup>

Exceptional Needs Payments (ENPs) are non-repayable grants to help meet essential, one-off, exceptional expenditure, which a person could not reasonably be expected to meet out of their weekly income. Awards can cover bedding or cooking utensils for someone setting up a home for the first time, visiting relatives in hospital or prison, funeral costs or for clothing in exceptional circumstances. In some cases a claimant may get help with heating and electricity bills. Claimants are required to be living in the state, and asylum seekers under Direct Provision are eligible for ENPs, subject to a maximum of two €100 payments per year.<sup>125</sup> ENP eligibility is further determined by a means-test. The operational guidance for ENPs confirms that eligible claimants will usually, but not always, be in receipt of a social welfare or health service executive payment.<sup>126</sup> Decisions on eligibility are taken by the Department of Social Protection (DSP) with applications made via the DSP's Community Welfare Service. Both UNP and ENP decisions can be appealed to an internal review. In its pre-budget submission to the Oireachtas, the Saint Vincent de Paul (SVP) society stated that it had spent more (€33m) than the Gov (€29m) on ‘exceptional needs’ in 2015 and recommended that the Irish Government increase the budget

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124 Department of Social Protection, Operational Guidelines for Urgent Needs Payments, available at: <https://www.gov.ie/en/publication/2f726f-operational-guidelines-swa-urgent-needs-payments/>

125 L. Thornton, “Social welfare law and asylum seekers in Ireland: an anatomy of exclusion” (2013) 20(2) *Journal of Social Security Law* 66

126 Department of Social Protection, Operational Guidelines for Exceptional Needs Payments, available at: <https://www.gov.ie/en/publication/d71bc9-operational-guidelines-swa-exceptional-needs-payments/>

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for both ENPs and UNPs by £20m in 2018 to alleviate need.<sup>127</sup> By 2018 €3.8m had been allocated to the ENP and UNP scheme. In its 2020 pre-budget submission SVP made a further recommendation to increase the total SWA budget to €50m.

## 5.7 Conclusion

It is difficult to make direct comparisons across the different schemes, although there are some basic commonalities between the schemes in Northern Ireland, Wales, Scotland and Ireland. Table 1 identifies the common themes and sets out the particular aspects of each scheme.<sup>128</sup> There is little any of these schemes have in common with the disparate English systems of emergency financial support.<sup>129</sup> Our intention in reviewing these schemes is to assess the relative merits of each, in order to identify components that work well, and those that appear not to.

The first point is that having a national scheme of Discretionary Support, established under statute, with a ring-fenced budget, provides significantly more protection and consistency than a diverse group of

local schemes. Recommendations made in relation to the Scottish Welfare Fund to maximise the capacity of local authorities to deliver best practice recommended that the Scottish Government should consult local authorities to determine the funding necessary to administer the fund to a high standard.<sup>130</sup> This was in part based on variations in spending under the SWF reflecting differences in local authority practices, area needs and demographics. The Joseph Rowntree Foundation's report on Preventing Destitution, recommended that the Welsh Government should localise the administration of the DAF, on the basis that local authorities are better placed to direct the funds to those most in need in their area and are better able to raise awareness to the local population.<sup>131</sup> Northern Ireland, however, has the advantage of scale and nationalising DS is a more appropriate model than devolving budgets to local councils.

The second point is that there are similar concerns across the different schemes in relation to the need for equity, consistency, clarity and transparency where there are different types of support on offer. Guidance

127 St Vincent de Paul Pre-Budget Submission to the Oireachtas, Jun 2017 <https://www.svp.ie/getattachment/db38cf29-4cc3-4243-a10d-75679fcd3a35/svp-pre-budget-submission-2018-bridging-the-gap.aspx>

128 With thanks to the Department for Communities for providing this table.

129 Appendix 2, see page 151

130 Social Security Committee, The Social Security Response to Covid-19 (2021) SP Paper 992, para.60 available at: <https://sp-bpr-en-prod-cdnep.azureedge.net/published/SSC/2021/3/17/ff70672c-8008-4ad0-b379-92300c8d658d-1/SSCS052021R3.pdf>

131 JRF, Preventing destitution: Policy and practice in the UK (2018) available at: [https://www.jrf.org.uk/file/51371/download?token=T\\_UChWEu&filetype=findings](https://www.jrf.org.uk/file/51371/download?token=T_UChWEu&filetype=findings)

on the Scottish, Welsh and Irish schemes is publicly available and can help to achieve the ambitions of equity, consistency, clarity and transparency. Publishing guidance is a lesson that Northern Ireland could learn.

The third issue is that awards in Britain and Ireland are made in the form of grants, rather than loans, with some exceptions – including the provision in Ireland for claimants to be required to pay back UNPs and the local authority in Newham providing crisis funds as loans rather than grants. The rationale appears to be two-fold for this: that loan recovery may be too expensive to justify and that grants are more appropriate in circumstances facing those in exceptional need. Both elements of this rationale must be considered for Northern Ireland, to help

determine whether DS should continue to operate a system of loans and grants.

Finally, we draw attention to the commitment to continuous improvement that has been a focus of the devolved Scottish social security system from the outset and which offers potentially valuable lessons for Northern Ireland. The Scottish Social Security Experience Panels provide important insight on different aspects of social security and their findings are used to inform the annual review of the Scottish Welfare Fund Guidance. Most significantly, however, the SWF regulations embed a commitment to dignity, requiring reasonable steps to be taken in order to ensure that applicants are treated with dignity and respect.

## 6. Findings

### 6.1 Summary

The panel members spoke to people who had experience of applying for Discretionary Support (DS) as well as those who have a professional connection to DS, ranging from supporting claimants to apply to having policy or operational responsibilities for different elements of the scheme. Together, they raised a broad range of issues to be considered. We found that the availability of DS awards, and what could be provided through grants or loans, was not well known, compared to predecessor schemes under the Social Fund. The application process has changed since the Covid-19 pandemic began, much of this for the better, but some challenges remain for claimants. The eligibility criteria also present some difficulties and can have the effect of excluding some people from DS who have no other effective forms of support. The decision-making process is tied directly to the eligibility criteria and it is important that claimants can understand why their application meets, or does not meet, that criteria. The impact of an award is substantial, with some claimants describing it as a 'lifesaver'. A significant, but negative, impact was described by some claimants who did not get an award, or did not get the full amount requested, as it meant they had to do without the items or money they needed. While grants were seen as more helpful than

loans, some claimants felt able to manage loan repayments and were content to take a loan on that basis. The main finding was that there are numerous failures in other systems of support that claimants should be, or are, entitled to as a right. The consequence of these failures is that claimants have to rely on DS as their needs become more urgent and extreme. The additional schemes that have been added to DS – the Universal Credit Contingency Fund and the Covid self-isolation grant – have added to confusion over what the core purpose of DS is for.

### 6.2 Introduction

This section of the report details the findings from our interviews with Discretionary Support (DS) claimants and their responses to our public, online survey; with focus group participants from the advice sector; workshops with frontline DS staff; interviews with senior policy officials and the DS Commissioner; and meetings with political representatives.

References to direct quotations from claimant interviews are denoted by the prefix DS followed by the number assigned to interviewees to maintain anonymity – for example 'DS 12'. Where comments in response to the open-ended questions on the survey are quoted, these are referenced as 'Survey respondent'. Advice sector staff

who participated in focus groups are referred to as an 'Advice Worker' when quoted in this section, while other individual quotations reference the name of the organisation or sector the individual was representing – for example, 'Women's Regional Consortium', 'Support worker' or 'Political representative'.

### 6.3 Awareness

There was strong evidence that public awareness of Discretionary Support (DS) was low. While it is the case that people will always gain public knowledge and understanding from a variety of sources, there should also be consistent and reliable information provided to ensure that people do not find the information they need purely by luck or chance. The concerns expressed by those we spoke to were that there was no effective systemic approach by the Department for Communities (DfC) to informing the public about the existence and purpose of DS, there was a lack of public visibility compounded by the move to online services and by the name of the scheme which did not make its purpose obvious.

The information vacuum on DS could then be filled by others, not always with accurate or reliable advice and often reflecting the bad publicity or negative experiences of applicants. That meant there was a lack of clarity on what the scheme could or could not provide and the positive impact that DS could make:

#### Foodbanks focus group:

**"Clients told us they were advised by others that the DS process was awful and very intrusive. People were too afraid they weren't going to get it."**

#### DS Operational staff:

**"Awareness is very negative. Facebook comments are all about how bad it is. No one's saying it was great to get a grant!"**

#### Political representative:

**"Public awareness is focused on loans – you never hear people saying they got a grant."**

Fundamentally, members of the public cannot ask about something they have never heard of, and politicians reported that people coming to their constituency offices for help were not asking for help with DS, but rather asking for help with problems with debt, or food insecurity, or fuel poverty. A similar lack of public awareness was reported by advice workers and community support staff.

DfC staff recognised that a 'shop-window' approach within community settings would be valuable, so that awareness raising could focus on places and people who would most likely be able to benefit from the scheme. The 'Make the Call' campaign was seen as the virtual focal point to direct people towards. DS is covered within this service and there

were DS claimants to whom we spoke who did access DS through this route. There was a concern, however, that the default awareness campaign by DfC (and government departments generally) focuses on directing people to the general NI-Direct website. For website searches, the search terms that are needed to discover information on DS are not terms that people would use to describe either their circumstances or the help they were seeking. Instead there is an onus on the claimant to be able to find information based on how the Department had classified that knowledge, rather than on how claimants would have understood it:

**DS 09:**

**“There used to be a thing in the name of the loan – it was a crisis! Now it’s Discretionary Support – it doesn’t even say you’re going to help in a crisis...”**

Changing the name of DS based on what claimants might perceive to be its purpose would help with public awareness.

Similar concerns arose with a blanket statement to contact the advice sector, which was seen as useful where people were already familiar with advice centres but less so where they would not normally be advice sector clients:

**Women’s Regional Consortium:**

**“Women find out stuff from other women, not from government**

**websites – from women in similar circumstances. They find out from the women they know, the woman who sits beside them in their local women’s centre. There’s an obsession with telling people to go to the advice sector or a government website. It is often too difficult to navigate the website especially when you are unfamiliar with the language used in DS. It’s not the answer to always refer people to a website.”**

While the advice and support workers we heard from acted as reliable sources of information on DS for their clients, the variation in sources used by claimants indicates that the generalised campaign needs to be more focused. In our survey, 36% of respondents (236 out of 645) learned about it from family & friends, 26% (166 respondents) from social security staff, and 17% (108 respondents) from an advice organisation. The claimants we interviewed found out about DS from family, friends, and support workers. Some googled to see what support was available and some were directed to Make the Call or to DS by Northern Ireland Housing Executive information leaflets or DfC staff. For particular cohorts, including older people, homeless people and people from travelling communities, there may be an absence of connection into wider community structures, and so reliance on information is focused on informal social networks. Age NI also told us that the older

people tended to understand ‘exceptional circumstances’ or ‘crisis’ as more applicable to families and so the framing of DS in this way did not resonate well with them. From the 121 survey respondents who said they had not applied for DS, 42% said this was because they had never heard of it and 13% did not realise they could apply. Information on DS is not reaching target populations in a consistent and reliable way, and pathways to enable people to get that information are effective only for some of the population.

#### 6.4 Application process:

There were 3 general issues raised with the application process. The first was the experience of applying online and by phone, including the follow-up phone call. The second related to the intrusive nature of the questions asked and the experiences of dealing with DS staff. The third concerned the difficulties in supporting claimants to apply.

#### 6.5 Online and telephone applications

In our survey, half of the respondents who answered the question on how they applied said they applied by phone (281 out of 567), while 47% (264 out of 567) applied online. Phone applications were regarded by many of the claimants we spoke to as more supportive, helping them to explain their circumstances in ways that they would not have felt confident in being able to manage online:

#### DS 11:

**“I phoned them. I can’t work the online thing.”**

#### DS 06:

**“it was better for me, because sometimes to get your point across on a computer is very difficult and talking about delicate information and talking about disabilities and things like that ... a computer doesn’t get that, if you know what I mean? So I found it much more helpful doing it one to one, with a person on the phone.”**

There was considerable variation reported by the claimants to whom we spoke on how long it took for their call to be answered. Some reported waiting 60 minutes or 30 minutes to get through, others said it was a couple of minutes, while some who said it had not taken long to have their call answered seemed surprised at this:

#### DS 17:

**“it was really, really quick, for a change. Usually it is longer.”**

#### DS 20:

**“I was actually quite lucky, I heard from people saying they’re trying for ages, I was quite lucky, it didn’t take long actually.”**

The DS Management Information System data shows that, for the period between 19 July and 12 September 2021 (a time period defined as typical of inbound telephony performance) it took 1 minute to answer calls. Completing an application took approximately 15 minutes, based on a reasonably short claim covering requests for 3 or 4 items, or for living expenses only. Calls could be longer depending on the number of items required and whether the items were required for the same or different reasons. They could also be longer if the claimant does not have information to hand or needed frequent explanations of questions. Query calls were between 3 and 5 minutes. Average inbound call lengths to triage<sup>132</sup> lasted approximately 8 minutes and, on average, outbound calls lasted between 11 and 13 minutes. These could be calls to ask a claimant for more information or to communicate and explain a decision.

The move to include an online application process in Spring 2020 was generally seen as positive in improving access to the DS scheme. Since then, the online form has been revised through user testing and further investment in ensuring usability, with a new online application process launched on 5 August 2021. DS operational staff felt the online forms were a huge step forward, particularly in terms of

being able to accept more applications and expedite the information gathering process, and it was clear that the feedback from frontline staff was very positive:

**DS operational staff:**

**“Ability to copy and paste the information straight over will quicken the process.”**

Similar sentiment relating to being able to ‘cut and paste’ to replicate information easily was noted by advice workers, as well as the ability to save and go back to an application:

**Advice worker:**

**“There were a lot of screens to go through and quite often I just found myself copy and pasting the same information regarding items or living costs... into different screens. It kind of worked okay.”**

**Advice worker:**

**“I like the online aspect of it. The fact you can dip in and out. And with applications you can save, you can store it, you can come back to it. That’s good.”**

In interviews with DS claimants, those who applied online thought the application process was straightforward and were able

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132 The DS Commissioner’s report defines what triage is: “to resolve general enquiries quicker and provide the claimant with sufficient information about eligibility to allow them to make an informed choice about whether they want to make an application.” – see Office of the Discretionary Support Commissioner, Report for the period 1 April 2019 to 31 March 2020 (2020) available at: <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/odsc-annual-report-apr-19-mar-20.pdf>

to manage it themselves, but put this down to being familiar with online systems and queried whether others unfamiliar with technology or with low levels of literacy would cope. Some interviewees were unable to apply online, stating that this was because the form would not load on their phone. Advice workers highlighted the difficulties of continually adding narrative text on a phone, where the advantages of ‘cut and paste’ are less obvious:

**Advice worker:**

**“It’s very difficult if you don’t have a laptop because trying to put it in by text format on your phone is a... nuisance.”**

Where there is a heavy use of ‘cut and paste’ this might suggest that there is considerable need for claimants to repeat themselves, which itself raises a question on whether there is a more efficient way to get the information once rather than request it repeatedly. That may also assist with concerns around the length of the form and how much information needs to be gathered, particularly in relation to identifying what the requested items are for:

**Advice worker:**

**“In terms of the online applications, I like it to a point. And the point that I don’t like it is the repetitiveness of ‘why do you need’, ‘what is the urgency’ or whatever. There’s a section**

**that runs through it all. It says basically justifying what your need is... I’m continually cutting and pasting that need for the item for each individual item that you’re applying for. The circumstances are going to be the same but under each thing you have to cut and paste.”**

**Advice worker:**

**“repeatedly having to justify why do you need cutlery, why do you need a cooker .. when you’ve already said in the first bit, explain your circumstances, I’m moving from a hostel, this is my first tenancy, I don’t have diddly squat, etc. And yet you’re expected to repeat that for every little item. It’s a bit of a nonsense.”**

We are pleased, therefore, that this issue has been addressed in the new iteration of the form, which went live on 30 September 2021. The improvement here means claimants are advised that if their reasons are the same for multiple items they need only state this once and then just mark subsequent items “as before”. This ‘tell us once’ approach has been applied to telephone applications also.

The length and repetitive nature of the forms was seen to be exacerbated by the follow-up phone call that was made to applicants who applied online, where DS staff needed to go over the same questions with them:

**DS 05:**

**“That whole, it’s just too much to fill in that form, you know? It’s far too much information. Particularly if you only want a certain thing, you still have to go and fill out that whole form... I don’t know if it’s just me but I’m not... I wouldn’t say I’m stupid you know, but see the format, it’s just a nightmare... I really think they want to make it as hard as they can so you can’t get it... if you’re going to have to do it all again on the phone, over the phone... I wasted nearly three days trying to get it all filled in online to literally go through the exact same form again on the phone.”**

**DS 21:**

**“It was pretty tedious, to be honest, the form. And then, once they rang me as well, I had to go through it all again. So I probably would have been as well just doing it over the phone.”**

A further consideration (that pulls in the opposite direction) is that raised by the DS Commissioner on whether the online form is prompting sufficient information for claimants to demonstrate they meet the criteria. That may be something that the follow up phone call can address but is unlikely to deal with claimant or adviser

concerns about the lengthy and repetitive nature of the application process.

Respondents identified issues with the call-back system, explaining that if they miss call-backs from DS staff on more than two occasions they may need to start the whole application process again:

**Survey respondent:**

**“I got a call-back from Discretionary Support I was on phone trying to arrange change over for my electricity supplier, I was messaged saying they will try one more time and then I would have to go through the whole process again, this seems a bit harsh as I am unable to return the call if I miss it, it is very stressful to go through this process once. Surely there is a way around this? I am now walking around with phone permanently at my side in fear of missing second call, I just think two chances is a bit unfair.”**

**Survey respondent:**

**“The call back system doesn’t work as if you miss the call you have restart the process, you can’t check the status of your application, the old system worked better and was able to help you in a day.”**

**Survey respondent:**

**“I didn’t answer the phone call...  
I have MS and no use of my hands...  
I wasn’t aware I’d get a phone call.”**

Operational staff made the valid point that there had to be a limit to the efforts made to contact people, but a new process has now been implemented which ensures that claimants get at least 3 call back attempts made at 4 hourly intervals in order to reduce the number of claims failing. People we spoke to felt that a call back time would have been less stressful and avoided them missing calls and having to reapply. Operationally that may be more difficult to address.

There was a cohort of potential claimants, however, for whom neither online nor telephone applications worked well, namely those with little or no access to technology, including phones:

**Support worker:**

**“The travelling community  
have unique difficulties  
with access due to literacy  
issues and digital barriers.”**

**Support worker:**

**“Homeless service users have  
trouble getting through... [They]  
may not have enough charge in  
their phones or the phone where  
the call was made from has been  
lost or stolen. Most service users**

**have no access to computers or  
smart phones...”**

**Support worker:**

**“Service users struggle on a daily  
basis as they often are unable  
to read or write to fill forms out  
online. They often do not have  
access to the internet as they  
travel often mostly from England  
or up from the South and often do  
not have a fixed address due to the  
nature of them travelling.”**

The online and telephone systems were also seen to create vulnerabilities for older people, particularly those anxious about sharing financial details, both as a matter of privacy and as a concern around scams. While phone applications allowed claimants to speak to someone, face to face systems were seen to be more helpful for older people. Paper applications may need to be considered for those furthest removed from official support systems, as well as outreach support. A final but vital point is the need to provide an application process that is accessible to those whose first language is not English. The development of a new online process needs to be supported by the development of the system to support languages other than English.

