

CAS Response to the Scottish Government's consultation on Low Income Winter Heating Assistance February 2022

Who we are

Scotland's Citizens Advice Network is an essential community service that empowers people through our local bureaux and national services by providing free, confidential, and independent advice. We use people's real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better.

Together with our colleagues at Citizens Advice in England and Wales, Citizens Advice Scotland (CAS) has held the statutory consumer advocacy function for energy since 2014¹. We work with the UK and Scottish Governments, Ofgem, and the energy industry and its stakeholders, in the interests of all current and future energy consumers in Scotland. We have a particular focus on the needs and interests of consumers in vulnerable situations, including consumers in fuel poverty.

Our network of 59 Citizens Advice Bureaux, the Extra Help Unit, our national Helpline, and our Advice for Scotland online advice site provide us with the largest dataset on societal issues in Scotland outside the public sector. We have also undertaken an extensive body of research on issues relating to fuel poverty in Scotland – including on issues relating to off-gas consumers, energy efficiency, and winter heating assistance schemes. *Inter alia*, we sit on the Heat Trust Committee, are members of the Existing Homes Alliance, and have been a member of the Energy Consumers Commission since its inception. During their lifetimes we were also a member of the Special Working Group on Regulation, the Heat Networks Regulation Working Group, the Short Life Working Group on Assessment, the Fuel Poverty Advisory Panel, the Fuel Poverty Advisory Forum and the Rural Fuel Poverty Taskforce.

Executive Summary

CAS is enthusiastic about the potential for the devolution of winter heating benefits to drive a meaningful improvement in the rates and lived experience of fuel poverty in Scotland. Done well, devolution of Cold Weather Payments (CWPs) and the Winter Fuel Payment (WFP), taken alongside the assistance provided by the Warm Home Discount (WHD) scheme, the Scottish Government's fuel poverty and energy efficiency programmes, and additional support for vulnerable households such as the Child Winter Heating Assistance, could create a coherent package of measures which work together more effectively to reduce inequality and improve the health and wellbeing of citizens most vulnerable to the effects of living in a cold home.

¹ <https://www.legislation.gov.uk/ukpga/2007/17/contents>

We agree that reforms to the existing CWP scheme could deliver greater consumer benefits than the scheme that currently exists. However, we do not agree that the Scottish Government's proposals for Low Income Winter Heating Assistance (LIWHA) achieve this. Indeed, we are concerned that for many consumers, LIWHA will often make fuel poverty, and in particular extreme fuel poverty, worse. Evidence also strongly suggests that in a cold winter, LIWHA is likely to prove prejudicial to the health of many vulnerable low income households. We are extremely concerned about the negative consumer outcomes this will deliver, including the impact on winter mortality.

CAS cannot support a policy that holds significant potential to increase inequality and endanger the health and wellbeing of consumers in Scotland, and as a result we cannot support the Scottish Government's proposals for LIWHA in their current form. We are however mindful of the tight deadlines to which the Scottish Government is working to deliver the devolution of CWPs before the end of 2022. We therefore propose a practical series of evidence-led actions that we believe would safely deliver a Minimum Viable Product to the required timeframes which significantly improves on the current CWP scheme and to which future improvements can be made as time and resources allow.

Response to Questions

1. Do you agree or disagree with the proposal to replace Cold Weather Payments with a new benefit whose eligibility is based solely on receipt of a low income benefit and not on reaching a specific temperature for a period of time?

CAS believes that the devolution of CWPs provides an opportunity to improve on the current scheme by aligning it more closely with the definition, calculation, and drivers of fuel poverty in Scotland. However, we strongly disagree with the Scottish Government's proposals to replace CWPs with a new benefit whose eligibility is based solely on receipt of a low income benefit, with no consideration of external factors such as weather.

2. If you disagreed, please could you explain why?

The Scottish Government's proposals to replace CWPs with a LIWHA would see the redistribution of income in a cold winter from areas of Scotland that are most exposed to periods of cold weather to areas of Scotland which are relatively less exposed to extended periods of temperature-driven enhanced building heat loss. The evidence indicates that this will increase material deprivation and inequality between communities of place and within communities of interest at times of acute household financial stress and present a serious risk to the health and wellbeing of many vulnerable low income consumers in Scotland.

An analysis of the distribution of CWPs in Scotland since the 2011/12 winter period is included separately as Appendix A to this submission. This goes further than the data shared by the Scottish Government in its consultation on LIWHA and allows for a more extensive investigation of CWP trends since a significant reorganisation of the CWP weather station postcode districts was undertaken following the 2010/11 winter period.