## 6.6 Questions and attitudes

A significant proportion of respondents expressed frustration and dissatisfaction with the application process in general which, for some, was exacerbated by difficult interactions with discretionary support staff in making their application. The application process was seen to be very intrusive and it created significant stress for some claimants. It was also a difficult part of the FSO's job, probing for full information on sensitive points:

### DS 17:

**“you have to go through everything, but sometimes it is very degrading like, sometimes it's not our fault we are in this situation.”**

### Foodbank focus group:

**“[A person] had to apply for DS. She knows how to speak for herself but she couldn't believe she had to list the price of everything. She said her world was opened up for all to see.”**

### DS Operational Staff:

**“Questions about clothing are very intrusive – asking someone how many pairs of underpants do you have. It's embarrassing.”**

It was, however, seen as unavoidable by staff to have to ask such questions, but with potential solutions suggested

around standardising requests to minimise the details required:

### DS Operational Staff:

**“Unfortunately the legislation means that we have to ask these questions.”**

### DS Operational Staff:

**“I think [standardised bundles] should also be extended into men's clothing and bed clothes – instead of going through little picky things, like how many pairs of socks you need. It would be easier, to have a set or pack of clothes, which would make it much shorter, as we wouldn't have to go into as much details. We could still have an individual price list, for someone for example who needs shoes, but a set would also help it.”**

The concern at the detail demanded was acknowledged by the DS Commissioner who noted that facts need to be communicated to DS staff to get the right information in order to make the right decision, but this can mean questions are intrusive. The need for a sensitive explanation of the reason for asking intrusive questions to obtain the full facts was emphasised, but there remains a concern over whether the intrusive nature of the questions is inhibiting applications. Issues of stigma and personal pride were identified by some politicians and support workers as an inhibiting factor, which was raised in

particular in relation to rural communities, though not confined to this population:

**Survey respondent:**

**“The whole process was humiliating, upsetting and degrading. I would never go through it again.”**

Survey respondents explained how the process was embarrassing for them and that staff attitudes towards them could make them feel worse:

**Survey respondent:**

**“The lack of empathy and the judgement I received from the call handler had such an impact on me, someone who’d never claimed benefits or asked for a DS grant before and was working, that I actually had to take some time out of my shift and sit in a room because I was so upset. I have zero faith in the welfare system now and my worst nightmare would be depending on the state for help and support.”**

**Interviewer:**

**“Would you recommend other people in your position apply for it?”**

**DS 21:**

**“Yes, but they would have to just have a thick skin on theirself... Just pretty much ask for what**

**they need to ask for and just block everything else, because I came off the phone feeling rubbish, I was embarrassed and all that. I didn’t even want them to ring me back, to be honest but I was like, I need it.”**

**Advice worker:**

**“Every time we do Discretionary we do follow up, how did you get on. I don’t want to be horrible, but we have to be honest here, what customers are saying. It was not as horrendous as a PIP assessment but they felt like... do you ever hear the term ‘guilty before innocent’? It was kind of like they were going ‘why can’t you get the money for this?’... I’m only going by what the clients are saying to me.”**

This was not a universal experience, however, as other respondents and people we spoke to shared positive experiences of the process:

**Survey respondent:**

**“I found the staff very kind, helpful and went out of their way to help me with things I didn’t understand. I think this benefit is a great help to people like me who need a helping hand now and again.”**

**Survey respondent:**

**“The guy that was dealing with claim went over and above, he was absolutely fantastic and went**

**out of his way to help. Very much appreciated.”**

**DS 03:**

**“the girl that I got was more than helpful. Asked a number of questions and what I needed the things for, and she said I’m just writing down what your needs are and ... she was really nice and very helpful.”**

While there was a strong call by advice and support workers for a more empathetic response by DS staff when speaking to claimants, there was also a recognition that the fault lay with the system rather than the people working within it:

**DS 05:**

**“Don’t get me wrong, people are nice enough on the phone ... they’re not judgemental, they’re not this, they’re not that. They were fine with me, but it’s the whole set up.”**

**DS 09:**

**“You just feel like ... when you’re bottom of the pile you’re just kind of stood on. You’re a bit further back now, mate. We know your life’s [rubbish] but wait a week until we get it sorted out ... The fact that you’re in crisis doesn’t matter ... I know it might matter to the people that you’re talking to personally, but to the system itself, the system**

**doesn’t give a toss if you’re in crisis. That’s the way it seems when you’re going through it.”**

**Survey respondent:**

**“It is very undignified and stressful for a mother that has no other choice than to ask for grants to help with feeding her family and providing oil and electric because she has lost her job and forced to go on universal credit which does not last. To pour your heart out to a stranger on the phone with hope of receiving what you need to be turned down and having to accept the outcome is humiliating, and to only be allowed 1 grant a year is not enough, it should be there for when you need it. The whole system needs to change.”**

This was also recognised by DS operational staff, who noted that social security benefits are only intended for day to day living expenses, and so they were sympathetic to why people would end up in crisis when they needed to meet additional expenses.

**6.7 Supporting claimants to apply**

The advice sector has continued to support claimants to apply for DS, but their experiences of DS since its introduction in 2016 have not always been positive. The biggest problem they have faced has been the length of time needed to make a telephone application compared to time that would have been spent on Social Fund applications:

**Advice worker:**

“it’s just too much time. I couldn’t possibly do it because it takes so long for people to get through on the phone with this, and then, when they eventually do get through, it takes so long to deal with the whole thing, so it’s just impossible for me to deal with this all together. Before this was... Community Care Grants and stuff like that, we were able to fill in a form and send it in and deal with people and help people get what they needed. This is an entirely different thing and we just can’t deal with it at all. We don’t have the time.”

**Advice worker:**

“For an advisor to be involved, two hours by the time you pass [telephone] security and everything else. So the only way we’ve been able to help people at the minute is by creating a price list, because people who are coming... can’t do things on their own and they have nobody else to help them. So what we’re doing is telling clients what information they need, what do you need for your household, telling them what they have a chance of getting, what they haven’t a chance of getting, sourcing prices for them

and then just telling them to be patient, especially when it comes to mental health, that’s our real issue with it. But that’s the only kind of support we can give, it’s sort of disenfranchising us, when it comes to Discretionary Support, because all we can do is just guide them. But most of our clients, to be totally honest, need us to be there doing it for them, otherwise they don’t need an advice centre.”

**Advice worker:**

“the old Community Care grants were a nightmare but at least you were able to facilitate that in the interview room. The Discretionary Support service over the phone we feel is a barrier to claiming, especially those with mental health or learning difficulties. So we can’t facilitate that because the process takes too long, taking up too much time in the interview room.”

This experience may well have been prevalent prior to Covid-19, but the introduction of both online applications and the triage system were responsive to these problems and DS Management Information System data (cited above) suggests that they are historical. The time taken for an adviser to support an application is now reduced:

**Advice worker:**

**“I am being told that it feels longer than it actually is. (more down to how the client is feeling having to apply for the benefit in the first place). [The length of the phone-call is] usually around half an hour, perhaps 40 minutes if a person has a lot of information”.**

While advice workers are able to support the online application, the call-back by DS at an unspecified time when support was not available could render the process futile:

**Advice worker:**

**“We’ve also just had an experience where we had a client with very severe mental health issues. He got supported with the Advisor as far as the online forms were concerned, and then the Advisor went back to work, and the client went back home, and Discretionary Support contacted him on the phone. He freaked out and took a panic attack and... couldn’t cope with the call. He ended the call, and the claim was closed. So back to square one.”**

There will always be a need for additional support for claimants with particular needs and the current economic position that many individuals will find themselves in post-furlough, and on a lower level of Universal Credit, would suggest that the

demand for both DS and advice services is also likely to rise. It is important therefore that claimants can both self-serve and get advice and support when they need it. Of the 567 respondents to our survey, 50% applied for DS by phone, 47% online and the remainder had their applications made by their advice worker. That does not reveal how many were assisted in some way by the advice sector or other support services, either through sign-posting or other indirect advice, but our review indicates that the impact of getting support remains significant:

**Advice worker:**

**“I was able to do [my client’s] online as he hadn’t a clue himself and he got £1,400...[I]t definitely helped him into his property and get him started. That was a fantastic result for him. The pressure of sofa-surfing with his underlying health problems was terrible. He wouldn’t have known how to do this himself. For me I can do it but he took a look at the online form and it really overwhelmed him to the point where he would nearly have rather went without.”**

**Foodbank focus group:**

**“We signpost clients to advice services to get the application right. If they do it themselves there are more issues.”**

**Rural Community Network focus group:**

**“there is a huge reliance on voluntary and community sector to support people with applying.”**

**Submission by St Vincent de Paul:**

**“There have also been instances of social security offices advising claimants to approach SVP and/or Food Banks for help for those who do not meet the stringent criteria for the DSS or those impacted by the five-week for UC. SVP is committed to being there to provide financial and material support for people in need (‘the only criterion is need’). However, SVP is concerned that a government Department should appear to promote dependency on charities as an acceptable policy for social security claimants. Needing to refer claimants on to a voluntary organisation reveals the inadequacy built into the current policy response.”**

There has also been effective working between DS and the advice sector, again responding to Covid and the increased demand for DS services. DS has implemented an adviser-support mechanism that allows claims to be prioritised and to have call backs at specific times. The advisers we spoke to found this escalation referral service to be extremely helpful and praised DS staff for improving access:

**Advice worker:**

**“Escalation referral within DS has worked really well ... and speaking to staff within DS ... They usually get back to you within 48 hours... so the response time good; BUT would be better to have an exact call back window so the claimant can have support in place.”**

**Advice worker:**

**“DFC came to the sector... and they opened up all these avenues for advisors to contact, to troubleshoot and raise issues. And that has been very, very positive and I hope that that continues beyond COVID. But especially in terms of DS and trying to troubleshoot issues quickly, that has been very, very good.”**

**Advice worker:**

**“you’ll fire off an email today or whatever just say look this is the guy’s details, his situation is whatever, give some background information. They usually email back within half a day and say look, leave this with me to follow this up. And then a day or two later it’s been resolved. Which is very good. Because like a lot of the advisors here and staff here, as others have mentioned, we’re working with very vulnerable people, dealing with authority**

**figures, being rejected, it is very de-motivating for them to say the least. But to get that sort of response and it's very positive, they feel they've been listened to. They feel that their voice has been heard."**

It would seem that supporting claimants will continue to require advice organisations to facilitate and assist claimants to make and complete their applications, and where the advice sector and the Department have worked together to resolve problems this has been very successful.

## 6.8 Eligibility criteria

In order to be eligible for DS, Regulation 10 (1) (a) of the 2016 Regulations requires claimants to demonstrate that they are in an "extreme, exceptional or crisis situation" that "presents a significant risk to the health, safety or well-being of the claimant or a member of the claimant's immediate family." If someone experiences a disaster, regulation 10 (3) allows that event to supersede the criteria in Regulations 11 and 12, relating to when a loan or grant can be awarded, and crucially to have access to additional support beyond the 3 loans and 1 grant within a 12 month period. Regulation 21 (2)(c) stipulates that in determining whether an award should be made, decision makers must consider "the possibility that some other person or body may wholly or partly meet the need." The need must occur in Northern Ireland and,

under Regulation (10)(1)(e) "be satisfied in Northern Ireland." The first criterion, however, is that claimants must have an income that is below the DS income threshold.

## 6.9 Income threshold

As part of the covid-related changes to DS, the income threshold was raised. Originally set at 40 hours per week at the National Living Wage level, Regulation 15 of the 2016 Regulations was amended by the Discretionary Support (Amendment No. 2) (COVID-19) Regulations (Northern Ireland) 2020 to increase the threshold to 45 hours per week at the National Living Wage level. At current rates, this works out as an annual income threshold of £20,849 per year. Schedule 3 of the 2016 Regulations sets out income that is disregarded when calculating the income threshold, including Child Benefit, Disability Living Allowance, Attendance Allowance, Personal Independent Payment and Child Maintenance. Child Tax Credits and disability premiums are not disregarded.

Both the fact of an income threshold that meant DS was open to those not receiving benefits and the subsequent Covid uplift were welcomed by advisers we spoke to:

### Advice worker:

**"I like the fact that it's opened up to people who are in work. Because quite often you find it's the working poor who are struggling."**

**Advice worker:**

**“see the uplift of threshold during COVID I thought that was brilliant because people were able to get it for the first time ever... [H]opefully that stays.”**

The current threshold, however, was still seen to be causing problems:

**DS operational staff:**

**“From a triage point of view, we would find that there’s a lot of people impacted by the income threshold. Particularly in the last few months, when people have been losing their jobs. We are finding that some people are in crisis at that point of time.”**

**Advice worker:**

**“we have a lot of people who would be very low income, add to that the benefits that they’re getting and then they’re getting knocked out of any additional support because of the income thresholds.”**

**Advice worker:**

**“They’ve made it look good on paper. People who weren’t in receipt of an income-based benefit could apply for it where before you had to be in receipt of one of those to qualify. The promise of it sounds fantastic but when you get to the bare bones it isn’t quite like**

**that. To me, statutory sick pay or maternity pay is you now on a low income but because you look on paper to have an annual income of £25k a year you don’t fall into that category anymore, so it can be difficult for people.”**

When we asked whether the income threshold should be increased further, there was clear acknowledgment of the problems, as well as the benefits of doing so:

**Advice worker:**

**“I mostly work with single people who are in receipt of benefits so reaching the income threshold isn’t an issue. What you might want to consider is maybe if it’s a single person having the threshold at this level, if they’re a couple with no children, if they’re a couple of two or more children, raising it incrementally again. Just to facilitate those issues or extra costs or whatever.”**

**Advice worker:**

**“it’s the children that bring the additional expenses into the home, in a lot of cases. But it also brings the benefits that are then knocking them out of support. So something like... no children versus children, some sort of different set of criteria or different income thresholds.”**

**Advice worker:**

**“you have a single person, a couple, and then you’ve a family and then you’ve also got the disability thrown in there. So having different criteria or thresholds, whatever, I don’t know... means testing isn’t the right word but to have different income thresholds or different additional amounts, depending on the circumstances of the household.”**

The debate tended to focus on the circumstances under which an increased threshold might apply, which was seen as fairer than a blanket increase to the existing single threshold:

**Advice worker:**

**“to increase it totally across the board leaves it open then to too many.”**

**Advice worker:**

**“if you had a family that come in and they’ve five children and they were all born before 2017 when there was a cut-off date was, they’re getting tax credits for those children. Yes, they have more income, it may be over the threshold, but they have five mouths to feed. So that money is for each child, it’s not like they’re more well-off than somebody else, that could be**

**special consideration made. But to increase the threshold across the board that, to me, is wrong.”**

So while there was clear evidence that many wanted the threshold to be amended, it was equally clear that to have multiple threshold levels for different households and circumstances was not likely to be operationally practical. That gave rise to the suggestion by several of the people to whom we spoke, including senior DS staff, that benefit entitlement could passport someone through the income threshold. Different manifestations of this were proposed, from having a dual route of passporting for people on means tested benefits along with an income threshold for people not on benefits, to supplementing passported income-based benefits criteria with criteria focused on demonstrating an ‘extreme situation’ as the eligibility mechanism for those not on benefits. Existing thresholds within the social security system were also suggested as an easier way to set the threshold for DS:

**DS operational staff:**

**“Could work off UC benefit cap floor – working off the one threshold across social security could make it easier for claimants to understand the system.”**

**DS operational staff:**

**“Could use LHA calculator for income thresholds.”**

**DS operational staff:**

**“You could model it on child benefit. £20,000 for an individual. You could just double it for couples – make it £40,000.”**

While there was no consensus on what the threshold should be, there was broad agreement that the current single threshold penalised larger families and those with disabilities whose income was higher because of additional costs. Raising the income threshold would not, therefore, be the only way to achieve greater fairness across a wider demographic of people who are in need: excluding additional types of income could potentially achieve similar outcomes:

**Political representative:**

**“We need to exclude much more of the income aimed at supporting children and disabled people. It’s not fair to include this income in the calculation.”**

**DS Commissioner:**

**“currently Child Tax Credit is not disregarded but the unfairness of not excluding this as income is seen by one-parent families.”**

For others, however, the view was that there should not be any income threshold:

**Political representative:**

**“an emergency fund should not have an income threshold – there’s**

**no need if the right checks and balance in place ... You could ask for evidence that a claimant has no disposable income to meet the need, for example a bank statement but with protection needed against wilful disposal of funds to make the bank account statement look ‘right’.”**

**Submission by St Vincent de Paul:**

**“The income ceiling should be removed for claimants. This figure, benchmarked against minimum wage earnings, remains an arbitrary limit on who requires support and excludes many people who genuinely need the DSS safety net. Benchmarking this income ceiling against the minimum wage – which is proven through Living Wage calculations to in many instances provide an inadequate income level – means that many households just over this line, and yet still on low incomes and in need of support, are prevented from accessing the DSS.”**

**Survey respondent:**

**“There should be no income threshold.”**

The proposal to have alternative means of demonstrating low income, such as bank statements, and evidence that funds have

not been wilfully disposed of to generate DS eligibility could be operationally burdensome, including for the claimant, and so is perhaps not adding sufficient value to dealing with the problem. Removing the threshold because the current threshold does not reflect income adequacy could be dealt with by benchmarking against other income thresholds that meet adequacy standards. The weight of evidence, therefore, suggests that the current single threshold should be revised. The question is what that revision should look like, taking into account the view that it would be ‘unfair’ to implement a blanket increase.

The panel commissioned Howard Reed, Landman Economics, and Professor Jonathan Portes, Aubergine Analysis,<sup>133</sup> to model income thresholds that would address the following concerns:

1. A single income threshold was penalising larger families and those with higher incomes from tax credits and disability premiums;
2. Multiple income thresholds that reflected the many variables impacting on household composition could be difficult to operationalise – affordability assessments would need to be detailed and time consuming, while increasing the number of income variables could

increase complexity and the potential for error;

3. Threshold levels should focus on those households who face the highest levels of poverty or deprivation

Reed and Portes took as their starting point the proportion of benefit units in six different categories (pensioner couple, pensioner single, working age couple with children, working age couple without children, lone parent and single working age adult without children) who are below the current income threshold.<sup>134</sup> This showed considerable and anomalous variation between different benefit units who were below the current income threshold, from 20.5% for couples with children to 90.2% for single pensioners. Their analysis found that:

**“In general, lone parent families are by far the most likely group to experience deprivation despite being above the current income threshold. Over half of lone parent families above the income threshold cannot afford to save £10 per month, almost half cannot afford a holiday away from home, and around one-fifth cannot afford household content insurance, cannot afford to replace worn out furniture or repair or replace broken electrical goods.”<sup>135</sup>**

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<sup>133</sup> See Appendix 1 for the full report by Reed and Portes

<sup>134</sup> A benefit unit is defined to be a single adult or a married or cohabiting couple and any dependent children

<sup>135</sup> Appendix 1, p3

The modelling of possible income thresholds was then based on expanding coverage for lone parent families and capturing the majority of those in all family types who were in poverty, based on the definition in the Family Resources Survey of being below the 60% median equivalised income After Housing Costs. The outcome was a recommendation for four different income thresholds for childless benefit units:

- Single working age adult: £13,000
- Working age couple: £20,000
- Single pensioner: £21,000
- Couple pensioner: £30,000

As their report sets out:

“This set of thresholds fulfils the criteria of:

- i) Making sure that there are very few benefit units in poverty but with incomes too high to qualify for Discretionary Support;
- ii) Reducing the inequalities between benefit unit types compared to the current “one-size-fits-all” threshold in terms of the proportions of each benefit unit type that is eligible for Discretionary Support;
- iii) Providing additional support for pensioner benefit units relative to those of working age.”<sup>136</sup>

This works to establish four basic thresholds, which is operationally feasible. What we also needed, however, was to understand what level a child ‘premium’ could be set at, to enable a per-child addition for families that could be added to the relevant single or couple threshold. Reed and Portes modelled these additions from £2,000 to £6,000 for both couple and lone parent families. Their conclusion was that “A per-child income threshold addition of £5,000 would mean that that over 80% of lone parents, and over 40% of couples with children, are eligible for Discretionary Support.”<sup>137</sup>

In the time frame that we had to conduct the review it was not possible to identify a disability specific addition to the thresholds, but it would be possible to do this with the empirical data that Reed and Portes used, and we would encourage the Department to consider establishing what this addition might be.

It is important to consider how a staggered income threshold might be used. The Department could implement this threshold for all claimants. There is much to recommend this approach. It is clearly targeting households who experience the highest levels of poverty and deprivation, and who will have been most disadvantaged by the existing single income threshold, and it would be operationally possible,

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<sup>136</sup> Appendix 1, pp6-7

<sup>137</sup> Appendix 1, p8

although potentially cumbersome. An alternative, however it to use existing eligibility for income-replacement benefits to passport claimants through the income threshold – which would include all disability related benefits, including the disability premium in Child Tax Credits, that could help address the absence of a disability-specific addition. A passported system will capture the majority of applicants. A staggered income threshold that reflects deprivation levels across different household circumstances will be more time-consuming to apply but manageable for a relatively small proportion of claims.

There is an inevitable conflict between fairness and simplicity to administer. The resolution may lead to some difficult outcomes for those just beyond the scope of DS, and it may also impact the DS budget in unintended ways, requiring award levels to be reduced to stay within budget. But the system needs to be able to respond as quickly as possible to urgent need and detailed affordability assessments, that are both lengthy and invasive, might be a high price to pay.

### 6.10 Extreme, exceptional or crisis situation

Operational staff discussed with panel members how the criteria of “extreme, exceptional or crisis” were continually under review and updated via guidance and training. The ability to be responsive in interpreting criteria can help ensure these

remain relevant in different circumstances, enabling flexibility within the established statutory definitions. At the same time, the absence of legislative definitions can create problems of expectation:

#### DS operational staff:

**“It’s unfair on staff and the public who apply subjective interpretations [of crisis] that can differ, and creates inconsistency. Vulnerability and accessibility criteria under a Community Care Grant was better... It can be particularly problematic for older customers – they might call and say they’ve had no sofa for 3 months. You could legitimately argue there is no crisis – they haven’t ended up in hospital or homeless – but that outcome doesn’t seem fair. Older and vulnerable people are losing out by not meeting crisis criteria.”**

We heard similar concerns from Age NI, who spoke about the fear that older people had of not being able to remain safely in their homes if they had problems such as a boiler breaking down which may not be classified as a crisis. The legislation does make provision for grants to be awarded to “provide assistance for a claimant ... to remain or begin living independently in the community” (regulation 12 (2) (a)), and the DS Commissioner has noted that the ‘remaining’ is as important as beginning independent

living. However, that still relies on the claimant being able to demonstrate they are in an extreme, exceptional or crisis situation:

**Advice worker:**

**“you need to consider, do you need this because you’re at risk of going back into care or hospital if you don’t have these items. People might need to go into care because their fridge is broke but they’re on such a basic income that they’re at risk because they can’t afford to put the money away to buy one. So they need Discretionary Support to give them the money to buy those items. I do feel it’s quite difficult to be able to apply for those basic things.”**

**Interviewer:**

**“Is there ever a reason given to people as to why their application hasn’t been successful?”**

**Advice worker:**

**“They’ll say it’s not essential or that they’re not high risk of going back into care or hospital – things like that.”**

It may be that crisis is seen as the dominant criterion, but to align with the legislation, and with the Department’s policy intent that DS would continue to support crisis, vulnerability and hardship, and be accessible and responsive in meeting the need for

help, ‘crisis’ should not displace an equal emphasis on ‘extreme’ or ‘exceptional’ circumstances as the qualifying criteria.