Our analysis reveals that vulnerable low income consumers in 44% of the weather station areas currently used to determine eligibility for CWPs in Scotland would have experienced increased detriment in at least one winter period had LIWHA been in place for the past decade, with some vulnerable low income consumers faced with a decrease in the level of financial support provided during a cold winter of as much as 400% (£200). The overwhelming majority of consumers in those areas adversely affected by this metric incur both higher heating fuel costs and a higher overall cost of living than the majority of those who would benefit financially from the LIWHA proposals as the majority of the postcode districts which fall under these weather station areas are predominantly rural or remote rural, and off-gas. Research undertaken on behalf of a consortium led by Highlands and Islands Enterprise showed that in 2016, a minimum acceptable standard of living in remote rural Scotland typically required between a tenth and a third more household spending than in urban parts of the UK². The cost of home heating was found to be a significant driver of this difference.

The CWP data included at Appendix A to this submission also shows that vulnerable low income consumers in 26% of the weather station areas currently used to determine eligibility for CWPs in Scotland would have received less financial support in aggregate over the past 10 years under LIWHA than they have under CWPs, with some vulnerable low income consumers faced with an aggregate decrease in the level of financial support provided of as much as 135% (£675). All but one of these weather station areas are predominantly rural or remote rural, predominantly off-gas, and have a higher than average proportion of homes in EPC bands F and G³.

The effect of cold temperatures on the health and wellbeing of citizens is well understood. For example, the World Health Organisation (WHO) estimates that, on average, 30% of excess winter deaths can be attributed to the effects of living in a cold home. In the winter of 2019/20 and after accounting for the effects of COVID-19, this means that deaths of 720 consumers in Scotland can be attributed to fuel poverty⁴. In a cold winter, this figure increases significantly. For example, in the winter of 2017/18, 1440 consumers in Scotland died as a result of fuel poverty⁵.

The National Records of Scotland have produced a briefing note which includes a literature review of the linkages between cold weather and adverse health outcomes⁶. A further literature review in this area was previously undertaken by the Rural Fuel Poverty Taskforce⁷. Both reveal a substantial body of academic research, the findings of which sit in opposition to the Scottish Government's proposals for LIWHA. For example, the Scottish Government asserts that average winter temperatures in Scotland are increasing over time. This is presented as justification for removing any reference to temperature or weather when CWPs are devolved, on the basis that average temperatures are less

² [A Minimum Income Standard for Remote Rural Scotland: A Policy Update](#)

³ <https://www.gov.scot/publications/scottish-house-condition-survey-local-authority-analysis-2017-2019/>

⁴ <https://www.nrscotland.gov.uk/files//statistics/winter-mortality/2020/winter-mortality-19-20-info.pdf>

⁵ <https://webarchive.nrscotland.gov.uk/20210317083750/https://www.nrscotland.gov.uk/files//statistics/winter-mortality/2018/winter-mortality-17-18-pub.pdf>

⁶ <https://www.nrscotland.gov.uk/files//statistics/winter-mortality/2019/iwm-background-2018-19.pdf>

⁷ <https://webarchive.nrscotland.gov.uk/20210918223232/https://www.gov.scot/binaries/content/documents/govscot/publication/s/strategy-plan/2016/10/action-plan-deliver-affordable-warmth-rural-scotland-proposed-scottish-rural/documents/00508138-pdf/00508138-pdf/govscot%3Adocument/00508138.pdf>

likely to trigger CWPs in future. However, this position appears to misunderstand the difference between climate and weather, and academic research which reveals that rates of increased winter mortality are actually *higher* in warmer climates than they are in colder nations. Climate scientists also warn that while average temperatures in Scotland are likely to increase over time, weather patterns are liable to become more extreme. While this might change the nature, location and extent of weather-driven enhanced heating needs, it will not remove them. Discarding any link between adverse weather and the provision of financial assistance to vulnerable low income households who are particularly exposed to the risks associated with an inability to adequately heat their home during periods of weather-driven enhanced building heat loss is in our view therefore a misguided response to the challenge of climate change, and one which would appear to sit in opposition to the just transition principles as defined by ss.1(e) to s. 35C of the Climate Change (Scotland) Act 2009⁸.

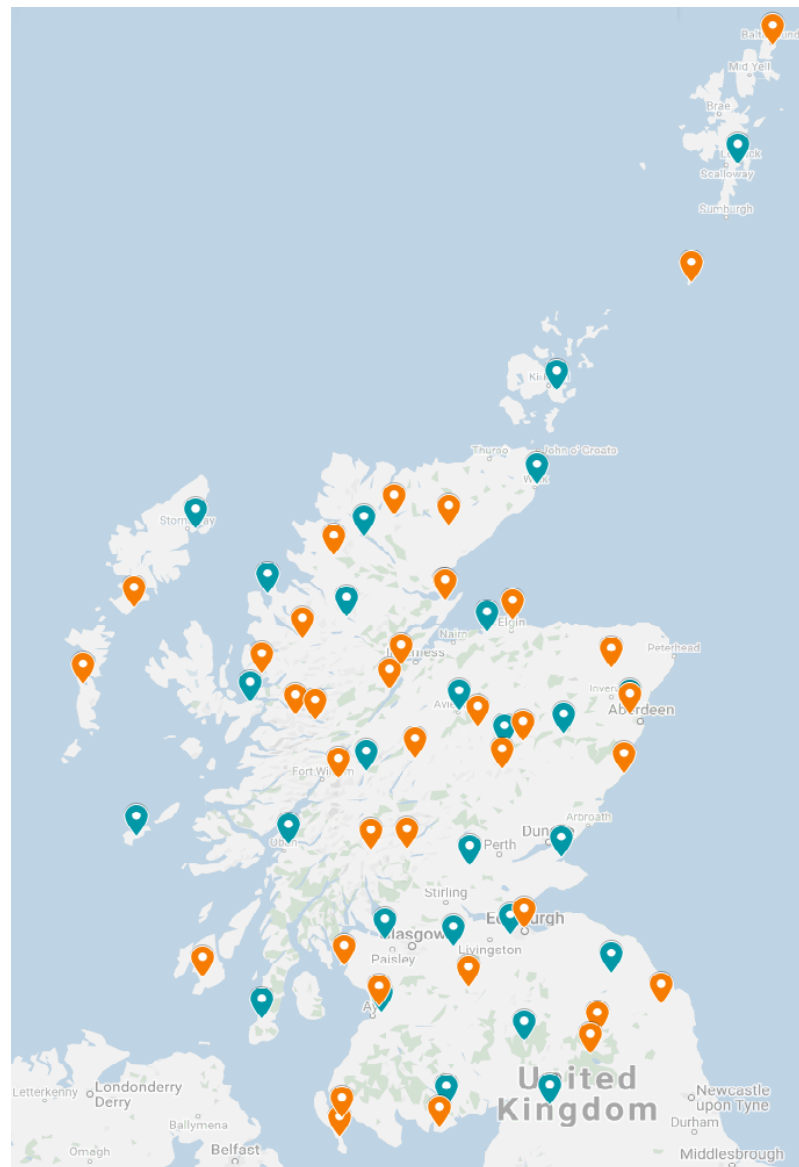
Currently, the CWP scheme acts as a form of crisis support for low income households in receipt of certain benefits who are considered to be most vulnerable to a prolonged period of cold weather. In contrast to the CWP temperature thresholds described by the Scottish Government, this is defined in legislation as occurring where the average (i.e. the mean) of the median forecast or recorded [dry bulb] temperatures, taken over a period of seven consecutive days at defined MET Office [synoptic] weather monitoring stations, falls to 0°C or below⁹. At present, 27 weather stations are used to determine eligibility for CWPs in Scotland (as shown in teal on the map on page 5), with every postcode district in the country assigned to one of those 27 stations. However, there are a further 37 MET Office synoptic weather monitoring stations (shown in orange on the map on page 5) which could be utilised to assess local weather conditions in Scottish communities; each of the 64 weather stations shown on our map records a wide variety of data at least every 3 hours, including the dry bulb temperature, humidity, and information on wind speed and direction.

Vulnerable low income consumers who reside in an area experiencing a prolonged period of cold weather are currently considered eligible for CWPs where they are in receipt of a relevant benefit (or combination of benefits) for at least one day during that period. Since the winter of 2008/9, CWPs have been made automatically to eligible recipients at a rate of £25 for each period of cold weather which occurs between 1 November and 31 March, with monies normally paid to claimants within 14 days of the relevant cold weather 'trigger' being activated by either forecast or recorded temperatures at the relevant location. As such, there are no "cliff edges" in eligibility as the qualifying dates for each Payment are coincident with the dates on which the forecast or recorded weather conditions are sufficient to trigger that Payment, and the level of financial support provided to vulnerable low income households scales with the level of need as measured by exposure to prolonged periods of cold weather.