## 6.11 Disaster

We heard positive experiences of people who were supported through DS when they had experienced a disaster, but there was also confusion over whether domestic violence was classified as a disaster. DS staff were clear that it was, but advisers across three different workshops were either unaware of this or were not seeing this happening in practice:

**Advice worker:**

**“Domestic violence is not accepted as a disaster so you can’t get a furniture grant within 12 months of a previous grant... Domestic violence should be reconsidered as a disaster.”**

**Advice worker:**

**“Definitely need to add domestic violence to the criteria as a disaster.”**

Even where domestic violence is treated as a disaster, it is not clear what corroboration is required to determine that domestic violence has occurred. In their response to the original consultation on the new DS scheme as it was being considered, Women’s Aid NI stated:

**“it is essential that the application process does not**

**result in re-traumatisation of the victim, and that the process does not necessitate asking probing questions about the details of their abuse.”**

Advice workers we spoke to were concerned that intrusive questions to establish this were happening:

**Advice worker:**

**“a wee girl coming out of a domestic violence relationship and she applied for a grant and, because she had a £90 loan for a bed for the child for living with her mammy when she left the domestic violence relationship, she was disallowed the whole grant for moving into her new wee house... And she was totally overcrowded with her mother and father and she’s a genuine domestic violence victim... And also Discretionary also asked her, did you contact the Police, and we all know they don’t always contact the police in domestic violence. I think that was a wee bit intrusive...”**

Concerns around the limitations on eligibility for assistance under disaster criteria were also raised by staff:

**DS operational staff:**

**“Under disaster legislation, you can only offer a further loan in**

**respect of living expenses – I think someone should be offered an additional grant.”**

Clearer communication of domestic violence constituting a disaster for DS purposes is needed, as is the means by which the fact of domestic violence can be established.

## 6.12 Excluded items

Schedules 1 and 2 set out in detail items that DS will not fund, with the intention that funding is directed only to basic items for essential needs related to eating, cooking, sleeping and sitting. We asked those to whom we spoke whether there were items that are currently excluded under the Schedules that need to be included. Perhaps unsurprisingly, both those to whom we spoke and those we surveyed were able to identify items or expenses that they felt should be included within DS, and concerns that ‘essential needs’ did not relate to human needs:

**DS 18:**

**“the heating or your gas or your electricity. It’s not just the food you really need at the end of the day. You should be treated like a human, not just to survive like an animal... I don’t know who could survive on what I got really. You have bread, you have milk for [your child] and that should be enough. And shut up. Take it or leave it.”**

**DS 01:**

**“Tumble dryers for people like myself that have a lot of washing, because of a clinical condition.”**

**Advice worker:**

**“floor covering for children over 3.”**

**DS Operational staff:**

**“there could be more that we could look at for monthly tenancies in the private rented sector.”**

**DS 14:**

**“Maybe travelling expenses for certain things.”**

The cost of repairs was also suggested – to white goods, to locks, to cars – as well as automatic installation costs for white goods, to ensure that they were properly fitted and safe.

Two of the most frequent suggestions, however, covered IT and school expenses. In the DS Commissioner’s view, if a request was made for funding to cover IT (broadband, data, equipment) this would not be a permitted interpretation of the DS Regulations, and it would require amendment to the Schedules (parts 1,2,13,14) to remove the exclusions of purchase/rent/installing computer and internet services. The argument that internet access or telephony support is not essential is becoming more difficult to defend, as became particularly

evident during the pandemic when access to so many essential services moved online or to telephony-based systems:

**DS Operational staff:**

**“Internet access and (basic) mobile phone are also necessary items. Could be considered equivalent to security equipment for elderly people (eg personal alarm).”**

**DS Operational staff:**

**“Internet connectivity – perhaps we could even help with getting someone set up.”**

The items considered essential to avoid destitution – either by the JRF consensual definition or the list of essential items detailed in *R (Refugee Action) v Secretary of State for the Home Department* [2014] – do not include anything to do with IT. The JRF Minimum Income Standards refers to ‘cultural and social activities’ as a basic need, but nothing specific on phone, computer or internet provisions. The deprivation measures identified by the Poverty and Social Exclusion surveys, from 2012, includes as basic needs for a child ‘Computer and internet for homework’. This overlaps with some of the views we heard from others on what might be considered essential needs:

**DS Operational staff:**

**“laptops would need to be considered. There is a lot of children... need help with schooling.”**

It could be argued that even if laptops, phones, internet access (whether for connection charges or data usage) are basic or essential items, these should be provided from other budgets. A laptop or tablet should be an item provided via UC for jobsearch activities; internet access for school children should be provided by the Department of Education to assist with schooling.

A silo mentality of this being some other department's problem is not helpful to claimants, however. It offers no guarantee that these needs will be met elsewhere and we know that system failures in other government services can drive need to DS. The demonstrable need among DS claimants for financial support in relation to school uniform and school supplies, evidence this fact. DS is not available for school uniform expenses which are instead meant to be covered by the School Uniform Grant. The inadequacy of this grant is raised continually by parents and child rights organisations such as the Northern Ireland Commissioner for Children and Young People, but the problem still circles back to DS. When we asked claimants and respondents what needs they felt DS should cover, school costs were clearly noted:

**DS 12:**

**"I would say school uniform, because whenever I mentioned about household... when I'd applied for Universal Credit, they said that my free school meals**

**and my uniform allowance would be affected, so then that put more stress on me too because I've two children now at school and I didn't know how to pay for uniforms. So then whenever I mentioned to the girl that was doing the grant about uniform allowance, she said, no, we can't involve... we can't put down that the money is for uniform too. She said that's completely separate, this is for your living costs, say, like bills or electric, etc, and that's what the money was used for. So that's why there is still that wee bit of stress trying to get uniform – especially at this time of the month whenever in a few weeks they'll be back."**

**Survey respondent:**

**"To pay rent, bills and buy school uniforms during the summer months. With the delay before UC kicks it can be a very distressing time financially".**

**Survey respondent:**

**"Unexpected school costs."**

It is highly unlikely that DS will be able to meet all of the needs identified, and where need crosses over different departmental responsibilities, any inter-departmental negotiations on a 'polluter pays' principle are likely to be difficult to resolve:

### DS Operational staff:

**“DS should invoice other departments for costs – NIHE, or Department for Education – but it would probably be difficult to get the money back.”**

Where DS might be able to be more effective, however, is in meeting the increased need for food support. During the pandemic, the Department for Communities worked with local communities to provide food parcels and has also provided funding to foodbanks. While some of these measures were designed to meet immediate and practical need, including for those shielding and self-isolating, as a longer term approach to food security a cash-focused system could better support claimants’ dignity than food parcels or food bank donations. We have not been able to explore the potential for DS to be used as a channel for a cash-first approach to food security but we encourage the Department to consider how existing systems of emergency support for basic needs could be aligned.

### 6.13 “Within Northern Ireland”

Schedules 1 and 2 of the 2016 Regulations also stipulate that DS excludes need which occurs outside Northern Ireland. That DS needs should be met in Northern Ireland makes sense in most cases: DS is a devolved scheme, funded by the Northern Ireland Executive specifically for Northern Ireland, to support the needs of the population here. As with all rules, however, there will be

exceptions that may need to be addressed. While this was not an issue raised by advisers, claimants or political representatives, operational staff identified a difficulty that they see as “a daily issue in triage”, namely the ability to support an individual who needs to spend the funds outside Northern Ireland. Two case studies were provided to the panel to illustrate the problem:

#### Case Study 1:

**Customer has severe health problems and is living in an area where he has no family support. He applied for help to move to England where his family are in order to have the support he requires. We were unable to help as his need could not be satisfied in NI.**

#### Case Study 2:

**Customer applied for travelling expenses to go to England. Her father is on a life support machine and the hospital are keeping him alive to give her time to pay a final visit to him. Her need could not be satisfied in NI and we were unable to help.**

The limits of ‘paying to the border’ are evident in these cases, and the suggestion that the requirement for needs relating to travel and removal costs could be extended to the Common Travel Area is worth considering.

### 6.14 De minimis principle

Current rules on DS mean that if a claimant already has funds to cover any of their financial need this may impact on their award: for living expenses any money that the claimant has available will be deducted from the overall award unless the claimant can demonstrate that the money is required for a specific allowable purpose, for example to repair a washing machine. Beyond this, however, there is no minimum amount that they can have that can be discounted, to enable their eligibility for support. Where money is earmarked for bills and existing debts, that money will still count as disposable and so will disqualify the claimant. Whether that should be disregarded may be a difficult operational decision – how to establish that money in a claimant’s account will be used for bills and is not disposable income, but this is principally because spend down rules do not recognise those households that put money aside ready for the next fuel bill or for school uniforms. What may be more straightforward to establish, therefore, is a minimum amount of cash that a claimant has access to that can be disregarded:

#### **DS Operational staff:**

**“You should be able to disregard claimant income of less than £10.”**

Without a disregard, claimants are required to spend down all of their available funds, without any guarantee that there will be a loan or grant to replace them:

### **DS 28:**

**“I had some money in the bank, but it wasn’t as much – it was only, I think £50 – and again I was refused. But the lady said to me on the phone, look, just spend your money, spend the money and then you’ll get it, but you have to have near enough nothing in the bank. And I just could not believe that! For me to do that and then put us with nothing and then them refuse, would leave us in a terrible place, so I didn’t bother.”**

It would seem irresponsible to encourage claimants to risk disposing of minimal income in order to make themselves eligible for DS, and a de minimis principle could help avoid this.

### 6.15 Support available from others

Legislation permits decision makers to enquire whether claimants can source financial support from others. The availability of alternative support can mean that an award is refused or reduced. In effect, what it means is that the claimant is asked if anyone else can give or lend them the funds that they are applying for. This can leave claimants in a difficult position, where they could ask family or friends for financial support but see this as a last resort, rather than as an alternative to DS. The reality from the women’s sector perspective is that women in crisis will often try and borrow from

family, but in many cases their family are usually as badly off as they are. For claimants to whom we spoke, it was clear that asking others for money was problematic:

**DS 26:**

**“I asked them if I could have help with that whatever, but they said to me, is there anyone else you can ask, and I said, well, if you can’t help me, I’ll obviously have to ask my mum or, at that time, my partner’s family, they could have helped me but I didn’t really want to ask them, if you know what I mean, but they said I wasn’t allowed it because I’d other people to ask but that was kind of like a last option, if you know what I mean?”**

**DS 09:**

**“A friend said he’d lend me it, but he couldn’t lend me it for too long, if you know what I mean? Because... my mates have lost work and they’re only doing half the work or whatever.”**

The sources of financial support do not include high cost lenders:

**Political representative:**

**“[My constituent] alleges that she was asked if she has asked friends and family or applying a for a payday loan. I had raised**

**this with the management to raise a concern and investigation and was told that they may ask if a person has received any help from other organisations, family or friend but should never advise someone to seek a payday loan or credit cards etc.”**

The legal definition of destitution, as it applies to asylum seekers, takes the position that if someone can have their needs met from family, friends or charitable sources, then they are not destitute. The Joseph Rowntree Foundation, however, bases its definition on a consensual view of what the public believes to constitute basic needs and the public consensus is that if the individual cannot afford their basic needs from their own resources, they are destitute. While family and friends may be able to help out, and while there is an increase in food bank usage and support from charities to help people meet basic needs, there is a fundamental question over whether the state should devolve its responsibility to others to provide for citizens. More directly, this is an intrusive question that adds to the concerns not just about dignity but about the multitude of questions that make the application process difficult and more time consuming, and ignores the potential for exploiting individuals in a vulnerable position vis-à-vis other family members to whom they are in debt.

### 6.16 No Recourse to Public Funds

Our review looked for evidence of how the DS system was working, not just for those who were able to access it successfully, but for those whose needs were not being, or could not be met by DS. Funding for DS is currently drawn from public funding and so it is not accessible to those who have a right to live in Northern Ireland but do not have a right to financial support from public funds. The determination of No Recourse to Public Funds (NRPF) status is a reserved matter and done by the Home Office, which also dictates what constitutes public funds, so taking DS out of public funding is not a straightforward matter. There is, however, still a strong case to be made for DS being available to those with NRPF:

#### Submission from PPR:

**“PPR and other organizations which support people with no recourse to public funds are strongly of the view that Discretionary Support has the potential to offer a lifeline to people with NRPF designation at a time when they risk being overcome by a rising tide of poverty. The declassification of Discretionary Support as a public fund would provide the small number of people in this situation in Northern Ireland with the opportunity to access support,**

**upholding their dignity, their rights to an adequate standard of living and their right to food. It would be a progressive step forward in an otherwise hostile and discriminatory policy context.”**

The Department may, however, be able to offer a separate hardship fund from non-proscribed sources and it is also important to note that the condition of NRPF can be lifted if there is a risk of destitution.<sup>138</sup> If the objective (inherent even within NRPF) is to prevent destitution, then the vehicle that delivers this is less important than the outcome. Whether such support should be delivered through DS or a separate hardship scheme or existing migrant crisis funds may come back to the question of whether the DS scheme can be taken out of public funding.

### 6.17 Decisions

The decisions on DS – how they are made, understood and their impact – was a significant issue for those who spoke to us and responded to our survey.

### 6.18 Timeliness of decisions

When we asked people what worked well with the DS scheme, the issue of speed – in making decisions and in getting payments to claimants – was one of the positives identified by staff, advice workers and claimants, but the evidence here is mixed. In our survey, 129 people (23% of respondents

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138 R (on the application of W) v Secretary of State for the Home Department) [2020] EWHC 1299 (Admin)

to this question) said it took less than 3 hours to get a decision on their application, while 155 (28%) said it took more than 3 days. For 20% of respondents (112 out of 562) it took 1 day to get a decision; for 16% (92 out of 562) it took 2 days; for 13% (74 out of 562) it took 3 days. Advisers and staff who had experience of the predecessor Social Fund, saw DS as an improvement:

**Advice worker:**

**“The timeliness of the decisions. You’re not waiting weeks upon weeks, whereas under the old legacy system for a Community Care grant you were waiting maybe three, four weeks or longer for a decision. So that’s one benefit of DS in terms of the timeliness, that... especially for people in need. For people in urgent need, and for people who need that need met urgently. Yes, decisions have been turned round in a matter of days, which is good. I’ve seen that happen, yes.”**

**Advice worker:**

**“Compared with the old legacy system where you’d maybe wait three or four weeks for a Community Care Grant decision. But we wait maybe three, four, five days for a decision under DS. So the time factor is a positive, in terms of decisions.”**

Several factors played into this: the telephone triage system that enabled some filtering of claims; the fact that payment was not delayed by the need for claimants to attend an office to physically sign up to the terms and conditions; that a grant for living expenses could be paid in a matter of hours through the Central Payment System, compared to BACS payments that could take 5-6 working days; and that it was possible to escalate payment to get money paid more quickly in circumstances relating to domestic violence, homelessness, or ill-health.

For claimants, however, the urgency of their need was not seen to be matched by the Department’s ability to make an urgent award:

**DS 04:**

**“They just said that there was a back-log and it is taking a few days to get a phone call back. But people in my position don’t really have three days to wait, do you know what I mean? We’re ringing because we’re desperate.”**

**Survey respondent:**

**“When you’re in crisis three days waiting on a call is too long.”**

**Survey respondent:**

**“No good applying for emergency help when it takes 4-7 days before they get in contact with you.”**

### Political representative:

**“If claiming 4/5 days before a benefit payment is due, the money doesn’t come through quickly enough – you’re better off sending someone to foodbank... people need immediate support and DS grant doesn’t work for an immediate crisis.”**

DS operational staff will prioritise claims for living expenses over those for items, so that the former are dealt with more quickly, but this can still take time and may not be an immediate same-day decision. It is not clear operationally what could be done to enable crisis decisions to be made more quickly, particularly at times of high demand such as coming up to the new school term or Christmas – and potentially with increased demand on the horizon from the ending of furlough and the removal of the £20 uplift to Universal Credit. There may be a preventative point where awareness can feed into claimant decisions about whether they need to spend down to their last pound to be eligible, and so setting a de minimis amount that provides some cover for claimants while waiting for decisions might help with managing their crisis.

### 6.19 Expectations

Given the low levels of awareness of DS is it perhaps unsurprising that claimants did not fully understand what DS was for and what they could expect, either with

the application process or the award. In our survey, 46% of respondents (63 out of 138) said they did not know what to expect when they applied. The lack of awareness over what to expect was not necessarily a problem where claimants felt supported and guided through the process, so that their lack of knowledge was not a barrier:

#### DS 19:

**“when we applied for it, we hadn’t a clue. And the girl that was dealing with it, she was a fantastic help. She’d have phoned me back and go, no, you haven’t done this. The help we got was brilliant... pointing us in the right direction... Things that I didn’t think of, she was phoning me back to keep me right when I said to her look I haven’t a clue what we’re doing here.”**

#### Interviewer:

**“whenever you applied, did you expect to get a grant or a loan?”**

#### DS 20:

**“I was just enquiring, I was just sort of like, would they help me out with the rest of the house. I was sort of just seeing if there was any help for me... I wasn’t expecting not to pay it back like, if that answers your question, so I wasn’t expecting a grant.”**

**Interviewer:**

**“Okay. So you were just trying to find out what was available and then seeing where that would take you?”**

**DS 20:**

**“Yeah.”**

Where the lack of expectation could be problematic was where claimants or advice workers could not confidently predict what an outcome was likely to be:

**Advice worker:**

**“For claimants it’s like a lottery. You have no idea how your application will go. At times there is no rhyme or reason behind the result.”**

**Advice worker:**

**“There’s no consistency in decisions. I have no idea what criteria they use to make a decision. That’s the problem for us.”**

Awareness of the existence of DS needs to be matched by clear awareness of the role and purpose of DS, to manage legitimate expectations over whether and how DS can help. This includes providing those who assist claimants – in community and advice organisations or constituency offices – with sufficient information to guide claimants on what to expect:

**Advice worker:**

**“Need greater DS transparency over what DS can or can’t award and the amounts and any exclusions.”**

**DS 02:**

**“I thought it was a set figure and that it was a grant that you either got or didn’t get... So I think that was a surprise, and I guess I wasn’t prepared for that, hadn’t thought that through as to how much would be needed... I think the only thing would be just as much... as much clear information as possible about the purpose of the grant, eligibility and then maybe go into the specific details, just seeing whether you know, it was a long enough form so, it’s whether it’s something you’re going to get or not beforehand, I think that would be useful.”**

**Political representative:**

**“Need more transparency about the criteria... The detail is not well publicised.”**

**Political representative:**

**“Better communication and guidance will mean expectations can be better managed.”**

While the Regulations are publicly available, the guidance for decision-makers is not. In its 2019 report on welfare reforms, the Northern Ireland Audit Office noted the concerns of the advice and community sector “about the lack of access to decision making guidance supporting the Discretionary Support Scheme. Unlike social security benefits, the Department does not produce formal decision-making guidance for the DSS.”<sup>139</sup> The difficulty this creates is summarised by St Vincent de Paul’s submission to the panel:

**Submission from St Vincent de Paul:**

**“We are also concerned about the lack of access to decision making guidance supporting the Discretionary Support Scheme. This lack of transparency in formal decision-making guidance for the DSS makes it difficult to refer clients to the scheme or make informed assessment of need for SVP support. The equivalent schemes in Scotland and Wales have published guidance to enable understanding and accountability between the scheme and advice and support organisation.”**

It is clear to the panel that the DS guidance is a different type of document from the guidance relating to social security benefits. The DS Commissioner has described the guidance as a conglomeration of

administrative instructions on IT, process, procedures and interpretation, all of which are frequently subject to change. To have such an iterative, live document that changes from week to week in the public domain may be operationally problematic and was probably more so at the outset of the DS scheme when the parameters of eligibility were so new. At this point, however, it would seem that there is a case to be made for some public guidance to be available on how decisions are made, that can constructively supplement the statutory eligibility criteria, to enable claimants and their support workers to know what can reasonably be expected from DS. Further governance mechanisms would also help with understanding how the DS budget is being spent, with published information not just on the application success rates of awards but on why people are being turned down, the common areas of need along with new circumstances that the regulations do not cover, and on section 75 equality data that has begun to be collected through the online application form.

## 6.20 Explanation of decisions

Of the 552 respondents to our survey who answered the question on the outcome of their application, 227 (41%) said they received a loan, while 188 (34%) received a grant and 137 (25%) were refused. Of those who were refused, when asked why they had been refused the majority (47%)

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139 Northern Ireland Audit Office, Welfare reforms in Northern Ireland (2019), para.5.23, available at: <https://www.niauditoffice.gov.uk/sites/niao/files/media-files/Welfare%20Reform%20Report%202019.pdf>

stated it was for a reason other than already having too much debt (which applied to 21% of respondents), having an income that was too high (which applied to 17% of respondents) or having already been given the maximum number of grants or loans (which applied to 14% of respondents). While there were a range of answers based on individual circumstances, there was evidence that many respondents did not know why their application was refused:

**Survey respondent:**

**“I genuinely do not know. I met the income threshold.”**

**Survey respondent:**

**“Apparently wasn’t entitled although had paid all loans up to date. Still can’t understand why. No reason.”**

Claimant interviews also revealed a mixed experience of receiving explanations for the decision:

**Interviewer:**

**“So, when the decision was that you were unsuccessful, did they explain why?”**

**DS 02:**

**“Yeah, they explained that the reason was that... the funds I had available to myself at the time was more than what I was applying for, which I thought that was**

**extreme to be honest... I guess the funds were savings that preferably wouldn’t have been spent on the same things but I understood that as well. So it was fine.”**

**Interviewer:**

**“Did anyone explain why you didn’t get the full amount?”**

**DS 14:**

**“Yeah, she explained that she could only pay me for so many days, up until my next payment, so that was how it was calculated from the date that I applied, until my next pay date.”**

**Interviewer:**

**“Did you get the full amount of money that you’d asked for?”**

**DS 08:**

**“No, no.”**

**Interviewer:**

**“Okay, do you know why?”**

**DS 08:**

**“I can only guess. I would say that they’ve probably looked at the cheapest options and then just, you know, give you that amount.”**

**DS 17:**

**“I had asked for £200 and then**

**£25 for the delivery and they give me £199, so I had to just use what I had for the delivery.”**

**Interviewer:**

**“And did they explain why you didn’t get the delivery charge?”**

**DS 17:**

**“No, they just said that they offered me that price.”**

Explaining a decision to claimants is an important part of procedural justice, in respect of having a fair process, so that even if the outcome is not what the claimant would have wanted, they can at least understand why that is the case. For claimants not to understand the basis of their decision adds to concerns around awareness and expectation, reinforcing the idea of DS being a “lottery” rather than a coherent system providing some consistency around emergency support.