⁸ <https://www.legislation.gov.uk/asp/2009/12>

⁹ The Scottish Government states in its LIWHA consultation that an average temperature of 0°C or below must be forecast or recorded on seven consecutive days to trigger a CWP. Under this definition, if the average temperature on any one day within a period of seven consecutive days of cold weather is 0.1°C or above, a CWP cannot be triggered. This is incorrect.

As the then Minister for Health and Social Security told Parliament on 2 December 1986, CWPs therefore concentrate help “on the groups of people – the elderly, the sick, the disabled and the very young – on whom most of the concern about risks during periods of bad weather have centred. It is precisely because of our concerns about those vulnerable groups in exceptionally cold weather that we have restricted the broad entitlement and sharpened the availability to those most in need.”¹⁰ As such, it can be seen that CWPs are more intended as a response to the short-term effects of fuel crisis caused by extremes in external temperature than they are as a long-term response to fuel poverty, and we agree with the underlying premise of the scheme, if not the methodology.



Source: <https://www.metoffice.gov.uk/research/climate/maps-and-data/uk-synoptic-and-climate-stations>

¹⁰ <https://hansard.parliament.uk/Commons/1986-12-02/debates/e407f78a-77ff-4b63-90cb-cbc502c23fda/FuelPoverty>

The distinction between fuel poverty and fuel crisis is not one that is made in the Scottish Government's consultation on LIWHA but is important when assessing the purpose and value of the existing CWP scheme. In its absence, a false narrative about the effectiveness of CWPs in addressing fuel poverty in Scotland in the 21st Century is allowed to develop. This is compounded by an apparent mistake in the use of official statistics from the Scottish House Condition Survey (SHCS), with the Scottish Government stating that only 34% of CWPs in 2018 were received by consumers in fuel poverty.

The 2017/18 caseload figures reproduced by the Scottish Government indicate that 393,000 consumers in Scotland were eligible for a CWP in the early months of 2018¹¹. Of this figure, approximately 40.2% were in receipt of Pension Credit. Previous research by CAS has revealed that many consumers in receipt of Pension Credit are not fuel poor by the current definition of fuel poverty in Scotland¹² – largely because many older households have lower housing costs than those of working age – and it is likely that some of the recipients of CWPs in 2018 would fall into this category. However, only five of the CWP weather stations to which Scottish postcode districts are assigned appear not to have triggered a CWP during the "Beast from the East" anticyclone in February and March 2018, and each of these cover lightly populated areas of Scotland. Thus, of the 387,000 CWP recipients in Scotland in 2017/18, we can assume that almost all received at least one CWP in the 2018 calendar year. This compares to 425,000 income poor fuel poor households identified by the SHCS 2018, and a further 194,000 fuel poor but not income poor households¹³.

CWPs are currently paid only to low income pensioners in receipt of pension credit; low income working age citizens in receipt of a means tested benefit which includes additional premiums paid in respect of chronic ill-health, disability, or the age of a partner; and low income working age citizens who are responsible for a disabled child, or a non-disabled child under the age of 5. Under the Scottish definition of fuel poverty, each of these groups (with the exception of non-disabled pensioners aged under 75) is considered more likely to be in fuel poverty than other low income households as they are more likely to fall into a category of persons in requirement of an enhanced heating regime. If only 34% of CWPs in 2018 were paid to consumers in fuel poverty, this would mean that only a minority of vulnerable low income households in Scotland are in fuel poverty. This would undermine not only the Scottish Government's proposals for LIWHA, but also its proposals for the future of the WHD scheme in Scotland and its fuel poverty and energy efficiency programmes.

CAS does not have access to the Scottish Household Survey (SHS) dataset or month-by month breakdown of CWPs in 2018 required properly test the data presented by the Scottish Government in the consultation, but we do not believe the 34% figure quoted to be consistent with the data we do have access to. We would therefore welcome further discussions with the Scottish Government around the current reach of the CWP scheme in Scotland in a cold winter, such as that experienced in 2017/18,

¹¹ As there were no CWP triggers in Scotland in November or December 2018, the 2018/19 caseload figures can be ignored.

¹² <https://www.cas.org.uk/publications/mind-fuel-poverty-gap-warm-home-discount-scottish-context>

¹³ [Scottish House Condition Survey: 2018 Key Findings](#)

to ensure that any decisions taken in relation to the proposed replacement for CWPs are supported by an appropriately robust analysis of the available evidence.

In 2016, the Rural Fuel Poverty Taskforce called for all of Scotland's fuel poverty programmes to be "rural-proofed" to ensure that they prioritise and, in practice, reach, all vulnerable consumers in Scotland, especially those living in off-gas, rural areas. However, in reducing the level of financial assistance provided to some vulnerable low income households in rural and remote rural off-gas areas in a cold winter, the Scottish Government's proposals fail to deliver on this ask. While those areas which are most likely to be financially disadvantaged by the Scottish Government's proposals are generally less densely populated than many of the areas which would stand to benefit in financial terms, the scale of the detriment experienced by those who stand to lose the most is disproportionately greater, both in financial and non-financial terms, than any benefit derived by those who would be perceived to gain. We do not therefore consider that proposals for a LIWHA currently meet the requirements of the Minimum Viable Product, and in a reasonable worst-case scenario we consider it likely that the Scottish Government's proposals would lead to an increase in adverse health outcomes including an increase in winter deaths in those communities most exposed to extended periods of temperature-driven enhanced building heat loss.

3. Do you agree or disagree that this approach is an effective way for the Scottish Government to tackle winter heating costs for people on low incomes?

CAS strongly believes that the proposed LIWHA is neither an appropriate nor effective way for the Scottish Government to tackle winter heating costs for people on low incomes.

4. If you disagreed, please could you explain why?

CAS does not believe that any one intervention can be considered in isolation to be an effective means by which the cost of winter heating can be sustainably addressed for low income households in Scotland. For this reason we are disappointed that the Scottish Government has yet to bring forward a coherent plan to address the various drivers of fuel poverty in different areas of Scotland which takes sufficient regard of differences in household circumstances, including exposure to environmental conditions and the other drivers of enhanced heating needs as set out in regulations¹⁴. CAS had expected such detail to be included in the Scottish Government's recently published Fuel Poverty Strategy¹⁵ and we were disappointed that it was not. We therefore look forward to being provided with the opportunity to work with the Scottish Government and the Fuel Poverty Advisory Panel to improve upon those aspects of the Strategy which are currently lacking.

CAS believes that a cost-effective and impactful approach to the short-, medium- and long-term alleviation of fuel poverty in Scotland requires a combination of measures which act in concert to reduce domestic energy demand and increase household incomes. The extent of the fuel poverty problem in Scotland means that some of these measures need to be quite broadly targeted, while the

¹⁴ <https://www.legislation.gov.uk/ssi/2020/58/made>

¹⁵ <https://www.gov.scot/publications/tackling-fuel-poverty-scotland-strategic-approach/>

nature of fuel poverty in Scotland means that eligibility for other interventions must be much more narrowly defined. Investment in energy efficiency and, to a lesser extent, the WHD scheme would fall into the former category, while winter heating benefits such as the Child Winter Heating Assistance and the devolved replacement for CWPs would come under the latter.

We agree that a coherent package of support should provide low income consumers with the ability and confidence to heat their home to an adequate standard at all times of the year, regardless of fuel type, heating technology or payment method, but we do not consider this an end in itself. Rather, it is the means by which households in Scotland can reasonably expect that regardless of where they live, and regardless of their own financial circumstances, their health, wellbeing and attainment should not be compromised because of an inability to stay warm at home. With adverse weather conditions an acknowledged factor in enhanced building heat loss – and indeed a component of the fuel poverty calculation methodology in Scotland^{16,17} – we do not therefore agree that reducing support for consumers who experience the most inclement weather conditions in Scotland is consistent with this aim. Indeed, rather than reducing inequality, reducing support in a cold winter for those who need it most and removing the provision of that support at the point of need seems destined to increase the level of inequity in Scottish society.

The Scottish Government is legally required to effectively eradicate fuel poverty in every local authority area in Scotland by 2040¹⁸. However, far from improving the level of fairness in the provision of financial assistance to those in greatest need, in our opinion the Scottish Government's proposals for LIWHA will "level down" many of Scotland's rural and remote rural communities. For many vulnerable low income consumers, this will increase the depth of the fuel poverty they experience in a cold winter. Consumers in rural and remote rural communities are already significantly more likely than the national average to be in extreme fuel poverty¹⁹. It is unclear how making the problem of fuel poverty worse for many vulnerable low income households will help to achieve the Scottish Government's statutory fuel poverty targets.