## 6.21 Review

The process of review in DS is set out in Regulation 25 of the 2016 Regulations. In essence, it entitles the claimant to have a First Review undertaken by a different decision maker within the Department – a DS Review Officer – which looks at the

decision and determines whether it should be changed. If the claimant is not content with the outcome of the First Review, they can then request an independent review (the ‘Second Review’) within 28 days. The Second Review is undertaken by the Office of the Discretionary Support Commissioner. This independent review is not as time limited or pressured and also allows for verification of the information on which the original decision was based. The Commissioner’s Office issues a Decision Report to the claimant setting out the basis for the decision, which is final.

There has been a reduction over the years in the numbers people seeking independent review, from when the DS scheme was introduced. In 2017/18 (the first full year in which DS operated) 3,077 first reviews were processed and 32% of these (1,005) were overturned. From the remainder, 166 independent reviews were conducted at the claimant’s request, representing 5% of first reviews.<sup>140</sup> 157 (96%) of those decisions were upheld. In 2020/21, 2,574 first reviews were processed and 30% (279) of these were overturned. From the remainder, 42 independent reviews were conducted at the claimant’s request, representing 2% of first reviews.<sup>141</sup> 34 (81%) of those cases were upheld. As with all new statutory schemes, it is usual for appeals or reviews to peak

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<sup>140</sup> Office of the Discretionary Support Commissioner, Report for the period 1 April 2017 to 31 March 2018 (2018) available at: <https://www.communities-ni.gov.uk/publications/office-discretionary-support-commissioner-annual-report-2017-2018>

<sup>141</sup> Office of the Discretionary Support Commissioner, Report for the period 1 April 2020 to 31 March 2021 (2021) available at: <https://www.communities-ni.gov.uk/publications/office-discretionary-support-commissioner-annual-report-2020-2021>

when new rules or criteria are introduced, to test the parameters of these, so a drop in review requests since 2016 is perhaps not unusual. On a similar rationale, however, there might be a legitimate expectation that an increase in review requests would have followed with the introduction of the UCCF and Covid self-isolation grant, but this does not appear to have happened, even at first review stage. In 2020/21 there were 115,000 DS applications, 2,500 internal reviews, and 45 DS Commissioner Reviews. We have not sought to investigate the reasons behind what the Commissioner has noted is a relatively low number of reviews; <sup>142</sup> rather we looked for information on the experiences of the review process and the reasons why claimants may or may not decide to ask for a review based on this.

The first, and perhaps most obvious, point is that where claimants understand the original decision they are in a better position to make a decision on whether or not to challenge it:

**Interviewer:**

**“Did they say if you weren’t happy with the decision, you could ask for it to be reviewed or appealed?”**

**DS 15:**

**“Yeah, they said if I wasn’t happy, I could say no, for it to be**

**looked over again, but it was fine, because I understood, obviously I wasn’t eligible for it.”**

**Political representative:**

**“Clients don’t understand DS decisions so they don’t know they can challenge it or they think what’s the point in challenging? There’s no transparency around the DS decision making process.”**

Claimants may not understand the oral decision, but it may also be the case that when the letter explaining the decision arrives, they do not engage fully with it:

**Interviewer:**

**“Did you know that you could ask for a Discretionary Support review – a review of the decision?”**

**DS 28:**

**“I’m not sure. I can’t answer that without getting the letter in front of me. I don’t think it was said on the phone but I can’t answer you wholeheartedly ... I’m not aware of that, but it could have been in the letter. I just kind of took the letter and saw I wasn’t getting it and didn’t read much more of it, do you know what I mean?”**

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<sup>142</sup> Office of the Discretionary Support Commissioner, Report for the period 1 April 2020 to 31 March 2021 (2021) available at: <https://www.communities-ni.gov.uk/publications/office-discretionary-support-commissioner-annual-report-2020-2021>

The second point that emerges from our data is that claimants need to understand the implications of asking for a review. While there was reasonably consistent evidence that decision makers were advising claimants that they could ask for a review if they were not happy with the outcome, it was less clear to claimants what this would mean for them. For those in urgent need, the prospect of a review implied delay that they were unable to manage:

**Interviewer:**

**“Whenever you didn’t get the full amount, did anyone say to you that you could ask for that decision to be looked at again, to be appealed or reviewed?”**

**DS 11:**

**“No. And even if they had, I would have just gone ahead with it anyway because I’d lost everything in the freezer.”**

**Interviewer:**

**“So you needed it, and you hadn’t time to wait for another decision?”**

**DS 11:**

**“No.”**

A review decision cannot reduce the award: it can only increase it or maintain it at the original level, but it is not clear that claimants know this:

**Interviewer :**

**“If they had said to you, you can appeal it and if you appeal it ... you can’t get any less than you’ve got, you might get more, would you have appealed it?”**

**DS 05:**

**“Of course I would have. 100%.”**

A further point is that once a claimant accepts the terms and conditions of an award, it may not be clear to them that that award can still be reviewed. If the urgency of receiving an award was the driving factor, and claimants understood fully that they could have immediate access to the funds but still ask for a review of the decision, that might encourage more to ask for a review. It is not imperative that reviews increase but a review process can point to the health of a system, identifying common problems or good practice, enabling systemic remedial action or consistency in doing things well. If the volume of reviews is low, systemic issues will be more difficult to identify.

There are other issues that will impact on a claimant’s decision to ask for a review, including their experiences of appealing social security entitlements and low expectations of being able to effect change:

**DS 27:**

**“My experience of mandatory reconsiderations – and I think it’s the same across the board in any**

**of the benefit departments – is it even worthwhile?”**

**Advice worker:**

**“The process is so long and tiring and traumatic, disempowering... I think that’s why most clients don’t want to go and ask for review for fear it’s going to be another long, drawn-out process.”**

**Political representative:**

**“I attempted to assist in challenging it but the person did not wish to. They feared that other social security payments would be affected (person has previously had great difficulties with PIP process).”**

**Political representative:**

**“People are fatigued and think there’s no point.”**

There was also an element of pragmatism around reviews, where advice workers felt that it would be quicker making a fresh application, particularly where their experience was that a claimant was not likely to be successful at review. On a very practical level, if claimants want their decision reviewed they need to make a further phone-call to request this. Having to take this additional step is as likely to discourage as encourage reviews to be requested.

It is important to point out that DS is not the same as social security entitlements – there is no right to an award and the appeal structure is not one within which rights can be asserted. The difference may seem minor – the role of review in DS performs a similar task as mandatory reconsideration and independent appeal in social security benefits, in checking whether guidance has been applied and statutory criteria have been interpreted reasonably in a claimant’s case. But those we spoke to focused on the discretionary element as something that means decision makers could or should be able to be flexible about what claimants can get. In reality, the discretion relates to whether to have a scheme, how much funding it receives, how criteria are determined, how review processes can work and all of this is done outside a framework of rights, so that a claimant can challenge the procedural aspects of how the decision is made, but there is no point of law that relates to what a claimant is entitled to receive. That leaves claimants in a hinterland between rights and charity which means claimants may decide not to have awards reviewed because they are ‘glad to get anything’:

**DS 18:**

**“...you get what you basically get and you’re grateful for anything in that situation really.”**

**Advice worker:**

**“We always try and encourage them to ask for a review and**

explain look what you have's okay, there could be a chance, but most clients who are coming to us say no, you know what, I'll take what I got. I'm glad I got something... And we try and reassure them, you're not going to lose what you got, this is either to see if they can give you a wee bit more, if you can provide a good reason why you think that that is vital to you. But they're 'no, no, no, I don't want to rock the boat' attitude. That's more or less what you'll come across each time."

**DS 20:**

"some help is better than no help."

**Interviewer:**

"So you didn't want to appeal in case you ... you weren't able to keep that?"

**DS 20:**

"Yeah, well, I thought it was quite good that she gave me it in a grant, so I didn't have to pay it back and all, so, I thought it was quite acceptable. I'm the one that asked for help so I'm grateful to be getting it."

This feeling of being grateful for any help can also be fed by stigma that those in poverty, and benefit claimants in particular, are often faced with. For reviews, as with so much of the DS scheme, context is critical.

## 6.22 Impact of not receiving a grant/loan

When survey respondents were asked about the impact on their circumstances of not getting a grant or loan, 43% (74 out of 172 responses) said they had to go without the things they needed the money for. 23% (40 out of 172) had to borrow money from family/friends, with 19% (32 out of 172) having to ask a charity or foodbank for help. Going without had a significant impact on respondents:

**Survey respondent:**

"We struggled so much."

**DS 28:**

"Everything is down to the wire now ... I had to actually go and get some support from [a local charity]... so they helped me with food ... And I'm not being rude – it was lovely of them, and they were so good to me – but... it wasn't really enough, if I'm honest."

**Interviewer:**

"Were you able to manage without that money?"

**DS 26:**

"I just got my mum to lend me the money instead but obviously it wasn't my first option, you know, it's just my mum has difficulties herself, so it wasn't our first option but I did get the money off

**her to sort it out...”**

For some, the impact described meets the definition of destitution – not being able to afford to buy the bare essentials needed to eat, stay warm and dry, and keep clean –mirroring the purpose of DS to support people unable to meet these basic needs:

**Survey respondent:**

**“I am simply going without food in order to make sure that the little food we have left will feed my 3 children.”**

**Survey respondent:**

**“We had to go without heating and hot water.”**

As well as the financial impact, respondents also explained how this impacted on their general mental health and well-being:

**Survey respondent:**

**“Went without basic needs, lost weight and very depressed.”**

**Survey respondent:**

**“Emotionally I feel like I have failed my children. Mentally I’m very fragile and angry.”**

Borrowing options were limited. One of the claimants we spoke to was able to borrow money from his friend only because he knew that he would be getting a DS loan and therefore had a date when he

knew he could pay his friend back. 11% of our survey respondents (19 out of 172) said they managed the impact of not getting a DS award by borrowing from a local money lender. One respondent stated that he ended up having to go to a local paramilitary organisation:

**Survey respondent:**

**“I’ve never felt so low in my life asking for support and not getting any and having no one to turn to other than paramilitary money lenders which I’m ashamed of doing but I had no other choice to get food and electricity.”**

DS is about meeting basic needs, which means providing protection from destitution at the very least. In the instances reported above, DS was unable to meet those needs.

## 6.23 Impact of DS

The most important finding for this report is that the funding provided by DS made a huge impact on respondents. None of the claimants we spoke to, or any of the survey respondents, who had received an award felt they could have managed without it – some felt it would have been impossible and others felt it would have been a real struggle:

**Interviewer:**

**“would you have been able to manage without it?”**

**DS 06:**

**“I don’t think so. I would have**

**found it extremely difficult, to be honest with you.”**

**DS 07:**

**“It was a lifesaver.”**

**DS 27:**

**“I wouldn’t even like to think the impact [not getting the grant] would have had on me because what had happened to me, I literally had no money.”**

**Survey respondent:**

**“It was definitely a massive help to me during hard times.”**

**Survey respondent:**

**“I really would not have coped without this help.”**

When asked if they would recommend DS to someone in a similar financial position, where claimants had been successful the answer was yes:

**DS 12:**

**“I definitely would because it helped me so much. Like I said, I don’t know where I would have been those couple of weeks if I didn’t get that £500.”**

**DS 17:**

**“if that was the only option, then yeah ... Just because I know that they are there to help basically.”**

**DS 20:**

**“Yeah, I would. Actually I would, yeah... I think it’s a good service, they help people out who are maybe a wee bit less fortunate.”**

Where claimants were unsuccessful in their application the position was mixed on whether they would recommend DS to someone in a similar financial position, or apply again themselves:

**DS 26:**

**“I did recommend Discretionary Support to [my friend] because... she’s moving out, she only has, really, her own bed and I think her wee baby stuff and a wardrobe, so I did say apply for it, because she’s got a housing executive house now, so I did say to her apply for it and if you’re eligible, they will ring you back.”**

**DS 27:**

**“No. Because I just think that they fill people with hope the way the system works, the phone call, and said I had to do an application form and send it in, and wait for a letter to come out. This one-on-**

**one, face-to-face, and speaking to somebody and especially when you get somebody who's actually nice and who has a nice manner about them and are pleasant with you and don't sort of grimace, or don't give you any indication that you're not going to get and lead you the whole way through the application by phone, and basically, giving you hope, then to phone you back a half-an-hour or so later and dash all your hopes ... I would say to give it a go but, you know, don't – don't be getting yourself worked up or into the frame of mind that you're going to get something from it."**

**DS 28:**

**"Never, no. I wouldn't give them a chance to say no to me again. I'd rather eat dirt in the street."**

Given that the impact of not getting an award can be as profound for a claimant as getting one, it is unsurprising that unsuccessful applicants would be reluctant to re-apply. What is perhaps more surprising – and more hopeful – is that they still consider the scheme to be valuable. It is abundantly clear that the Department made the right decision to retain a dedicated fund and devise a replacement scheme when elements of the Social Fund ended, to provide a safety net for those facing extreme hardship. What remains as a fundamental concern is how claimants have been so badly

failed by other systems that the difference between getting or not getting a DS award is escaping from or living in destitution.

## **6.24 How respondents used the grant or loan payment and reasons for applying**

This report underlines the critical role that DS plays in the context of the lives of people on low incomes, and the reason for this is evident when we understand what claimants used DS funding for. The majority of respondents to our survey said they needed emergency or crisis funding to help buy white goods, mostly washing machines, fridges and cooker. Living expenses and bills (mainly electricity) were also common answers that respondents provided. Respondents also said they needed this money to buy food – emphasising the extreme financial hardship people are experiencing:

**DS 09:**

**"I turned the electric on again and got something to eat."**

**Interviewer:**

**"Would you have been able to manage without DS?"**

**DS 25:**

**"No, because I hadn't got any food or electric in the house."**

**Survey respondent:**

**"paying for general day to day items and clothing."**

The context of these needs remains a concern – if DS is the only way in which individuals are able to meet basic needs of food, heating, electricity and basic day-to-day items then we have moved from a rights-based system that supports people to live a dignified existence, to a system where these things are no longer rights but subject to cash limits and surges of need.

Those basic needs can also become unavailable to individuals who need to leave their homes because of violence, an issue perhaps reported more easily through an anonymous survey than in a one-to-one interview:

**Survey respondent:**

**“Had to flee home because of repeated domestic violence.”**

**Survey respondent:**

**“I was living off £40.00 a fortnight as I was paying off a lot of different loans and I was struggling very much. I had to live out of food banks. I had just left a woman’s refuge so needed discretionary payment.”**

**Survey respondent:**

**“Furniture for moving into a flat of my own after leaving a women’s aid refuge and fleeing from domestic violence.”**

**Survey respondent:**

**“I was harassed and intimidated out of my home and therefore needed to move in a hurry.”**

**Survey respondent:**

**“Was moved out of home after a failed attempt on my life.”**

**Survey respondent:**

**“I am fleeing domestic violence, I am disabled and presently fighting cancer. I... applied for a DHSS grant to furnish my new accommodation as I have to wait six working days for the grant. I am now sleeping in my DLA car as it is more comfortable than sleeping on a hard floor, although I am extremely grateful for the grant... If the department could deal with domestic violence victims as urgent they would not feel as if they are still being controlled.”**

DS clearly also supports those moving into new accommodation, including NI Housing Executive properties which are completely unfurnished:

**Survey respondent:**

**“Homeless with 6 month old baby. No funds available to purchase basic items for a housing Assoc home I was offered.”**

**Survey respondent:**

**“I had homeless status and needed bed, cooker, fridge – essential items to move into a new social house.”**

**Survey respondent:**

**“I finally got a home as I was homeless. It was like a shell so needed to furnish.”**

There may be an argument that accommodation needs should be fulfilled by the Housing Executive where new tenants are not able to furnish their own properties, rather than directing people to a discretionary scheme designed for crisis and emergency situations. What our findings show, regardless of whether a duty to claimants should lie elsewhere, is that DS was meeting very basic needs, the absence of which manifests as a crisis for those on very low incomes.

## **6.25 Receiving less than full amount requested**

54% of respondents (204 out of 381) said they did not receive the full amount of money they had asked for compared to 28% (107) who said they did. 18% (70) did not ask for a specific amount. When asked why they did not receive the full amount asked for, there was significant variation in the reasons but the majority of respondents said they did not know or could not remember why they did not receive the full amount.

Those who understood or remembered the reasons explained it was because some items were not deemed essential or they did not meet the criteria. Respondents also highlighted issues with the set price list, with some explaining how difficult it can be to find items within this price range:

**Survey respondent:**

**“List prices were massively off. Having to prep for the items and get quotes is pointless as you have the list price and you don’t go over this. I think if you have a list price you should also tell us where and who you got this price from to allow us to use these people as I couldn’t get everything I required. I am now in a position where I have to try and wait until I can get the cheaper items however given it’s been 3 weeks now and I still can’t find this £54 carpet anywhere!”**

**Survey respondent:**

**“Appliances – they say you can get cheaper but don’t say where and I struggled to find any in price range that can be delivered in my actual area.”**

**Survey respondent:**

**“I asked for £400, got slightly less than half of the amount but still helped me a lot. Made a huge difference.”**

47% of respondents (178 out of 375 respondents) said they were able to get all (27%) or most (20%) of the things they needed. 11% (42 respondents) had to ask a charity for help and 41% of respondents (153) said that without the full amount they had asked for, it meant that they were only able to get some of the things they needed. Again, the impact of not having money to cover costs was largely negative and resulted in some respondents having to borrow money from friends, family or loan companies, or going without other necessities:

**Survey respondent:**

**“I ended up utilising credit to purchase the white goods and am now skipping meals in an attempt to save the money to get my cooker and washing machine fitted.”**

**Survey respondent:**

**“I’ve had to do without for a while on some items which looks bad on me as a full-time father and has an effect on my mental health.”**

**Survey respondent:**

**“I had to put the extra money to buy the items which left me with no food for over a week.”**

## 6.26 Loans v grants

DS staff will make an assessment of whether people should get a loan or a grant, and that includes an assessment of affordability. That

can mean someone is too poor for a loan if they are not able to afford to repay it. The outcome may be that someone is offered a grant instead – provided they exceed the debt threshold of £1,500 and have not already received a grant (including a UCCF award) – or they may be refused an award. The initial consultation on DS raised concerns about increasing debt levels for those unable to afford them. At the time, there was huge criticism of payday loans (such as Wonga) and calls for the government to provide interest-free loans. While there is no evidence from our review that the availability of interest-free DS loans has prevented individuals accessing other high interest or high-risk credit options, there is evidence of concern about increasing the debt levels of people unable to afford loan repayments. The issue of affordability through a debt threshold was seen by some the advisers we spoke to as a sensible precaution against overburdening someone with debt they cannot afford, but with the option of then being able to offer that person a grant. The claimants we spoke to, who had received a loan, had mixed views on whether the loan repayments would be manageable or difficult:

**Interviewer:**

**“The repayments that you’ve to make, do you think they’ll be manageable, or do you think you’ll struggle?”**

**DS 14:**

**“No, I think they’re manageable.”**

**DS 12:**

**“there is that worry that if you do take a loan out it’s another added... not a debt, but kind of like a debt; it’s another added thing that you have to worry about at the end of the month, that way. Whereas the grant, you’ve been given that money to help with living expenses and electric and food and that for the wains and yourself and you don’t have to worry about paying it back, you don’t have that added stress on your shoulders that way... [A]t the end of the month whenever you’re trying to calculate bills, it all adds up. So especially times like these whenever you really need every penny you can get your hands on. A loan is a loan; it does help you at the time but then you do have that added stress at the end of the month about how much you can afford back.”**

In our survey, 25% (93 out of 367) of respondents to our survey said they were happy to take a loan, while just over a third of respondents – 34% (126 out of 367 respondents) – said they were offered a loan and were not happy but had to take it. Many of those who were unhappy explained that the loan was their only option but that they

knew this had the potential to push them further into debt and financial hardship, a point reinforced by those claimants we spoke to:

**DS 09:**

**“you’re in crisis aren’t you and you’re broke and you’ve got no electric and that, so, yeah, you’re happy enough to get it... I’m already losing £70 a fortnight from my social fund payments as it is. So it does sting a little. And that stings for a month or two. That sting lasts, you know... And when you are taking an extra £15... which you already think is hurting a little bit, it does hurt a bit more.”**

**Survey respondent:**

**“A loan for two weeks rent in advance was my only option. It will put me [in] financial hardship paying back £22 a week.”**

**Survey respondent:**

**“It makes things even more difficult for people in financial crisis to only give them a loan.”**

5% of respondents (17 out of 367) said they were only offered a loan and had to refuse because they would not have been able to pay it back:

**Survey respondent:**

**“I feel that they push loans as a first option. I had applied and refused the loan as I was made**

**aware of a Working Tax Credit debt I was going to have to repay. UC is already on the lowest level of support without having to make cuts to pay more loans.”**

In our survey, for those who had already received a loan, 43% (147 out of 339 respondents) said it has been difficult to keep up with the loan repayments, with some explaining that they had to reduce their repayments in order to afford to pay the loan back:

**Survey respondent:**

**“[Repayments] start on the 10th August and I don’t know how I will cope as my income is minimal at the minute.”**

**Survey respondent:**

**“I accepted the loan cause I was in desperate need but after a few weeks I had to contact Debt Management to ask for a reduction in the overpayments.”**

For some, the problem was that they did not realise what the frequency of payments would be:

**Survey respondent:**

**“I was advised payments would commence monthly but are being taken weekly I have missed 1 or 2 payments it will be difficult this month.”**

For others, the reason they felt they would struggle was because they were already indebted elsewhere and the cycle of debt was now being added to by a DS loan:

**Survey respondent:**

**“I have not started paying the loan as it was only 3 days ago but I have A LOT of debts, credit cards, loans etc which I filled in the online form and told the person who made the decision that I would struggle a lot to make the repayments but that was my only option.”**

**Survey respondent:**

**“I try to spread my finances evenly but as I’m currently repaying other loans I’m forever chasing my money.”**

**Survey respondent:**

**“The repayments were very high and over the shortest period of time available with no option for a longer period. I needed to get another loan to make up some of the repayments.”**

Some were clear that they could not afford the repayments:

**Survey respondent:**

**“I haven’t had any money in the bank when they go in for the payment.”**

It is clear that loans are not unaffordable for all claimants – for those who feel the repayments are manageable loans may be a good option. But it is also clear that many claimants struggle with repaying the loan, with some having to refuse the award and others who will have been refused a loan because they would not be assessed as being able to afford them. There is a strong argument in principle for DS payments to be made as grants rather than loans, further supported by the evidence we gathered. The complicating factor is what this principled argument might do to the practicalities of the DS budget. Several of the political representatives in particular, along with some DS operational staff, were concerned that the absence of money through repayments returning to the DS pot would disadvantage all of those seeking access to the scheme. There was also concern, however, that the cost of recovering loan repayments might now – or in the near future – outweigh the money that is recouped. This is because loan recovery differs depending on a claimant's income source. Where a claimant receives a legacy benefit, a deduction at source from their benefit payment can be made to recover the loan repayment. The same is not true of UC, which means that claimants must set up a direct debit or other repayment agreement to pay the loan back. As the findings show, the money may not always be in the claimant's account when the direct debit is due, and some claimants will cancel a direct debit so that the repayment is also cancelled.