5. Do you agree or disagree with the proposal to name the replacement for Cold Weather Payment (CWP) in Scotland "Low Income Winter Heating Assistance" (LIWHA)?

CAS does not agree that the proposed name for the replacement for Cold Weather Payments in Scotland is appropriate.

6. If you disagreed, please could you explain why?

Express reference to "low income" in the name of the proposed benefit risks stigmatising the very citizens to whom financial assistance is proposed to be targeted. This seems to go against one of the core principles of social security that have been adopted by the Scottish Government in that it appears

¹⁶ <https://www.gov.scot/publications/scottish-house-condition-survey-methodology-notes-2019/documents/>

¹⁷ <https://www.bre.co.uk/filelibrary/bredem/BREDEM-2012-specification.pdf>

¹⁸ <https://www.legislation.gov.uk/asp/2019/10/enacted>

¹⁹ <https://www.gov.scot/publications/scottish-house-condition-survey-local-authority-analysis-2017-2019/>

to pay insufficient respect to the dignity of claimants and potential claimants of winter heating benefits. CAS considers that an alternative nomenclature is therefore required. We propose a more appropriate name for a devolved CWP in our response to Question 8.

7. Do you agree or disagree with the proposal to remove the requirement for a 'cold spell' to be identified in order for a client to receive a payment?

CAS strongly disagrees with the proposal to remove any requirement for a period of adverse weather to be forecast or recorded before a consumer may be considered eligible for financial support under the devolved replacement for CWPs.

8. If you disagreed, please could you explain why?

The fuel poverty methodology adopted by the SHCS utilises the BREDEM 2012 model²⁰. This includes as a component of building heat loss and heat gain calculations a consideration of the external temperature of a dwelling, and the exposure of that dwelling to wind, rain and sun²¹. As such, climatic considerations including but not limited to the dry bulb temperature are an integral part of the fuel poverty modelling which produces the national statistics on fuel poverty rates in Scotland. The Scottish Government's proposals for LIWHA would therefore remove the only form of financial support that currently comes close to accounting for the divergent consumer outcomes caused by regional differences in weather and deny the wider package of measures within its control the ability to be sufficiently locally responsive to factors which influence local fuel poverty rates. We do not therefore consider that removing a link with the weather is consistent with a credible plan to eradicating fuel poverty in every local authority area in Scotland by 2040.

As set out in our response to Question 2, the temperature requirement for CWPs currently relies on a measure of the average (i.e. the mean) of the median forecast or recorded dry bulb temperatures taken over a period of seven consecutive days at defined MET Office synoptic weather monitoring stations across the UK. CAS does not agree that this is the most appropriate proxy that can reasonably be used in the determination of a period of weather that would drive accelerated heat loss from buildings in Scotland and which would reasonably be expected to lead to an enhanced heating need. Though it too is an imperfect proxy, we consider the "feels like" temperature, which takes account of dry bulb temperature, humidity, and airflow (i.e. wind speed and direction), to be a more appropriate measure by which to assess a period of adverse weather in Scotland.

Although the "feels like" temperature is based on the level of heat loss from human skin at a height of 5 feet from the ground, it nevertheless considers more of the factors that are known to result in enhanced heat loss from buildings in Scotland than the dry bulb temperature alone. As such, it is more closely aligned to the calculation of fuel poverty in Scotland than other readily available measures, but it can still be used in a similar way to the existing CWP dataset to determine eligibility

²⁰ <https://www.gov.scot/publications/scottish-house-condition-survey-methodology-notes-2019/documents/>

²¹ <https://www.bre.co.uk/filelibrary/bredem/BREDEM-2012-specification.pdf>

for financial assistance during a period of adverse weather. This would avoid many of the additional issues with the design of the proposed LIWHA scheme that we consider later in this response.

As set out in the map on page 5, MET Office weather stations at 62 sites in Scotland and a further one in each of northern Cumbria and Northumberland currently provide readings sufficient to calculate the “feels like” temperature for communities throughout Scotland at least every 3 hours each day at a far more regionally granular level of detail than the current system of CWP weather stations allows²². While not all of these data points would be suitable for inclusion in an enhanced CWP dataset, we nevertheless consider that a significant increase in the level of detail, when combined with the use of perhaps double the current number of geographical datapoints, would significantly address the Scottish Government’s implied criticisms of the current CWP weather matching data. We also note that MET Office modelling is capable of interpolating these regional datasets into even more geographically granular formats, down to resolutions as high as 1km x 1km²³.