The Department has advised us that debt recovery rates from UC are around 45%, compared to 70-75% of recovery from other recovery schemes, which would indicate that there will need to be an ongoing review of whether loan recovery from UC is value for money. Currently, the costs of recovery in DS – for loans that have been repaid – is 20p for every £1 recovered. That figure relates to recovery from all income sources. On current projections, £6-8 million will be spent on DS loans, with £6 million recovered, making them reasonably self-sustaining, albeit sustained by those who are awarded DS loans. Where DS loans are not repaid, the Department does not pursue any punitive or court action against a claimant in default. Instead, a letter is sent to claimants to ask them to make their repayments. This means that the cost of attempting to recover loans that claimants have defaulted on is low. The claimant will be placed in default which will then impact on their ability to get future DS payments: a claimant in default will not be eligible for further loans until they begin repayments again, although they can still access grants. Originally, the loan had to be paid off in full before a defaulting claimant could be considered for a further DS award, but the position now is that if the claimant can satisfy debt recovery that they have a regular repayment pattern (usually demonstrated by a claimant making four regular repayments) then they will come out of default, so they once again become eligible to apply to DS. Claimants can also renegotiate payment

rates with Debt Management with a view to making them more affordable and therefore increasing engagement with repayment.

The loan landscape in Northern Ireland remains a concern, particularly in relation to illegal money lending,<sup>143</sup> an issue which cuts across government departments but particularly Communities in relation to a financial wellbeing strategy and Justice in relation to organised criminality. A new pilot scheme is being prepared, underwritten by HM Treasury, with the objective of providing a no-interest loan scheme to individuals who struggle to access affordable or mainstream credit. The three-year pilot is planned for launch in Northern Ireland in May 2022. It will aim to test several variables, including loan amounts, repayment periods and terms, and determine repayment rates. Ultimately, the challenge is to establish whether a permanent nationwide no-interest loan scheme can be delivered in a sustainable way. At this point, we are not able to predict whether this scheme will change the loan landscape significantly and while the hope is that it will protect more people from high cost and illegal lending, that outcome cannot be guaranteed. It is also worth making clear that the DS loan scheme has not disrupted the pattern of

high cost and illegal lending in Northern Ireland and the debt patterns of people in poverty span numerous sources of credit:

**Advice worker:**

**“a loan from DS is a lot more affordable than going to the money lender at the end of the street who, if you don’t repay might break your legs or break your windows, or wreck your house, or exclude you from the community... A lot of communities and people within communities do use a money lender because at least they can get instant access to credit. And a lot of people who do use unlicensed money lenders, do re-pay on time and all the rest. But there is a cohort of young people that we work with that come through our doors who are at risk from elements within their own communities because of having gone through money lenders in the first place.”**

**DS operational staff:**

**“Debt is a big problem – people taking money from doorstep lenders because of no affordability**

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143 See Ulster University and Consumer Council, Illegal Money Lending and Debt Project, 2020, available at: [https://www.consumercouncil.org.uk/sites/default/files/2020-07/Illegal\\_Money\\_Lending\\_Report.PDF](https://www.consumercouncil.org.uk/sites/default/files/2020-07/Illegal_Money_Lending_Report.PDF); P Livingstone, Christians Against Poverty research into illegal lending in Northern Ireland, 2019, available at: [https://www.consumercouncil.org.uk/sites/default/files/2020-07/Christians\\_Against\\_Poverty\\_research\\_into\\_illegal%20lending\\_in\\_Northern\\_Ireland.PDF](https://www.consumercouncil.org.uk/sites/default/files/2020-07/Christians_Against_Poverty_research_into_illegal%20lending_in_Northern_Ireland.PDF); Consumer Council, Lending, Savings & Debt Research: Northern Ireland Consumers, 2019, available at: <https://www.consumercouncil.org.uk/policy-research/publications/lending-savings-debt-research-northern-ireland-consumers>.

**with the Credit Union or bank, with a vicious cycle of debt repayments at extortionate interest rates.”**

**Political representative:**

**“we do see an increase in people going to paramilitaries and loan sharks, so that might indicate that there are still issues with DS.”**

**Women’s Regional Consortium:**

**“People know doorstep lender are dangerous and extortionate but have no other choice.”**

**Advice worker:**

**“We have seen a high rise in doorstep lenders, whether it be through Provident, Skyline, the tick men, or paramilitary loans.”**

Clearly DS has not solved the problem of debt or high cost and illegal lending, and it would be naïve to assume that it could.

## 6.27 System failures

It is arguable that, even if DS funds were unlimited, DS would not be able to hold such damaging loan practices at bay – a hypothetical argument, because DS funds are not unlimited. Even if increased DS funding was a possibility, keeping loan sharks at bay would more realistically be achieved where individuals have an adequate income and do not need to borrow to make ends meet. If income adequacy is a dignity that everyone

should be afforded, then a discretionary system is not the primary means of delivering that right and the focus should instead be on increasing core income from benefits and/or work that sustains the basic needs of individuals. A discretionary system is an inevitable but necessary safety net where those basic needs are not able to be met through core income, but preventing more people needing to use this safety net would be preferable to making the safety net bigger.

Section 2 of our report sets out the context in which DS operates, where – regardless of the poverty measurement – income inadequacy, including that which causes destitution, exists for many people in Northern Ireland. That income inadequacy, which drives the demand for DS, manifests itself in social security system design as well as system failures:

**Political representative:**

**“The benefits system is itself often creating the crisis - with insufficient money to live on, people refused benefit, delay in getting payments into place...”**

**Women’s Regional Consortium:**

**“The Audit Office report speculated on the UCCF underspend, saying maybe it was because there is a lack of need. Are they mad? UC is driving people to debt but the Department is not telling people**

**about UCCF... The Universal Credit system doesn't allow someone to build up a buffer to protect them from economic shocks."**

**DS 25:**

**"[DS] helped me out at the time because PIP's weren't paying me... they reduced it down to the lowest rates, so I have [my Community Psychiatric Nurse] on the case trying to get it increased again."**

**Political representative:**

**"There are difficulties elsewhere in the social security system especially on PIP and ESA decisions and appeals. Those who got mitigation payment on the DLA-PIP transfer process now struggling without that payment."**

Those we spoke to also talked about problems in the private rented sector and difficulties tenants had in meeting rent, as well as pensioners who had caring responsibilities and inadequate support to help meet their needs. Those in work spoke about income fluctuations, reflected in unpredictable wage levels and universal credit awards, making it difficult to budget. DS can help cover some of these gaps – and our findings show that the impact of DS for those who are awarded support is significant – but where the gaps grow in number and magnitude, the ability of DS to compensate is diminished.

## 6.28 Universal Credit Contingency Fund

The Universal Credit Contingency Fund (UCCF) is paid through DS although it relates to the mitigation of the impact of the five-week wait for new UC claims and is funded from a different source than the standard DS grants and loans. Similar concerns existed with UCCF as with the DS scheme more generally, including around awareness. The consensus among those we spoke to was that UC staff should be making claimants aware of the UCCF as a standard communication between work coaches and claimants so that UC claimants were consistently being made aware of the grant. Failure to do so meant that claimants faced a choice of taking an advance payment that had to be repaid, or doing without. As with the DS scheme, the lack of awareness was seen as attributable, in part, to the name of the grant – something that does not describe either that it is a grant and that it is specifically designed to meet needs during the wait for the first UC payment.

When claimants subsequently became aware of the UCCF, they were upset and frustrated that they had not been informed of the grant by UC staff:

**DS 18:**

**"They didn't make me aware of it... I think they should. They should say you can get this help. Listen, all they told me was that I can get a grant that I have to pay off... That was me nearly crying because I thought by the time I'm going to**

**get some money from Universal Credit, I would have to pay it back... So what am I going to live on? That puts you under more stress even. They never mentioned to me that you can get something like I got here [from DS]."**

We heard similar evidence from advice and support workers. Foodbank staff and volunteers, for example, told us their clients were coming to foodbanks for help because the UC advance payment had "crippled" them, when it was clear that they could have been advised to apply for DS instead of taking the UC advance. We note from the evidence given to the panel by the Cliff Edge Coalition NI that the UCCF is now included in claimant's UC journal when they first make a claim, and their concern that this information may get lost among all of the other critical information being provided for new claims. The timeliness of making claimants aware of the fund is an important consideration given that, as the Coalition says, "the longer it takes for them to apply the less money they will receive (as the payments are made from the date the fund was applied for rather than the date of the UC claim)."

There was further concern from DS operational staff that UC staff were themselves unaware of what the DS scheme, beyond UCCF, could provide. This led to claimants being misdirected to DS for items to improve job search, including

laptops and tablets. Under the current legislation, such items are not available through DS, but UC work coaches do have discretion to use the Adviser Discretion Fund to award grants for such items. The frustration from DS staff and from claimants was that claimants were being pushed from pillar to post, reducing claimant trust that DfC staff knew what they were doing and that their advice could be relied on.

When claimants were appropriately directed to DS and were awarded the UCCF grant, that automatically counted towards their living expenses grant allocation for that rolling 12 month period. In other words, claimants could get a DS living expenses grant or a UCCF grant, but not both. Advisers and DS operational staff felt this was unfair and distorted the purpose of a DS grant which was to assist those in crisis, extreme or emergency situations:

**Advice worker:**

**"Most people are going on to Universal Credit because they got a house, and they need to claim housing costs for the first time and they're taking this grant if they don't come through an advice centre first for the Contingency Fund. And then when they get the house and they need their cooker and their washing machine and their bed, they can't get it because they already had a grant."**

**Advice worker:**

**“We’ve had clients where they’ve been refused the grant for their house because they got Contingency Fund when they went on Universal Credit.”**

**DS operational staff:**

**“UCCF should be treated as a separate grant.”**

**DS operational staff:**

**“it’s unfair when you get the UCCF that it negates the DS living expenses award and it shouldn’t be like that. It should be separate and they should still be entitled to another grant following receipt of UCCF. It totally disadvantages people... The main problem is that it’s being classed as their DS grant for the year.”**

The submission by the Cliff Edge Coalition makes a number of recommendations to improve the UCCF, including removing the DS criteria of ‘extreme, exceptional or crisis situation’, which would lend itself to the views of others who felt that UCCF should not be part of DS:

**DS operational staff:**

**“It should be a different policy – it should sit somewhere else – probably within UC.”**

**Political representative:**

**“UCCF should be separated from DS.”**

**Advice worker:**

**“if there’s going to be a review of Discretionary Support, Universal Credit Contingency Fund Grant needs to come out of it. Straightaway.”**

Numbers of claimants on UC are increasing, in part because their circumstances have changed. New claimants may be experiencing family breakdown, ill health, loss of employment, increased care responsibilities, or moving to new (unfurnished) accommodation and few will have significant savings to act as a cushion. Where new claimants experience UC as a drop in income their ability to manage the delay in getting the first payment will also be reduced and respondents within our survey needed to apply for DS because of this:

**Survey respondent:**

**“I was moving from my family home to a housing executive flat. This triggered a change from legacy benefits to universal credit, which meant I had to pay rent from my own pocket for 4 weeks, and I couldn’t afford to purchase white goods for my flat, which is when I turned to Discretionary Support.”**

**Survey respondent:**

**“To pay rent, bills and buy school uniforms during the summer months. With the delay before UC kicks [in] it can be a very distressing time financially.”**

**Survey respondent:**

**“When I was waiting for my claim at the start there was a very long delay. I was suicidal with living with no money and building up more debt. Also because the claim was delayed I asked for an advanced payment and they couldn’t process it because they would not get my national insurance number even though it was ready a long time.”**

**Survey respondent:**

**“I had just moved into a homeless hostel and had waited a long time for UC to come through, the hostel charges [£]30 every 2 weeks to live there. I had no money for food so I was told by other hostel tenants to call Discretionary Support and they helped me with [£]100.”**

Putting the UCCF into DS made sense at the time it was implemented – when the Assembly was not operational – as a means of getting a non-statutory payment to individuals to mitigate against the impact of being without income while waiting for UC. In the face of

a new review of mitigations, it would seem appropriate to reconsider where UCCF should be located, given its function as a mitigation measure. Additionally, the recommendations for DS relating to awareness, the name of the award and the need to support claimants, apply equally to the UCCF.

### **6.29 Covid self-isolation grant**

Like UCCF, the Covid self-isolation grant was established with a separate funding source from that which funds the standard DS Scheme, although it appears unlikely that this separate, additional funding will need to be continued due to the underspend on the general DS budget in previous years.

Survey respondents highlighted the impact of Covid-19 and how this had pushed them into financial hardship, underlining the necessity of the grant:

**Survey respondent:**

**“Day to day expenses. I work at zero hour contract and had to self isolate as close contact to Covid-19 positive person.”**

There was also confusion around the Covid self-isolation grant, also administered via DS, and generally seen as being better promoted than both DS and UCCF. There was a lack of clarity over who was eligible and what the distinction was between Covid and other grants. It was felt that awareness raising should be targeted at employers and workers, given the public understanding of

it as providing a grant to those unable to work due to Covid (although it is available to anyone required to self-isolate), rather than at the general claimant population. There was also a concern that the reputation of the self-isolation grant was not positive, with concerns around difficulty in accessing the grant and the low amount of money awarded to claimants, and that this was tainting the reputation of the other DS schemes. It was also clear that DS was seen as a suitable delivery mechanism for the Covid grant since it could get funds to people swiftly, but that this pragmatic necessity still meant that the grant was shoe-horned into DS and stretched the scheme to its absolute limits.

On the basis that paying the Covid self-isolation grant is based on there being a mechanism rather than a sound rationale for including it within DS, it may make more sense to relocate the payment within the Department of Economy, which would allow it to be better targeted towards employers, professional bodies and trade unions to help ensure the necessary information reaches workers.

### 6.30 Conclusion

There is overwhelming evidence of the value of DS to claimants in providing support when there is no other help available, to help meet the costs of basic items and necessary living expenses. As one of the political representatives we spoke to said, “when it works, it works well.” Our findings reinforce this but also point to areas where

the DS scheme is not working well.

The first is that many people are not aware of DS including those who were ultimately successful in their applications, having found out about the scheme by luck or by chance. People did not equate the name ‘Discretionary Support’ with the nature of help that they needed. The space for misinformation was then filled by others, often with negative or inaccurate views on DS. These views could relate to the questions that applicants had to answer, which were seen as intrusive and lengthy, and by negative interactions with staff where some claimants felt humiliated or belittled. That experience was not universal and the findings show that some claimants felt supported and respected, and spoke highly of their interactions with staff.

The application process was generally regarded as having been improved by the addition of an online process, though there were claimants who would still benefit from more support to make their applications. The more difficult aspect of the process related to the questions to determine whether claimants meet the criteria. The intrusive nature of the questions could be exacerbated where claimants felt there was a lack of empathy from DS staff in dealing with their claim, although many claimants felt supported by DS staff who helped them through the application process. The absence of a set time period for a call-back to claimants to progress their claim was also problematic, and it added to difficulties

for advice and support workers to be able to support claimants at this point of the process. The escalation referral service initiated by DS, enabling advisers to support their clients, has proved to be very valuable.

The eligibility criteria for DS raised a number of issues, the biggest of which is the income threshold. Our findings showed that the single income threshold was not appropriate since household income was impacted by the additional costs of disability and of children, both of which were also potential drivers of income inadequacy and the consequential need for DS. Treating all household incomes as comparable therefore excludes those who face greater levels of need, requiring a rebalancing of the income threshold to reflect the differences between those with and without children and those who have disabilities. Where a claimant falls within the income threshold, they must then meet further criteria of being in an extreme, exceptional or crisis situation.

Our findings showed an emphasis on claimants being in crisis, perhaps at the expense of equal consideration of claimants facing ‘extreme’ or ‘exceptional’ circumstances, which could better capture the framing of problems experienced by applicants. Claimants may also qualify where they experience a “disaster”, which includes domestic violence, but advice and support workers were either unaware of this or were not seeing it being implemented in practice.

Needs that are currently excluded from DS were also raised, most commonly costs associated with children’s schooling, including internet access and suitable IT equipment. A further issue was the geographical scope of where the need could be met, that is currently confined to Northern Ireland but may be more realistically considered as needing to be within the Common Travel Area. Where claimants have some accessible income, either as cash or through borrowing from family or friends, they will not be eligible for DS. There is no minimum amount of cash that can be discounted, so claimants are faced with the prospect of having to spend down to their last pound, with the risk that they may still not be awarded DS. They are also in an often invidious position of having to borrow from family or friends, who themselves may not be in a position to assist, as a first port of call before applying for DS. Additional issues were identified for those with No Recourse to Public Funds, who are not eligible for DS. The question is whether DS funds could be re-categorised to remove them from the Home Office list of proscribed funding to meet this need or if separate hardship provisions can be established.

Decision making was another broad area where we made findings, focused first on how timely decisions were in relation to claimant need. Our survey of respondents showed that most respondents were given a decision within 3 days, but for a just under quarter of respondents it was less than 3 hours and

for just over a quarter it was more than 3 days. Claimants described the difficulties facing them while they waited for a decision and how they felt that only an immediate, same-day decision could adequately address the urgency of their circumstances. When claimants applied for DS, some had realistic expectations of whether they would get a loan or a grant, but there was a general problem that many did not know what to expect and that advice workers and political representatives who supported claimants also did not know what to expect. Part of this was seen to relate to the lack of any public guidance on decision making or DS criteria. This knowledge gap was increased where claimants did not know why they had been refused an award. While this was not a consistent experience among those we spoke to, there is a need to prevent any image of decision-making as being a lottery, and to enable claimants to understand what can realistically be expected when they apply. That will put claimants in a better position to decide whether to have the decision reviewed, a process itself that claimants may not understand the implications of – notably that they can have access to any loan or grant that has been offered while the review is taking place. Decisions on whether to ask for a review also appear to be influenced by the experiences of challenging decisions in other areas of the social security system. The difference with DS, however, is that it is a discretionary award, not a legal entitlement, so there is no legal right to be offered a certain level of grant or loan, and claimants

have internalised this – along with the stigma of poverty – by seeing whatever they have been offered as ‘better than nothing.’ For those who were unsuccessful, the impact of not getting support could be significant, and claimants described circumstances that are equivalent to being destitute.

The impact of receiving DS, on the other hand, was defined by claimants as ‘lifesaving’, enabling access to basic services and needs, like electricity and food, highlighting the extremely precarious financial position for DS applicants. That precariousness meant that claimants could find it difficult to manage where they received less than the amount they had requested. For some claimants, this meant their needs could not be satisfied, while for others it meant borrowing money or going without other needs to make up the difference. The ability of claimants to find additional money to support the award also impacts on the consideration of whether claimants should be given loans rather than grants, with the concern that those too poor to afford basic living expenses or items should not be required to pay back the money needed for such expenses.

While some claimants will be able to manage loan repayments, others will struggle and some of our survey respondents said they rejected an offer of a loan because of their doubts about being able to repay it. This reality combined with the argument in principle that grants are preferable to

loans for those in crisis clashed with the reality that the funding pot for DS was finite and that there was a need to stretch the funding in as many ways as possible. The recovery of DS loans is likely to become more problematic over time, as claimants migrate from legacy benefits (from which direct deductions can be made at source to repay their loan) to UC (which requires the claimant to independently maintain repayments and have sufficient funds to do so). It does not appear at this point that the costs of recovery outweigh the money recovered: on current projections, DS loans look to be relatively self-sustaining, so that income recovered through repayments is only slightly less than money loaned through DS.

There are no real alternatives at the moment for those on low and insecure incomes to access affordable credit. A pilot scheme, initiated by HM Treasury, to offer interest-free loans is due to run from 2022-2025 and while this may address some of the current gap in affordable credit it is not possible to predict whether this will be the outcome. The biggest problem facing DS, however, is that system failures elsewhere are driving people

to crisis situations, which DS then needs to respond to, taking up the slack for problems that manifest elsewhere and over which DS has no control. This ranges from inadequate income levels, to benefit delays, to insecure work, to inadequate school uniform grants and the systematic design of means-tested benefits that disable any ability for claimants to build financial resilience. The greater the system failures, the more pressure DS is under to fix the problems.

There were also similar and specific issues in relation to the UCCF and the Covid self-isolation payment, where claimants were not aware of the support available, were ‘using up’ their DS grant allocation by taking a UCCF that was not within the original DS scheme, and that the per-day financial allocation was inadequate to cover needs that had arisen from losing work income or having no income while waiting for the first UC payment.

Our recommendations on how DS could be improved is based on the consideration of these findings.

## 7. Recommendations

### 7.1 Impact of Discretionary Support

DS has a profound impact on recipients and can make the difference between someone living in or escaping from destitution. DS is meeting needs that go beyond hardship and relate to those fundamental to human survival: food, clothing and a safe home. The levels of need and consequential demand for DS can be attributed to system failures elsewhere, including in our employment and social security systems, that create income inadequacies. DS needs to be maintained, the budget needs to be protected and the Executive needs to be prepared to expand the budget by keeping DS under review, paying particular attention to the impact of recommendations that are implemented.

The clearest finding to emerge from our review is that Discretionary Support (DS) provides a lifeline to those unable to afford the basic items needed to live a dignified life. The level of need, however, is greater than DS at its current level can meet and points to an overwhelming urgency to address the causes rather than the symptoms of poverty and destitution that DS may help to alleviate.

DS claimants who spoke to us and who responded to our online survey described the essential items and living expenses that

DS gave them access to. Their evidence is deeply concerning as it indicates that some claimants are experiencing not just poverty but destitution, defined as the inability to afford bare essentials including food, heating, lighting and clothing. In providing access to those basic needs, DS has been able to some lift claimants out of destitution. Those claimants can, however, remain in a precarious position, moving not from destitution to wealth, but to a less invidious form of poverty that still leaves them vulnerable. Unfortunately, for those unable to access DS, the impact described by some claimants is that they remained in destitution – unable to afford electricity, food and other essentials. The impact that DS needs to make, therefore, is assisting those deepest in poverty, and particularly those experiencing destitution.

We borrow from the JRF's conceptualisation of how destitution is caused and how it can be dealt with.<sup>144</sup> Their analysis identifies the 'chronic causes' of destitution as being low pay, insecure employment, inflation and the falling value of benefits, while the 'acute causes' include benefit sanctions, waiting times for Universal Credit and the inability to access disability benefits. 'Remedial responses' to destitution require reforms

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<sup>144</sup> JRF, Preventing destitution: Policy and practice in the UK  
<https://www.jrf.org.uk/file/51420/download?token=qkLUSNaH&filetype=full-report>

that address the chronic and acute causes. ‘Palliative responses’ will never cure the problem but remain a necessary means of dealing with it. The concern that is created by the absence of any reforming measures, therefore, is that we have a social security system that does not provide the right to relief in the face of destitution, but offers only inadequate access to a cash-limited fund – a palliative response through DS.

It is the panel’s view that the social security system should be able to protect the dignity and human rights of individuals by giving them access to an adequate income. Neither social security nor employment currently guarantee this and so DS remains vital. Richard Titmuss, the former Vice-Chair of the Supplementary Benefits Commission, highlights the tension between providing the dignity that comes from the right to an adequate income with the need to respond to the reality that this dignity is denied to some people: “let us not over emphasise either the need for discretion or its dangers; let us emphasise both the need for discretion and its dangers.”<sup>145</sup> If DS is having to pick up the problems caused by other systems it needs to be a reasonably dependable, if last-resort, means of paying for essentials.

**Our recommendation** is that DS is maintained, protected by a ring-fenced budget that must (at a minimum) remain at current levels. The Executive should consider,

however, whether the budget should be adjusted in-year to give sufficient scope to expand in line with the financial impact of other recommendations in this report, including those which are difficult to quantify.

## 7.2 Targeting DS to those in most need

DS has a cash limited budget to meet an unlimited demand and so it is necessary to identify those most in need. Under the existing system, lone parents and large families have been disadvantaged by the income threshold and the inclusion of some income from disability premiums. The social security system already does a considerable amount of means testing for the main income-replacement benefits and it makes sense to build on this work so that claimants on income-replacement benefits, including UC, should be passported through the income threshold. For those who are not in receipt of benefit but are on a low income, we recommend a staggered income threshold to replace the single income threshold. For single adults we recommend a threshold of £13,000. For working age couples with no children, we recommend a threshold of £20,000. We recommend a child-premium of £5,000 per child, to be added to the relevant single or couple premium. For pensioners, we recommend an income threshold of £21,000 for single pensioners and £31,000 for pensioner couples. We also recommend that the Department considers what a suitable premium might be in relation to disability costs.

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145 R.M. Titmuss, “Welfare ‘Rights’, Law and Discretion” (1971) *Political Quarterly* 113-32, 127

Under the original Community Care Grants and Crisis Loans provided through the Social Fund, eligibility was limited to income based (legacy) benefits. This created unfairness between, for example, those in receipt of income-based Employment and Support Allowance (ESA) who were eligible, compared to those receiving the same level of payment under contribution-based ESA and those who were not on benefits but had a low income who were not eligible. The new DS scheme remedied this by basing eligibility on an annual income threshold, which includes those not in receipt of social security benefits. Our findings are clear that this is a fairer system and that an identifiable income threshold is necessary to ensure that those in most need can access DS. What our findings also show, however, is that a single income threshold is creating other types of unfairness, and our concern is that where there is an increase in need for DS such unfairness will have greater impact. DS is picking up the problems of poverty that, in many cases, the social security and employment systems are creating or contributing to. While income inadequacy continues, and without any systemic reforms to change or new mitigations to remedy this, the extreme position of someone being unable to meet basic living expenses or buy essential items is likely to become more widespread and normalised.

Research by Reed and Portes has identified that those who have been most detrimentally affected by the tax and social security changes introduced since 2010 are families with children and disabled people.<sup>146</sup> Our review has identified that tax and social security benefits designed to help low-income households manage the costs of children and disability have pushed DS claimants in receipt of these above the income threshold. The current single threshold applies regardless of household circumstances and therefore particularly disadvantages claimants with larger families, compared with single claimants with no dependents. The income threshold needs to be targeted to remove this disadvantage and be responsive to the differences in household income, particularly in relation to children and the additional costs of disability. We are also aware that the majority of DS applicants are in receipt of an income-based benefit and that if we were able to simplify access to DS for this cohort that would create operational resource capacity to provide more detailed income assessments for those on low incomes but not in receipt of benefits.

We commissioned Reed and Portes to help us evaluate what different thresholds would mean for different household types, using data from the Family Resources Survey.<sup>147</sup> The objective was:

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146 H. Reed and J. Portes, Cumulative impact assessment of tax and social security reforms in Northern Ireland (2019) available at: <https://nihrc.org/publication/detail/cumulative-impact-assessment-of-tax-and-social-security-reforms-in-northern>

147 See Appendix 1 for their full report

- iv) Making sure that there are very few benefit units in poverty but with incomes too high to qualify for discretionary support;
- v) Reducing the inequalities between benefit unit types compared to the current “one-size-fits-all” threshold in terms of the proportions of each benefit unit type that is eligible for discretionary support;
- vi) Providing additional support for pensioner benefit units relative to those of working age

Four income thresholds were identified – for single working age adults, working age couples, single pensioners and pensioner couples – with an additional child premium to be applied to relevant households.

We had hoped to provide an additional disability premium but we were unable to complete this within the time frame of the research; however we are confident that this could be completed by the Department. The income from Carer’s Allowance should be disregarded for the purpose of calculating a claimant’s income threshold.

**Our recommendation** is that individuals on income-replacement benefits (including UC), who are likely to make up the majority of DS applicants, should be passported through the income threshold. That passporting should include individuals receiving Tax Credits and State Pension Credits. That will leave a small proportion of individuals

to whom an income threshold will need to be applied. We recommend that the single income threshold is replaced by a staggered income threshold that is reflective of the household composition:

**Single working age adults:** £13,000

**Working age couple without children:** £20,000

**Child premium:** £5,000 per child

**Single pensioner:** £21,000

**Pensioner couple:** £31,000

We also recommend that the Department considers what a suitable premium might be in relation to disability costs and that Carer’s Allowance should be disregarded for the purpose of calculating a claimant’s income threshold.

### 7.3 What help should be given?

Claimants can struggle to pay back loans and while this was manageable for some, others did not have enough money to make the necessary repayments and some felt unable to accept a loan in anticipation of repayment being too difficult. Grants will provide a better form of financial relief for those already struggling to meet their basic needs. Grants should therefore be prioritised and the DS budget allocation of £16 million should be focused only on grants. Loans have not yet reached the point of being too expensive to administer, and loan repayments are used to fund additional loans for DS. This relatively self-sustaining fund, of approximately £6 million, should be focused on loans.

The most effective form of DS support is a non-repayable cash grant. As we have noted, the level of poverty and deprivation exhibited by some DS applicants meets the threshold definition of destitution. Other applicants may face less extreme circumstances but still lack basic resources that are considered necessary under both relative and absolute definitions of poverty. A loan can provide immediate relief to the extreme, emergency or crisis situation being faced, but claimants may not be able to sustain their loan repayments, or doing so may cause additional hardship at a later stage. There is a strong argument in principle for only providing grants, and evidence from our review reinforces that some claimants can only be supported effectively by grants.

The implications of offering only grants, however, need to be understood. The DS budget is £16 million per year and is used to fund the current configuration of one grant plus three loans. Income generated by loan repayments is in addition to this budget, and therefore enables more awards to be made. On current projections for 2021/22, £6-8 million will be paid out in DS loans, and £6 million of this will be repaid. There is no indication at this stage that the costs of recovering loans is disproportionate to the monies recovered: for every 20p spent on loan recovery £1 is recovered. While they

are unlikely to be the preferred option for claimants, evidence from our review does not indicate that loans should never be used: some claimants felt able to manage loan repayments without additional hardship. 25% of respondents to our survey question (n = 367) said they were happy to take a loan, while just over a third of respondents (34%) said they were offered a loan and were not happy but had to take it. Larger loans will naturally be more difficult to repay than smaller loans and the largest DS awards cover furnishing for ‘shell’ accommodation.<sup>148</sup> Where claimants have already been allocated a DS grant, they will not be eligible for a grant for this purpose and will instead only be able to take a loan. Loans for furnishing shell accommodation will particularly impact individuals leaving abusive relationships or those recently released from prison, who – under the current rules – may need to ‘use up’ their one grant allocation for basic and immediate needs like clothing or living expenses. Under the 2016 regulations, loan eligibility is defined in regulation 11 and grant eligibility in regulation 12, creating a statutory presumption that loans would be prioritised over grants.

**Our recommendation** is that grants should be prioritised as the main form of support, but loans should also be retained to maximise the support that is available

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148 ‘Shell’ accommodation refers to unfurnished social housing, where basic floor covering may be provided in the bathroom and kitchen, with all other floors being either bare concrete or wood; where there are not likely to be any window coverings (blinds / curtains) provided; and where basic items such as a cooker and general white goods are not normally included in the tenancy arrangements.

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under DS. The £16 million budget for DS should be spent only on providing grants and claimants should be entitled to claim up to three grants in a rolling 12-month period. The relatively self-sustaining fund of £6-8 million should be spent on providing loans and claimants should be entitled to claim one loan within the same rolling 12-month period. Claimants who have repaid their DS loan should be eligible for a further loan within the same period. We recommend, therefore, that claimants should be entitled to 3 grants and one loan within a rolling 12-month period. In addition, we recommend that claimants should be entitled to a further grant for furnishing shell accommodation, even if they have already received their full complement of grants and loans. Claimants who apply for assistance with living expenses should be encouraged to take that as a loan, as these are typically small amounts of money (£160 on average) so that grants remain available to them for higher expense items. If a claimant is unable to take this as a loan, they should be offered it as a grant. For all other applications, the assumption should be that these will be offered as grants first and the legislation should be amended to reflect this priority order. The Department should report annually on how the DS budget is being spent.

In relation to items and costs that are currently excluded under the 2016 Regulations, we considered whether DS should be extended to cover school costs, IT equipment and internet access. Clearly these costs can be a significant burden and can put household incomes under pressure but, in relation to school costs, we see this as a clear need that should be met by the Department for Education as part of its review of the School Uniform Grant. In relation to IT equipment and internet access, some of this will also fall within the policy area of Education where the need is prompted by access to online materials for school children. Beyond this, however, these costs are not (currently) classified as ‘essential needs’ under either poverty or destitution measures, and so we do not see them as appropriate for the DS scheme. This should be kept under review, particularly given the recommendation by the Anti-Poverty Expert Advisory Panel that the Family Resource Survey includes ‘computer with internet access’ as one of the household deprivation items.<sup>149</sup> We do, however, see a case for extending grants to cover fuel costs. Paragraph 19 of Schedule 2 currently excludes “the costs of fuel consumption” from grants, but they are not excluded from loan. We are unclear why energy costs are currently treated differently to other essential costs.

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149 Anti-Poverty Strategy Expert Advisory Panel, Recommendations for an anti-poverty strategy (2020), para. 10.5, available at: <https://www.communities-ni.gov.uk/publications/report-anti-poverty-strategy-expert-advisory-panel>

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**Our recommendation** is that loans and grants are available for exactly the same purposes and that Paragraph 19 of Schedule 2 is removed. We further recommend that the Department considers ways in which DS might be used in the future as a cash-first approach, for new schemes that also target basic needs, recognising the greater dignity of a cash based response over goods or services in-kind.

#### 7.4 Supporting claimants to apply

There is a lack of public awareness of DS that needs to be addressed so that those who might benefit know what support is available under DS and how to access it. That should begin with changing the name of DS to something that better describes what the scheme provides. The move to online applications has been positive and claimants are also supportive of telephone applications, but the absence of face-to-face support during Covid-19 has been difficult for some, as has the absence of paper applications. Staff must also ensure they are empathetic in dealing with applicants and supporting them to make their application. A statutory commitment to treating claimants with dignity and respect should be incorporated into the Regulations.

#### 7.5 Naming and disseminating funds

There is clear evidence from our review that public awareness of DS is limited, and we see this as a constraining factor in DS being able to reach those who need it most. It

is not unusual for claimants to hear about different types of help from different sources – family, friends, community networks, support workers, government agencies and departmental staff will all be relevant sources of information and knowledge. What is required, however, is to ensure that the information being shared is accurate and reliable, and that requires input from official sources to guide, advise and inform the other more informal sources of knowledge. Where that official channel is not reaching the informal sources, there is a significant knowledge gap that means people reliant on informal sources remain unaware of the help available and, additionally, the opportunity for misinformation arises.

The Department for Communities (DfC) does provide some public information on DS, both directly via the NI-Direct website and indirectly through its ‘Make the Call’ campaign that can sign-post people to DS. DfC has other channels that link directly to claimants, that would help with awareness. In UC, for example, a regular reminder on the claimant journal that DS is available would help to inform a significant proportion of potential DS claimants. Mail shots to those on State Pension Credits would help reach a population that our review indicates may not interact significantly with organisations tasked with dissemination. DfC also disseminates information to the advice sector who, in turn, can advise their clients about DS.

These are all critical channels that need to be bolstered, but on their own they are not enough – both because it is clear that the information is not filtering through to members of the public who do not use these channels but also because the channels themselves require a certain degree of knowledge to be utilised effectively. A claimant who needs financial support to allow them to cook food, keep it fresh, wash their clothes, have a place to sleep, a place to sit and privacy – all of the needs that DS is focused on – is unlikely to use ‘discretionary support’ as a search term. Their navigation of information sources may ultimately lead them to DS, but equally it may not. The information trail is premised on the categorisation of need in ways that have been determined and prescribed by DfC and not by claimants, who are likely to categorise their needs differently. Increasing awareness of DS therefore entails dissemination of clear and accurate information on the existence and role of DS from a user-led understanding of language that claimants can relate to so that dissemination through informal sources is more effective.

This dissemination needs to reach down to community levels, and while this is a more difficult task given the diversity of community sources, where knowledge starts to build among potential claimants themselves

our review evidences how they, in turn, can disseminate that knowledge further. DfC can also align with other initiatives to support this including, for example, utilising networks through the women’s sector to promote awareness of support for victims of domestic violence, as part of recent reforms led by the Department of Justice,<sup>150</sup> and through partnerships directly funded by DfC such as the Neighbourhood Renewal Partnerships that include representatives of key political, statutory, voluntary, community and private sector stakeholders.<sup>151</sup>

Renaming DS can be an informal process at this point, so that a colloquial phrase such as ‘Additional Support Grant’, ‘Emergency Grant’ or ‘Financial Support’, for example, can be used to refer to the statutory term ‘Discretionary Support’, without the need to change the primary legislation.

**Our recommendation** is that DS should be renamed so that the public understands what the scheme is intended to provide and DfC should disseminate clear information about the role and availability of the scheme more widely. This will involve boosting the existing channels of information, particularly for those who rely on self-help so that potential claimants can navigate their way quickly to relevant information. This in turn relies on a good ‘google’ pathway that works

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150 The Domestic Abuse and Family Proceedings Bill: <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/primary-legislation---bills-2017---2022-mandate/domestic-abuse-bill/>

151 See <https://www.communities-ni.gov.uk/topics/urban-regeneration/neighbourhood-renewal>

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off search terms claimants use, to bring them to a fund that is named to describe what it can offer them. DfC should also make better use of other official channels, including making work coaches and decision makers in other benefit areas more aware of DS and its purpose and using its existing sources to provide direct information to claimants. Greater visibility more generally through social and traditional media but also in places where we know people go to for help – Jobs and Benefits offices, GP surgeries, pharmacies, food banks, churches, community centres, women’s centres, libraries – can also increase familiarisation.

## 7.6 The application form

The application form for DS is designed to draw out the information that the claimant needs to provide so that a fully informed decision can be made on their claim. The legislation places the onus on claimants to provide this information and the application form is therefore required to identify what information is necessary, in lieu of claimants volunteering the required details.

Our review indicates that claimants did not necessarily struggle with answering the questions – these were seen as clear and straightforward – but with the volume and nature of what could be intrusive questions. This was reflected in staff frustration at having to continually ask claimants why something was needed in order to satisfy the requirement that the claimant’s health or well-being was at risk. Advisors

adopted a cut-and-paste approach to the online form so the same answer was just being replicated throughout, indicating an unnecessary degree of repetition. During the lifetime of this review, DS introduced a ‘tell us once’ approach that means claimants can refer the decision maker to their previous answer, where relevant, rather than having to repeat the nature of their circumstances. We welcome this new approach.

The intrusive nature of the questions is more difficult to avoid and therefore needs to be handled sensitively. There was evidence in our review that this was something that DS staff could do well, but that not all claimants were shown the levels of empathy that were required. This could lead to claimants being upset, angry, frustrated and potentially withdrawing their application in order to avoid further engagement. We have argued in Section 2 of this report that the relational aspect of dignity can be negatively impacted where individuals experience the application process as degrading or humiliating or feel stripped of autonomy. This can then impact on the distributional impact of dignity where a negative culture means it is less likely a claimant’s application will succeed. It is important that DfC builds on the good practice that clearly exists to ensure this becomes standard, embedding this into the culture of DS. A commitment to dignity and respect is built into the Welfare Funds (Scotland) Act 2015, requiring local authorities to take reasonable steps to ensure applicants are treated with respect

and their dignity is preserved.<sup>152</sup> While this alone does not guarantee that applicants will be treated with dignity or respect it sets the tone for what applicants and staff should see as standard practice.

There are also questions that could be removed and some support that could be standardised to reduce the need for intrusive questions. That includes the question on whether a claimant can access support from family or friends. This may require amendment to regulation 21(2) (c) which enables an award to be refused or reduced if some other person or body can wholly or partly meet the need. Where an application is being made for clothing or bedding, rather than require claimants to itemise and estimate the price of each piece of clothing, a standardised package of what clothes are needed for a man, woman or child and for single or double bedding should be used. These price lists – and others relating to white goods and furnishings – should be realistic, reflecting the likely cost of new items (including installation and removal of the old item where appropriate) and their current availability.

**Our recommendation** is that claimants are no longer asked whether they can source support from family or friends as part of determining their eligibility for DS and that awards representing standardised packages of goods are provided for clothing

and bedding so that the level of intrusive questioning on items required and prices for these can be avoided. There is a clear need for sensitivity and empathy by staff in dealing with claimants. We recommend that a statutory commitment to dignity is included in the regulations, in a similar way that has been done in Scotland. To support this, staff who are rated by claimants as empathetic should be supported to mentor others to foster these skills. This should feed into staff training focused specifically on this issue, taking a claimant-oriented perspective.

## 7.7 The application process

The introduction of both triage and an online application process has been helpful in enabling better support and access for DS claimants. The claimants we spoke to valued the telephone application process – although some would have preferred this to be a face to face service – because it was easier for them to explain their circumstances through talking to someone than writing on a form. It would seem that the introduction of triage and the online application process have successfully reduced the time frames to answer and triage a call, as well as to process a telephone application. This will still need to be kept under review, however, as claimants reported variations between a few minutes and 90 minutes for calls to be dealt with.

The online application process is relatively new and so it is important to understand how

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152 Welfare Funds (Scotland) Act 2015 asp 5 s5

claimants are experiencing it and whether it has any effect on outcomes. Making an online application requires access to a suitable device, adequate data and phone charge, and some digital confidence. We know that this is a particular issue for those who are homeless or from the travelling community and that digital exclusion is more prevalent in rural than urban areas.<sup>153</sup> Supporting claimants should therefore also include supporting their access to computers in places where they can get help with their application. A dedicated terminal in a Jobs and Benefits office with a dedicated help desk, or help line, could facilitate this and would increase visibility of DS. The majority of claimants will require access to a phone for a call-back from DS staff to progress their application and decision. While DfC has assured us that very few claims are closed because a claimant misses a call-back, claimants remain worried about missing the call and having to make a new application. We are pleased to note that DS will now telephone claimants at least three times before the application is closed.

**Our recommendation** is that the outcomes for online and telephone applications are reviewed regularly to compare trends in decision-making, speed, success rates and reviews. Online forms should be made available in different languages to support applications from minority ethnic communities. Where a call-back is being scheduled, claimants should be given

as much information as possible about when the call will take place. DfC should consider the feasibility of introducing paper applications. If this is not possible, then DfC should consider whether it could support home visits or outreach to work with a small minority of claimants who are unable to access online or telephone facilities. For telephone applications, DfC should conduct regular surveys with claimants and advice organisations to get a holistic perspective on the timeliness of answering and processing calls to DS. This would help ensure that advice organisations are empowered to provide effective support for their clients.