The use of the “feels like” temperature as the relevant temperature metric by which to assess eligibility for a devolved CWP scheme, which we might think of as more of an Adverse Weather Payment (AWP), would make it more likely that vulnerable low income consumers in island and coastal communities would find themselves eligible for financial support as the effects of “wind chill” and driving rain would effectively be accounted for in the methodology for the first time. However, the fundamental premise of the CWP scheme would remain under our proposed AWP – namely, that it is principally designed to provide short-term financial relief from the added heating costs borne by vulnerable low income households in response to periods of inclement weather, and not as a longer-term intervention to address more systemic issues of fuel poverty. This would also avoid confusion on the question of adequacy that the proposed LIWHA inevitably invites as more of a generic winter heating assistance that is worth less than £1 per week to consumers over the course of a year. Perceptions of tokenism on the part of the Scottish Government could therefore more easily be avoided.

While an AWP would address many of the issues with CWPs that the Scottish Government has highlighted in its consultation, its operation would still rely on the use of appropriate weather- and time-based triggers. The precise definition of these triggers would need to be consulted on but in our view it should not be difficult for the Scottish Government to bring forward proposals based on a historical analysis of weather data trends and set against its proposed CWP replacement scheme budget of approximately £20 million per annum – i.e. the triggers, both in terms of time and temperature, would be a function of both the available budget and historical weather patterns, with the triggers designed in such a way to ensure that the target budget would only be exceeded in the most extreme weather scenarios. In such cases, we would anticipate that the level of funding received from the UK Government through the Block Grant Adjustment would be higher than baseline assumptions as an unusually large number of CWPs would have been issued to consumers in Scotland had responsibility for the benefit remained reserved. This would therefore provide sufficient additional

²² <https://www.metoffice.gov.uk/research/climate/maps-and-data/uk-synoptic-and-climate-stations>

²³ <https://www.metoffice.gov.uk/research/climate/maps-and-data/data/haduk-grid/overview>

funding to mitigate any shortfall against the target budget. While this would not address the perceived issue of variability directly, it would ensure that financial support was provided to those vulnerable low income households in greatest need, at or close to the point of need, and paid at a rate that would be responsive to the duration and frequency of need – none of which can be said of the proposed LIWHA.

We accept that in more benign winters our proposed AWP would result in an apparent underspend with respect to the target budget. However, if the need for crisis support does not materialise, we do not consider this to be an issue in the short-term. Repeated large underspends would indicate a need for the triggers to be reviewed, however, and we would in any event recommend a review of the eligibility criteria for AWP at least once every five years to ensure that it continues to deliver on its principal objective.

Where short-term underspend does occur within the proposed AWP, we envisage that any unallocated funds at the end of each winter period would be added to the budget for the Scottish Government's fuel poverty and energy efficiency programmes for the following financial year. This would allow, for example, a temporary expansion of the eligibility criteria for the Warmer Homes Scotland (WHS) scheme and its eventual successor, such that a greater number of vulnerable low income households could benefit from investment in energy efficiency and low carbon heating. This would drive a sustainable and enduring reduction in both household energy bills and CO₂e emissions, and help to ensure that no consumer is left behind by the Net Zero transition. Consumers who could stand to benefit from such proposals could include those with long-term limited capability for work / work related activity, while a temporary expansion of the WHS eligibility criteria could also result in the removal of the passport benefit criterion for consumers in receipt of a low or middle rate award of DLA. Low income working age non-family households, for which there are ready proxies in the reserved benefit system, are also often overlooked by the Scottish Government's fuel poverty and energy efficiency programmes and could also benefit from any short-term relaxation of WHS eligibility.

Such an approach to the design of an AWP scheme would effectively create a single flexible pot of funding that is primarily designed to address short-term energy crisis but capable, when circumstances allow, of providing vulnerable low income consumers with enduring energy bill reductions through the recycling of unallocated funds to increase investment in energy efficiency and low carbon heating solutions. CAS and the Existing Homes Alliance are among the Scottish Government's stakeholders to have highlighted that its investment in energy efficiency is currently insufficient to meet its statutory fuel poverty and CO₂e emissions reduction targets. Providing additional funding for the fuel poverty and energy efficiency programmes at no additional cost to the taxpayer would therefore represent a mature and sustainable approach to the management of public finances whilst still allowing the Scottish Government flexibility to take meaningful action to address the twin challenges of fuel poverty and climate change.