## 7.8 Decisions and reviews

Decision makers must apply the statutory criteria for DS that require claimants to be in an extreme, exceptional or crisis situation. These criteria should not be reduced to just considering ‘crisis’ and an extreme, exceptional or crisis situation does not need to be triggered by a specific event, but can instead be the result of a build-up of need. Departmental guidance on how the criteria can be interpreted should be published. Efforts to ensure claimants understand the reason for the decision on their application must continue. Where claimants wish to challenge a decision they should be able to request a review as part of the call communicating the decision to them, rather than having to make a further phone call to do this. DfC should consider whether

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153 Scope, How to close the digital divide (2021) available at: <https://scopeni.nicva.org/article/how-to-close-the-digital-divide-0>

information on review outcomes could be communicated more effectively, so claimants understand that requesting a review means they will still be able to access the contested award immediately and that the review cannot remove the award from them.

## 7.9 DS criteria

The ability of DS to respond flexibly to claimant circumstances is subject to those circumstances fitting within the statutory eligibility criteria for DS. DS is not the same as other social security provisions but it is misconceived to suggest that DS staff have anything other than limited flexibility to make decisions. The discretionary nature of DS is not about decision makers having the freedom to make whatever ‘common sense’ decision feels right, but about a (progressive) political and policy choice to allocate additional funding to provide cash to those on low incomes facing particularly difficult circumstances. It is also about setting a fixed budget for this – so that discretion can be exercised to limit or refuse awards in accordance with the budget. In the absence of legal precedent to understand how the DS eligibility criteria might be interpreted, it would be beneficial for DfC to publish guidance on how decision makers consider the criteria – what guidance is provided on ‘well-being’, or on different ways that a crisis might manifest itself, for example, and case studies or examples of where DS awards would be possible within the eligibility criteria. The limited awareness of DS and the consequent lack of familiarity

with the purpose of DS leaves knowledge gaps that can generate multiple, inaccurate and conflicting accounts of what DS can do. In addition to raising awareness of DS, there is a need to publish more information on how decisions are made and on how criteria can be interpreted. This transparency will help claimants, and those who support them, understand better the decision that has been made on their claim. It will also offer reassurance that all of the criteria are being considered separately and equally, and that there is no dominant criterion within which other elements are subsumed.

**Our recommendation** is that the DfC publish regular guidance on how the eligibility criteria for DS are considered and understood, taking into account that guidance can be iterative and responsive to different claimant circumstances. DfC should ensure that the interpretation of the eligibility criteria is not focused solely on the concept of ‘crisis’ and that there is no need for a single ‘trigger’ event to create an extreme, exceptional or crisis situation which can be the result of a build-up of need as people get deeper into poverty and debt.

## 7.10 Increasing eligibility

There are also circumstances which DS operational staff brought to our attention as being outside the eligibility criteria, that would merit inclusion. This includes 16-17 year olds who are still under parental responsibility but who themselves have parental responsibility for a child. It also

includes considering the requirement that the need a DS award must be satisfied in Northern Ireland, which therefore excludes support for those who need to travel to Britain or the Republic of Ireland. A further concern is that there is no de minimis principle applied to money that the claimant already has, and for some claimants this would mean spending all of their money in order to be eligible for a DS award. There have been several stakeholders to whom we have spoken who have also raised the issue of DS eligibility for those with No Recourse to Public Funds (NRPF). We are aware that the Minister has considered whether the funding for DS comes within the Home Office prescribed list of public funding, which DfC has no authority to change since immigration policy is reserved by the UK government.

**Our recommendation** is that the criteria relating to 16-17 year olds who would normally only be eligible for DS if living independently should be expanded to include all 16-17 year olds who have parental responsibility for a child. We also recommend that the regulations are amended to allow the claimant's travel and relocation costs needs to be satisfied within the Common Travel Area. We recommend that DfC implements a de minimis principle so that some money that claimants have is discounted for the purposes of DS eligibility. If DS eligibility for individuals with NRPF is prohibited under Home Office rules, we encourage the Minister and NI Executive colleagues

to address these needs through a different route, either an additional hardship fund or through the existing migrant crisis fund.

### 7.11 Getting a decision and requesting a review

It is important that claimants understand the reason for the decision on their application, so they see DS as a coherent system providing some consistency around emergency support, rather than simply being a "lottery". It may be that claimants do not care about or absorb this information once they receive the oral decision, particularly where the outcome has been successful. DfC follows up the oral decision by sending a letter of explanation to the claimant. This is good practice and should continue; however, these letters may not always be well understood, and claimants may not engage well with them. That means they may also not fully appreciate that they can ask for a review of the decision. It is also important that claimants can access reviews with ease. Currently claimants must make an additional phone-call to request a review, rather than having a review request lodged as part of the call communicating the initial decision. Communicating the option of a review currently includes claimants being told that they can access the contested award and it will not be removed or reduced but this message may be getting lost if claimants are not engaging with further information on the decision.

**Our recommendation** is that decision makers should check claimant understanding of the reasons for the decision. Claimants must be told explicitly that a review will not prevent them from being able to access the award immediately and that the review cannot remove the award from them. Where claimants wish to challenge a decision they should be able to request a review as part of the call communicating the decision to them, rather than having to make a further phone call to do this. DfC should also consider whether this information should be given more prominence in the decision letter to claimants, including making claimants better aware that their award will be protected even as a review takes place.

### 7.12 Removing the Universal Credit Contingency Fund and the Covid self-isolation grant from DS

DS needs to be focused on its core business of addressing needs, to ensure clarity and awareness of the purpose of DS grants and loans for extreme, exceptional or crisis situations. The inclusion of the Universal Credit Contingency Fund (UCCF) and the Covid self-isolation grant within DS were practical, operational measures that enabled these grants to be awarded, but they do not constitute the core function of DS and should no longer be part of it. Separate schemes specific to these distinct grants should be set up, with the Contingency Fund located either with other mitigation measures or directly within UC, and the Covid grant located outside the Department for Communities.

Many of the issues that our review has identified apply also to the separate Universal Credit Contingency Fund (UCCF) and the Covid self-isolation grant, including the limited awareness of the funds, the confusion over what support they could provide and – for the UCCF – the need to change the name of the fund. Part of the difficulty was that the UCCF award counts as the one living expenses grant that DS permits. There was consensus from claimants, advisers and political representatives that the UCCF should be taken out of DS. For the Covid self-isolation grant, the concern was that locating it within the Department for Communities was targeting it at the wrong population. While UC claimants who were working may have been eligible for the self-isolation grant, targeting a wider audience would be more effective in raising public awareness. For that reason, and because it distorted the purpose of the original DS scheme, it was felt that DfC was not the correct place to house the self-isolation grant. Instead, it should be relocated to a department that could disseminate information more widely, including linking to employers, professional bodies and trade unions to help ensure the necessary information reaches workers who are at risk of wage loss while self-isolating.

**Our recommendation** is that both the UCCF and Covid self-isolation grants are taken out of DS and relocated to areas that align with their respective policy intents. For UCCF this would mean bringing the fund within UC, to increase awareness of its availability and to ensure that timely information on the

fund is given to new UC claimants. Using the UC journal to make claimants aware of the fund should be supplemented with other information, including within meetings with work coaches, to improve awareness. The name of the fund should also be changed. For the Covid self-isolation grant disseminating information to employers, professional bodies and trade unions would help improve awareness of the fund and linking the administration of the grant to departments and agencies within the Executive that align to existing Covid-19 initiatives.

### 7.13 Conclusion

There is much that has been done to improve DS since it was introduced in 2016. Many of these changes have been hastened by Covid and have resulted in significant improvements for claimants and for the advice sector in supporting claimants. The ability for claimants to agree to the terms and conditions of the award via a virtual platform rather than having to attend a Jobs and Benefits office to sign their agreement is a reform that makes sense to retain.

The escalation referral service that allows advisers to escalate queries and applications to DS has proved to be valued highly by the advice sector and by DS staff who have had a greater opportunity to develop good working relationships with advisers. The triage and online application systems have been ‘game changing’, reducing the risk of claimants not being able to make an application or having to spend a long period of time on the phone until both application and decision

are made. A single online portal that means claimants are not required to know which service they need, but can be guided through the correct pathway for their circumstances ensures that there is no claimant penalty for lack of knowledge. Standardising some of the item requests – for carpets and window coverings – has taken the pressure off claimants to provide floor and window measurements for their homes and expedited the decision making process for staff.

The most significant advantage of DS, however, is the fact that it remains a cash-first form of support. There may be a case for the Department to consider whether providing claimants with a choice of cash or white goods would be an additional way to meet claimant need, but a cash-first approach respects claimant dignity and autonomy. For that reason, we encourage the Department to consider this approach to distributing other forms of emergency or Discretionary Support in the future.

There remains a strong need for all Government departments to play a stronger role in supporting needs that arise in their respective policy areas, but that end up at the door of DS. This remedial measure will be more effective in meeting need than the palliative response through DS. It is the panel’s view that DS should not have to carry the load that it is carrying but while this remains the case, we make our recommendations in the hope that those who most need support through DS will be better able to get it.

# Appendix 1: Modelling income thresholds for families and childless adults in Northern Ireland

By Howard Reed (Landman Economics) and Jonathan Portes (Aubergine Analysis) September 2021

## The current income threshold

Landman Economics was commissioned by the Discretionary Support Independent Review Panel in Northern Ireland (<https://www.ulster.ac.uk/discretionarysupportreview>) to model a range of options for the Income threshold for Discretionary Support (DS) payments. The DS scheme provides grants and interest-free loans for crisis, emergency or disaster. The current eligibility criteria include a net income threshold of £20,849 per year, which is based on a 45-hour week at the National Living Wage.<sup>154</sup> The definition of income used for the threshold is net of income tax and National Insurance Contributions, and excludes benefits relating to disability costs (Disability Living Allowance, Personal Independence Payment

and Attendance Allowance), Child Benefit and Housing Benefit, but includes other benefits, tax credits and Universal Credit.

Currently the income threshold is the same for all claimants regardless of age, single/couple status or number of children which creates a potential unfairness, because it takes no account of the presence of children or the size of the family. Table 1 uses data from the Northern Ireland component of the Family Resources Survey to estimate the proportion of benefit units in six different categories (pensioner couple, pensioner single, working age couple with children, working age couple without children, lone parent and single working age adult without children) who are below the current income threshold.

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<sup>154</sup> Note that the £20,849 threshold is based on gross earnings at the National Living Wage, but the income definition used when determining whether a claimant is above or below the threshold is basically a net income definition.

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**Table 1. Proportion of benefit units in category who are below current net income threshold (£20,486 per year)**

| Benefit unit type       | Proportion below income threshold |
|-------------------------|-----------------------------------|
| Pensioner couple        | 41.5%                             |
| Pensioner single        | 90.2%                             |
| Couple with children    | 20.5%                             |
| Couple without children | 27.5%                             |
| Lone parent             | 79.1%                             |
| Single without children | 87.7%                             |
| All benefit units       | 59.0%                             |

Source: Landman Economics calculations based on pooled 2018-19 and 2019-20 Northern Ireland FRS sample

The use of a net, rather than gross income threshold set in relation to full-time earnings at the NLW also leads to relatively wide coverage, since the threshold is well above median net household incomes (on this definition) for Northern Ireland. Overall, 59 per cent of benefit units in the Northern Ireland FRS have income below the threshold. The proportion varies markedly by benefit unit type, from 20.5% for couples with children to 90.2% for single pensioners. Both the relatively broad coverage (including large numbers of benefit units with incomes well

above the median, especially pensioners) and the very large variation between benefit unit/family type are arguably anomalous, and not consistent with the original policy intent.

These anomalies and in particular the disparity between benefit unit/family types are further illustrated in Table 2, which shows the extent to which the existing net income threshold does not fully capture benefit units who are in poverty or deprivation under various definitions.

**Table 2. Proportion of benefit units above current net income threshold who are in poverty or deprivation under various Family Resource Survey indicators**

|                         |   | Deprivation measure                       |   |                                     |   |                                |  |  |
|-------------------------|---|---|---|-------------------------------------|---|--------------------------------|--|--|
| BU type                 | Below 60% median equivalised AHC income | Not keeping up with bills/debt repayments | Can't afford to keep home in good condition | Can't afford holiday away from home | Can't afford household contents insurance | Can't afford to save £10/month | Can't afford to replace worn out furniture | Can't afford to repair broken electrical goods |
| Couple with children    | 2.8%                                    | 2.7%                                      | 4.1%  | 19.5%                               | 5.4%                                      | 22.0%                          | 8.5%                                       | 3.4%   |
| Couple without children | 0.3%                                    | 0.6%                                      | 1.9%  | 6.3%                                | 1.3%                                      | 9.2%                           | 2.9%                                       | 1.9%   |
| Lone parent             | 4.1%                                    | 2.3%                                      | 12.1%                                       | 46.4%                               | 21.2%                                     | 51.7%                          | 20.2%                                      | 19.9%  |
| Single childless adult  | 0.0%                                    | 0.3%                                      | 2.6%  | 5.4%                                | 1.2%                                      | 8.1%                           | 2.3%                                       | 0.3%   |

Source: Landman Economics calculations based on pooled 2018-19 and 2019-20 Northern Ireland FRS sample

The first column shows the proportions of working age benefit units who are in poverty under the UK Department for Work and Pension's After Housing Costs relative income measure as used in its Households Below Average Income poverty statistics<sup>155</sup>. While no single childless adults above the threshold, and only 0.3% of couples without children above the threshold, are in AHC

poverty, 4.1% of lone parents above the threshold, and 2.8% of couples with children above the threshold, are in AHC poverty.

The other columns show the proportion of working age benefit units who meet various deprivation criteria in the FRS<sup>156</sup>. In general, lone parent families are by far the most likely group to experience deprivation despite being above the current income threshold. Over

<sup>155</sup> Note that the version of the HBAI AHC income definition used here excludes income from DLA, PIP and Attendance Allowance, to make the definition more similar to the Discretionary Support income threshold calculation.

<sup>156</sup> Note that single and couple pensioners are not asked the deprivation questions in the FRS, so Table 2 only covers working age benefit units. There were no single or couple pensioners above the current net income threshold but below 60% median equivalised AHC income.

half of lone parent families above the income threshold cannot afford to save £10 per month, almost half cannot afford a holiday away from home, and around one-fifth cannot afford household content insurance, cannot afford to replace worn out furniture or repair or replace broken electrical goods.

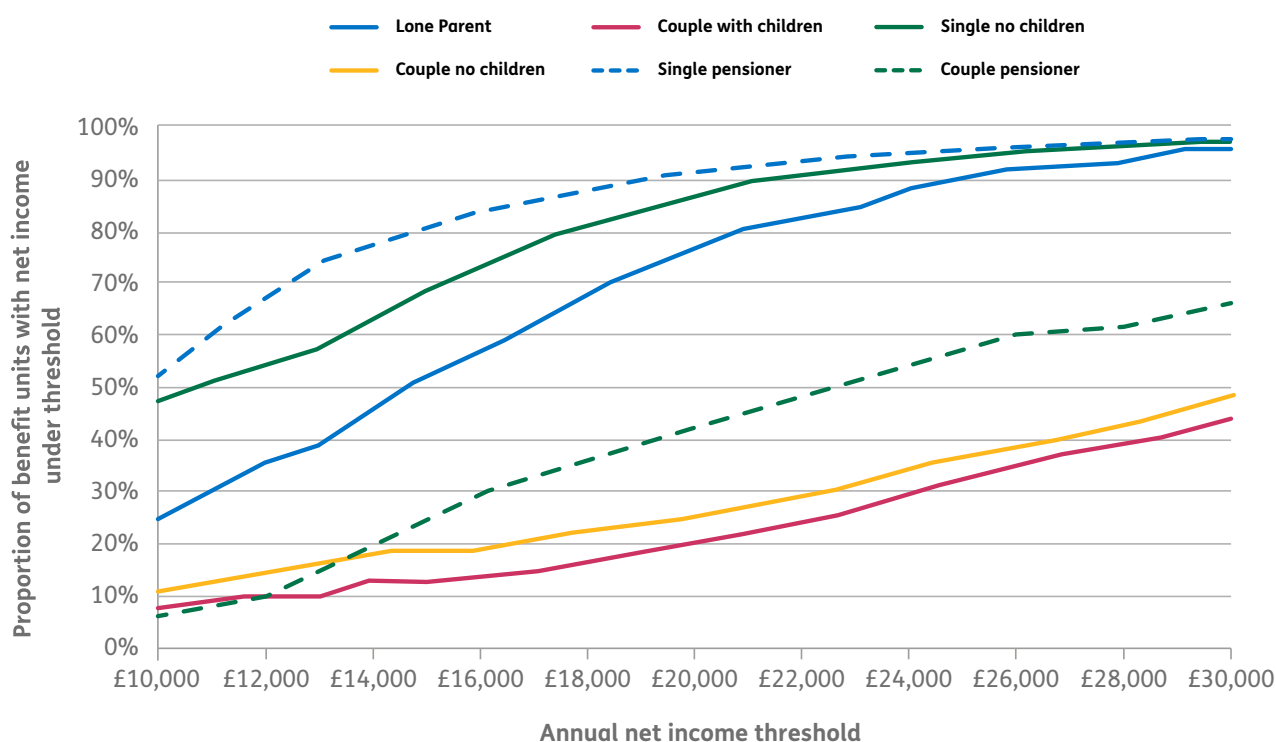
### Modelling changes to the income threshold

In this section we model a number of possible changes to the thresholds designed to address these anomalies, in particular expanding coverage of lone parent families and ensuring that the overwhelming majority of those in poverty among all family types are covered, while constraining overall coverage to at or below current levels.

Our analysis uses microsimulation techniques based on a pooled sample of the most recent two years of Northern Ireland FRS data (2018-19 and 2019-20). We vary the income threshold from £10,000 to £30,000 in £1,000 steps and estimate the impact for each of the six benefit unit types on:

- a) The proportion of benefit units in each group under the income threshold;
- b) The proportion of benefit units above the income threshold who are in poverty (under the 60% median equivalised AHC income definition as used in Table 2 above).

Figure 1 below shows the proportions of each type of benefit unit under the income threshold for income thresholds between £10,000 and £30,000.

**Figure 1. Estimated proportions of benefit units under income threshold, by benefit unit type**

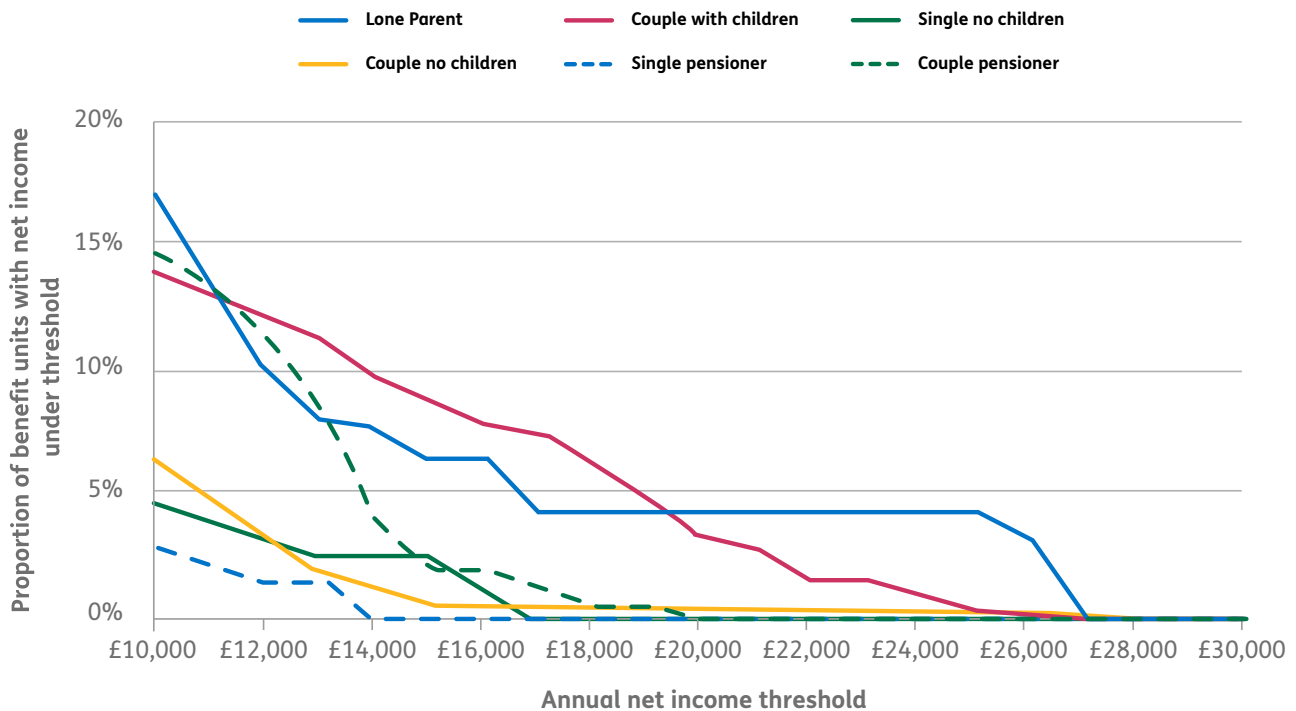
Source: Landman Economics calculations based on pooled 2018-19 and 2019-20 Northern Ireland FRS sample

Figure 1 shows that for the three single-adult benefit unit types – single pensioners, single working age childless adults and lone parents – the proportion of benefit units with net income below the threshold is significantly higher at each income threshold level than for the three couple benefit unit types – couple pensioners, childless working-age couples and couples with children. Single and couple pensioners both have slightly higher proportions of benefit units below the threshold than working age single and couple benefit units respectively.

Lone parents and couples with children are less likely to be below the threshold at any particular level of the threshold than single childless adults and childless couples respectively (although the gap between single childless adults and lone parents is smaller at higher levels of the threshold).

Figure 2 shows the proportion of benefit units above the income threshold who are below 60% median equivalised AHC income, by benefit unit type.

**Figure 2. Proportion of benefit units above income threshold who are in poverty (below 60% median equivalised AHC income) by benefit unit type**



Source: Landman Economics calculations based on pooled 2018-19 and 2019-20 Northern Ireland FRS sample

Figure 2 shows that an income threshold of approximately £27,000 is high enough to ensure that there are no lone parents or couples with children who are in poverty, but with incomes that are too high to qualify for Discretionary Support. The equivalent income levels for other benefit unit types are much lower: around £20,000 for couple pensioners, around £17,000 for childless single working-age people and childless couples, and around £14,000 for single pensioners.

### Suggested income thresholds for childless benefit units

Based on analysis of Figures 1 and 2 we recommend the following annual income thresholds for childless benefit units:

- Single working age adult: £13,000
- Working age couple: £20,000
- Single pensioner: £21,000
- Couple pensioner: £30,000

This set of thresholds fulfils the criteria of:

- i) Making sure that there are very few benefit units in poverty but with incomes too high to qualify for discretionary support;
- ii) Reducing the inequalities between benefit unit types compared to the current “one-size-fits-all” threshold in terms of the proportions of each benefit unit type that is eligible for discretionary support;
- iii) Providing additional support for pensioner benefit units relative to those of working age.

### A per-child threshold addition for families

Our final task in this project was to set a level for a per-child threshold addition

for families – which would be added to the relevant threshold for the working age singles or couples. So for example, if the per-child threshold addition were set at £2,000, then the threshold for a lone parent with  $c$  children would be set at:

$$(\text{£13,000} + (\text{£2,000} \times c)).$$

Table 3 below shows, for a range of per-child threshold additions between £2,000 and £6,000:

- The proportion of lone parents and couples with children below the income threshold;
- The proportion of lone parents and couples with children above the income threshold who are in AHC poverty.

**Table 3. Analysis of various levels of per-child income addition**

| Per-child income threshold addition:  | £2,000 | £3,000 | £4,000 | £5,000 | £6,000 |
|---|--------|--------|--------|--------|--------|
| <b>Proportion of families under income threshold</b>                        |        |        |        |        |        |
| Lone parents  | 58.7%  | 67.4%  | 77.5%  | 82.0%  | 85.2%  |
| Couples with children   | 27.8%  | 31.7%  | 36.3%  | 40.3%  | 44.5%  |
| <b>Proportion of families above income threshold who are in AHC poverty</b> |        |        |        |        |        |
| Lone parents  | 3.9%   | 3.9%   | 3.4%   | 3.3%   | 3.3%   |
| Couples with children   | 0.5%   | 0.5%   | 0.5%   | 0.5%   | 0.4%   |

Source: Landman Economics calculations based on pooled 2018-19 and 2019-20 Northern Ireland FRS sample

Notes: calculations based on per-child threshold addition to adult income threshold levels of £13,000 for lone parents, £20,000 for couples

Table 3 shows that the proportion of couples with children who are under the income threshold is lower (for any level of the per-child income threshold addition) for couples with children than for lone parents. Increasing the per-child threshold addition markedly increases the proportion of families under the income threshold, but has only a marginal impact on the proportion of families above the income threshold who are in AHC poverty.

A per-child income threshold addition of £5,000 would mean that that over 80% of lone parents, and over 40% of couples with children, are eligible for Discretionary Support. Combined with adult income threshold levels of £13,000 for single adults and £20,000 for couples, this would mean that the income threshold levels for lone parents and couples with children would be as listed in Table 4 below.

**Table 4. Recommended income threshold levels for families**

| Number of children | Lone parent income threshold | Couple parent income threshold |
|--------------------|------------------------------|--------------------------------|
| 1                  | £18,000                      | £25,000                        |
| 2                  | £23,000                      | £30,000                        |
| 3                  | £28,000                      | £35,000                        |
| 4                  | £33,000                      | £40,000                        |
| 5                  | £38,000                      | £45,000                        |

Table 5 shows the final overall results for the proportion of benefit units below the proposed income threshold and the proportion of benefit units above the income thresholds who are in AHC poverty, based on our recommended income thresholds of:

- Single working age adult: £13,000
- Working age couple: £20,000
- Single pensioner: £21,000
- Couple pensioner: £30,000

- Lone parent: £13,000 + £5,000 per child
- Couple with children: £20,000 + £5,000 per child

The overall proportion of benefit units below the income threshold using these recommendations is 54.6%, which is slightly lower than the proportion below the current income threshold (59% as shown in Table 1). However, the new proposed thresholds provide better coverage for families with children as well as couple pensioners.

**Table 5. Final results based on recommended income thresholds**

| Benefit unit type       | Proportion below income threshold | Proportion above income threshold who are in AHC poverty |
|-------------------------|-----------------------------------|--|
| Pensioner couple        | 65.9%                             | 0.0%   |
| Pensioner single        | 90.5%                             | 0.0%   |
| Couple with children    | 40.3%                             | 0.5%   |
| Couple without children | 25.4%                             | 0.3%   |
| Lone parent             | 82.0%                             | 3.3%   |
| Single without children | 57.7%                             | 2.3%   |
| <b>Total</b>            | <b>54.6%</b>                      | <b>1.0%</b>  |

### Further work

It would be possible to extend the empirical approach here to estimate an addition to the proposed income thresholds to take account of the costs of disability. Lack of time

prevented us from estimating a disability-specific addition but the Family Resources Survey contains disability variables, so it would certainly be possible to use the FRS data to make this calculation.

## Appendix 2: Comparison of emergency financial assistance schemes

| SCHEME                       | N. IRELAND - DS (THE DISCRETIONARY SUPPORT SCHEME)  | SCOTLAND - SWF (THE SCOTTISH WELFARE FUND)   | WALES - DAF (THE DISCRETIONARY ASSISTANCE FUND)  | IRELAND (SUPPLEMENTARY WELFARE ALLOWANCE)  |
|------------------------------|---|--|--|--|
| <b>Delivery arrangements</b> | The Discretionary Support scheme financed by the NI Government and disbursed by DfC   | The Welfare Funds are financed by the Scottish Government and disbursed by local authorities.  | The Discretionary Assistance Fund is funded by the Welsh Government and delivered on a national basis by Northgate Public Services in partnership with Family Fund Trading and Wrexham County Borough Council. | Department of Social Protection's Community Welfare Service.   |
| <b>Types of support</b>      | Discretionary Support loans are to help with short-term living expenses (for example a short term supply of groceries) or with the other forms of expenditure to include the repair or replacement of basic household items (for example a cooker), to pay for travelling expenses in specified circumstances, and for rent in advance to a landlord other than the NIHE. | There are two elements: Crisis Grants; and Community Care Grants.<br><br>Crisis Grant – if you're in crisis because of a disaster (like a fire or flood), or an emergency (like losing your money or job, or an unexpected expense)<br><br>Community Care Grant – to help you or someone you care for to start to live, or to carry on living, a settled life in the community | The fund has two elements, Emergency Assistance Payments (EAP) and<br><br>Individual Assistance Payments (IAP), broadly equivalent to Social Fund Crisis Grants and Community Care Grants, respectively.       | An Urgent Needs Payment may be paid to people in emergency situations, and an Exceptional Needs Payment which is a single payment to help meet essential, once-off, exceptional expenditure, which a person could not reasonably be expected to meet out of their weekly income. |

| SCHEME | N. IRELAND -<br>DS (THE<br>DISCRETIONARY<br>SUPPORT SCHEME)   | SCOTLAND - SWF<br>(THE SCOTTISH<br>WELFARE FUND)  | WALES -<br>DAF (THE<br>DISCRETIONARY<br>ASSISTANCE FUND) | IRELAND<br>(SUPPLEMENTARY<br>WELFARE<br>ALLOWANCE) |
|--------|---|---|--|--|
|        | Only three Discretionary Support loans to provide help with short-term living expenses or these other forms of expenditure may be awarded to a person in any rolling 12-month period. The amount awarded will take into account a person's ability to repay and the amount of money a person owes will be restricted to a maximum £1,500 of government debt | <p>A Crisis Grant can be given to cover the costs of an emergency.</p> <p>If you do get a Crisis Grant, your local council will look at helping you with your most urgent living costs.</p> <p>Some things this may include are help with the costs of:</p> <ul style="list-style-type: none"> <li>• food</li> <li>• heating costs</li> </ul> <p>A Community Care Grant can be given, if you qualify, to help with costs if:</p> <ul style="list-style-type: none"> <li>• you're leaving care or imprisonment and need help to start a settled home</li> <li>• you've been homeless, or living an unsettled life, and need help to start a settled home</li> <li>• you need support to stay out of care</li> <li>• you're caring for someone who's been released from prison or a young offender's institution</li> <li>• you're experiencing great pressure and need help to keep a settled home</li> <li>• you're escaping domestic abuse</li> <li>• a child's health is at risk</li> </ul> |  |  |

| SCHEME                         | N. IRELAND - DS (THE DISCRETIONARY SUPPORT SCHEME)   | SCOTLAND - SWF (THE SCOTTISH WELFARE FUND)   | WALES - DAF (THE DISCRETIONARY ASSISTANCE FUND)  | IRELAND (SUPPLEMENTARY WELFARE ALLOWANCE)  |
|--------------------------------|--|--|--|--|
| <b>How support is provided</b> | Loans and grants.  | All awards are non-repayable and may be fulfilled in cash, cash equivalent, or, in the case of Community Care Grants, in kind. | EAP can be paid via a Pay Point voucher, BACS payment or clothes voucher, while IAP are provided in the form of white goods from Co-op Electrical or an Argos voucher. Awards are non-repayable. | <p>Exceptional Needs Payments</p> <p>An Exceptional Needs Payments is a single payment to help meet essential, once-off, exceptional expenditure, which a person could not reasonably be expected to meet out of their weekly income.</p> <p>Urgent Needs Payments</p> <p>An Urgent Needs Payments is a once-off payment made to persons, including those who may not normally qualify for Supplementary Welfare Allowance, but who have an urgent need which they cannot meet from their own resources or an alternative is not available at that time.</p> |
| <b>Prioritisation</b>          | Staff cannot prioritise grant over loan or vice versa as the fund is discretionary. All claimants' circumstances should be fully taken into consideration before any decision is made. | Applicants are categorised as high, medium or low priority.  | Applicants are categorised as high, medium or low priority.  | Each case is decided on its merits.  |

| SCHEME      | N. IRELAND - DS (THE DISCRETIONARY SUPPORT SCHEME)  | SCOTLAND - SWF (THE SCOTTISH WELFARE FUND)   | WALES - DAF (THE DISCRETIONARY ASSISTANCE FUND)  | IRELAND (SUPPLEMENTARY WELFARE ALLOWANCE)   |
|-------------|---|--|--|---|
| Eligibility | <ul style="list-style-type: none"> <li>A person must have an extreme, exceptional or crisis situation which places them or their immediate family's health, safety or wellbeing at significant risk;</li> <li>Must live in Northern Ireland (help cannot be provided if the crisis occurs outside Northern Ireland);</li> <li>A person must be either: over 18 years old or at least 16 years old (if they do not have any parental support)</li> <li>A person's annual income, including the income of their partner, must not be above the national living wage of £20,849 per year - this is based on the National Living Wage for over 23 year olds (currently £8.91 per hour) over a 45-hour week and is automatically adjusted whenever this rate increases;</li> </ul> | <p>Anyone in receipt of one of the following benefits is considered automatically eligible:</p> <ul style="list-style-type: none"> <li>An income-based jobseeker's allowance;</li> <li>Income support;</li> <li>Income-related employment and support;</li> <li>Universal credit; or</li> <li>State pension credit.</li> </ul> <p>For other applicants, there is no set income threshold, but local authorities are still expected to judge need on the basis of income and savings.</p> <p>The income threshold is expected to be around the level a person would receive on benefits.</p> <ul style="list-style-type: none"> <li>A Community Care Grant is not awarded if the applicant or their partner has savings of: over £700 if they are below pension age; or over £1,200 if the applicant is above pension age.</li> </ul> | <p>In order to qualify for Individual Assistance Payments, applicants must be aged 16 or over and receiving:</p> <ul style="list-style-type: none"> <li>Income support;</li> <li>Income-based jobseeker's allowance;</li> <li>Income-related employment and support allowance;</li> <li>Pension credit; or</li> <li>Payment on account of one of these.</li> </ul> | <ul style="list-style-type: none"> <li>If a person has no income, they may be entitled to the basic Supplementary Welfare Allowance (SWA).</li> <li>If a person's weekly income is below the SWA rate for their family size, a payment may be made to bring their income up to the appropriate SWA rate.</li> <li>If a person has claimed a social welfare benefit or pension but it has not yet been paid and they have no other income, they may qualify for basic SWA while you are waiting for their payment. However, the amount paid while they are waiting will be deducted from the arrears of their social welfare payment.</li> <li>If a person has started work, they may qualify for basic SWA for up to 30 days while they are waiting for their wages.</li> </ul> |

| SCHEME                  | N. IRELAND -<br>DS (THE<br>DISCRETIONARY<br>SUPPORT SCHEME)  | SCOTLAND - SWF<br>(THE SCOTTISH<br>WELFARE FUND)  | WALES -<br>DAF (THE<br>DISCRETIONARY<br>ASSISTANCE FUND)   | IRELAND<br>(SUPPLEMENTARY<br>WELFARE<br>ALLOWANCE)   |
|-------------------------|--|---|--|--|
|                         | <ul style="list-style-type: none"> <li>If a person receives a Discretionary Support award for an item such as a washing machine or mattress, they cannot receive another award for the same item in the same 12-month period, except in the case of a disaster.</li> </ul> <p>If the total Social Fund, Discretionary Support and Short-term Benefit Advance debt, including the debt of any partner, is £1,500 or more, you will not be able to get a Discretionary Support loan.</p> |   |  | <p>A person will normally qualify for SWA if they satisfy the following conditions:</p> <ul style="list-style-type: none"> <li>they are living in the State</li> <li>they satisfy the SWA means assessment</li> <li>they have applied for any other benefit or allowance they may be entitled to</li> <li>they have registered for work with your local Intreo Centre if they are of working age</li> <li>they satisfy the habitual residence condition</li> </ul> |
| <b>Number of Awards</b> | <p>One Discretionary Support grant to provide assistance to a person or their immediate family to allow them to remain or begin living independently in the community may be awarded to a person in any rolling 12-month period.</p> <p>In addition, one Discretionary Support grant for living expenses may be awarded to a person in any rolling 12-month period if they do not have the ability to repay a loan or if their current government debt is above £1,500.</p>            | <p>The Regulations specify that the number of Crisis Grants that any person can receive should normally be limited to three in any rolling 12-month period across all local authorities. However, where a person is part of a couple, each partner can receive three grants in a 12-month rolling period.</p> | <p>An applicant may be awarded a maximum of three Emergency Assistance Payments in a rolling 12-month period.</p> <p>You cannot apply for a <b>grant</b> if you have:</p> <ul style="list-style-type: none"> <li>already received a <b>grant</b> in the last 28 days (7 days for coronavirus applications) already received 3 <b>grants</b> in the last year (5 <b>grants</b> including coronavirus applications)</li> </ul> | <p>Urgent Needs and Exceptional Needs Payments are demanded and payments are made at the discretion of the officers administering the scheme, taking into account the requirements of the legislation and all the relevant circumstances of the case in order to ensure that the payments target those most in need of assistance.</p>   |

| SCHEME  | N. IRELAND - DS (THE DISCRETIONARY SUPPORT SCHEME)   | SCOTLAND - SWF (THE SCOTTISH WELFARE FUND)  | WALES - DAF (THE DISCRETIONARY ASSISTANCE FUND)  | IRELAND (SUPPLEMENTARY WELFARE ALLOWANCE)  |
|---|--|---|--|--|
|   | Three Discretionary Support loans and one grant in a 12-month period, except in the case of a disaster.  | <p>The Regulations allow local authorities to use their discretion to allow more than three awards in exceptional circumstances.</p> <p>There is no limit on the number of Community Care Grants that can be awarded to an individual in a year. However, limitations on repeat applications apply. A local authority does not need to consider an application if a person has applied for a Community Care Grant or a Crisis Grant for the same items or services within the last 28 days, where a decision has already been made and there has not been a relevant change of circumstances.</p> |  |  |
| <b>Crisis Grant / Urgent Needs Payment covers</b> | <p>Discretionary Support may be awarded in the form of a <b>loan</b> as follows—</p> <ul style="list-style-type: none"> <li>by the provision of immediate assistance with short term living expenses;</li> <li>by the provision of household items, or assistance with the repair or replacement of household items that have been stolen, broken or destroyed;</li> </ul> | Provide a safety net in a disaster or emergency, where there is an immediate threat to health or safety.  | EAP provide assistance in emergency or where there is an immediate threat to health or well-being. | An Urgent Needs Payment may be paid to people in emergency situations. For example, in the case of a fire, flood or other disaster, they may get a payment to help with the immediate cost of food and clothing. |

| SCHEME | N. IRELAND -<br>DS (THE<br>DISCRETIONARY<br>SUPPORT SCHEME)   | SCOTLAND - SWF<br>(THE SCOTTISH<br>WELFARE FUND) | WALES -<br>DAF (THE<br>DISCRETIONARY<br>ASSISTANCE FUND) | IRELAND<br>(SUPPLEMENTARY<br>WELFARE<br>ALLOWANCE)   |
|--------|---|--|--|--|
|        | <ul style="list-style-type: none"> <li>by the provision of travelling expenses, to the claimant or one or more members of their immediate family, or an escort, including any reasonable charges for overnight accommodation in order to–</li> <li>visit a close relative who is ill;</li> <li>attend a close relative's funeral;</li> <li>ease a domestic crisis;</li> <li>visit a child who is with the other parent pending a family court decision;</li> <li>move to suitable accommodation; or</li> <li>by providing rent in advance to a landlord other than the Northern Ireland Housing Executive.</li> </ul> <p><b>Grant eligibility</b><br/>Discretionary Support may be awarded in the form of a grant where the following conditions are satisfied.<br/>A grant will only be awarded where—</p> |  |  | <p>Depending on a person's circumstances, for example, if they are working or when an insurance claim has been settled, they may have to pay some or all of this back at a later date.</p> <p>If a person is means-tested for an Urgent Needs Payment, all capital/property (except their home) is taken into account and assessed as means.</p> <p>In a means test, the Department of Social Protection examines all a person's sources of income. Sometimes a certain amount of income or income from particular sources is not taken into account and these are often referred to as income disregards. However, in the means test for an Urgent Needs Payment, all capital/property (except thier home) is taken into account and assessed as means – there are no disregards for capital.</p> |

| SCHEME   | N. IRELAND -<br>DS (THE<br>DISCRETIONARY<br>SUPPORT SCHEME)  | SCOTLAND - SWF<br>(THE SCOTTISH<br>WELFARE FUND)   | WALES -<br>DAF (THE<br>DISCRETIONARY<br>ASSISTANCE FUND)   | IRELAND<br>(SUPPLEMENTARY<br>WELFARE<br>ALLOWANCE)  |
|--|--|--|--|---|
|  | <ul style="list-style-type: none"> <li>the grant is to provide assistance for a claimant or their immediate family to remain or begin living independently in the community; or</li> <li>the claimant or their immediate family are prevented from remaining in their home; or</li> <li>the grant is to provide assistance in the form of living expenses where the claimant is over the acceptable debt threshold; or</li> <li>where the claimant is eligible for a loan for living expenses and cannot afford to make repayment.</li> <li>the grant is to provide assistance in the form of living expenses where the claimant or any member of their immediate family is diagnosed with COVID-19 or is advised to self-isolate in accordance with guidance published by the Regional Agency for Public Health and Social Well-being.</li> </ul> |  |  | A person cannot appeal a decision on an Urgent Needs Payment to the Social Welfare Appeals Office. However, they may request that a decision be reviewed by the Supplementary Welfare Allowance Review Officer for the office which made the original decision.   |
| <b>Community Care Grant / Exceptional Needs Payment Covers</b> |  | Enable people to live independently, or continue to live independently, preventing the need for institutional care. This includes assistance to families facing exceptional pressure | IAP to meet an urgent need that enables or supports vulnerable citizens to establish themselves or remain living independently in the community. | <p>An Exceptional Needs Payment is a single payment to help meet essential, once-off, exceptional expenditure, which a person could not reasonably be expected to meet out of their weekly income. For example, the payment can be for bedding or cooking utensils for someone setting up a home for the first time, visiting relatives in hospital or prison, funeral costs or for clothing in exceptional circumstances. In some cases you may get help with fuel bills such as heating and electricity.</p> <p>Each case is decided on its merits.</p> |

| SCHEME  | N. IRELAND -<br>DS (THE<br>DISCRETIONARY<br>SUPPORT SCHEME)   | SCOTLAND - SWF<br>(THE SCOTTISH<br>WELFARE FUND)   | WALES -<br>DAF (THE<br>DISCRETIONARY<br>ASSISTANCE FUND)  | IRELAND<br>(SUPPLEMENTARY<br>WELFARE<br>ALLOWANCE)   |
|---|---|--|---|--|
| <b>Additional support during the coronavirus pandemic</b> | <ul style="list-style-type: none"> <li>A non-repayable Discretionary Support self-isolation grant payment to assist with short term living expenses where a person, or any member of their immediate family, is diagnosed with COVID-19 or is advised to self-isolate; and</li> <li>Extending Discretionary Support to full-time students suffering financial hardship as a direct result of COVID-19.</li> </ul> | Self-Isolation Support Grant - if a person has to self-isolate by Test and Protect because of coronavirus (COVID-19) and will lose income as a result. | To provide more help for those households facing exceptional hardship because of the coronavirus crisis, until the end of September 2021 a maximum of 5 Emergency Assistance Payments can be awarded. | <ul style="list-style-type: none"> <li>If a person's hours have been reduced but they continue to work for more than 3 days per week (for example, they have been asked to work 5 mornings per week), they may qualify for Supplementary Welfare Allowance.</li> <li>If a person does not qualify for Illness Benefit for COVID-19 absences, they may be able to receive Supplementary Welfare Allowance instead.</li> </ul> |

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