It should be noted that the Scottish Government has previously proposed a single flexible pot of funding for energy efficiency and energy bill discounts in its plans for the future delivery of the WHD scheme and the Energy Company Obligation (ECO) in Scotland, as detailed in its Heat in Buildings

Strategy²⁴. CAS did not support those proposals because we understood that they were designed in such a way as to significantly defund investment in energy efficiency in Scotland whilst simultaneously facilitating an increase in energy use. This appeared to us to be incompatible with the Scottish Government's statutory CO₂e emissions reduction targets²⁵ and an inefficient means of addressing fuel poverty. We note that similar concerns have since been expressed by the retail energy industry and its stakeholders in response to suggestions by Net Zero Watch that the answer to rising energy bills caused by a global crisis in the wholesale cost of gas should be to remove costs from consumers' bills by cancelling ECO altogether²⁶. It should be stressed therefore that our single flexible pot for AWP could only ever *increase* investment in energy efficiency when compared to baseline funding, not decrease it.

CAS acknowledges that with so much resource having been invested in the development of the proposed LIWHA, there is now unlikely to be sufficient time to develop and consult on alternative proposals for an AWP within the legislative timeframes to which Scottish Government is working. In view of our concerns regarding the consumer outcomes that are likely to be delivered by the proposed LIWHA, we therefore consider an interim approach to the devolution of CWPs is required. This would see the Scottish Government focus on the delivery the Minimum Viable Product – i.e. a devolved CWP scheme with identical triggers and eligibility criteria to the reserved scheme it is intended to replace, but with the opportunity to recycle any Year 1 underspend against the target budget in full through the Scottish Government's fuel poverty and energy efficiency programmes in Year 2 (and so on). As soon as time allows, we would then welcome an open and informed debate with the Scottish Government and its stakeholders as to the development and use of an alternative set of weather- and time-based triggers to ensure that the full benefits of CWP devolution can be realised.

9. Do you agree or disagree with the proposal to have a one off, annual payment for LIWHA?

CAS strongly disagrees with the proposal to implement the devolved replacement CWPs as a one-off, annual payment to eligible recipients.

10. If you disagreed, please could you explain why?

As set out in our response to Question 2, CWPs currently scale with the perceived level of need within a specified group of vulnerable low income consumers and are paid automatically to eligible consumers at or close to the point of need. By aligning eligibility for a CWP to the receipt of a qualifying benefit (and the meeting of other relevant qualifying criteria, as required) in any one day during the relevant period of cold weather with which the Payment is designed to assist, the CWP scheme is also responsive to changes in household circumstances during the course of a winter period and can direct short-acting support to those who are considered to need it most.

²⁴ <https://www.gov.scot/publications/heat-buildings-strategy-achieving-net-zero-emissions-scotlands-buildings/>

²⁵ <https://www.legislation.gov.uk/asp/2019/15/enacted>

²⁶ Carbon Brief has recently demonstrated that previous cuts to energy efficiency programmes are currently costing GB billpayers an additional £2.5 billion per year in unnecessary energy costs – see <https://www.carbonbrief.org/analysis-cutting-the-green-crap-has-added-2-5bn-to-uk-energy-bills>

The Scottish Government's proposals for LIWHA discard these principles in favour of what is described as "greater certainty". However, a single annual payment automatically creates an added and unavoidable risk that financial assistance will not be provided to vulnerable low income consumers at a time when it would make the most difference to consumer outcomes, and also inherently requires the creation of "cliff edges" in eligibility through the imposition of a qualifying date or dates which set a consumer's entitlement to the receipt of financial assistance for the entire winter period. As such, the Scottish Government's proposals appear to have been designed more with administrative ease in mind than with a focus on the measurable consumer outcomes the investment is designed to deliver. While we accept that there is a balance to be struck in this regard, we do not believe these additional risks have been appropriately accounted for or mitigated in the Scottish Government's proposals for LIWHA. We would therefore highlight that our proposals for an AWP, as outlined in our response to Question 8, avoid these issues and in our view are consequently better placed to deliver positive consumer outcomes at the time of need than would be possible under the Scottish Government's proposals for LIWHA.

11. Do you agree or disagree that our approach to identifying eligibility should be through the use of qualifying benefits?

CAS agrees that the use of qualifying benefits to identify eligibility for the devolved replacement for CWP's serves as a practicable and efficient means of targeting support to the majority of those for whom financial assistance is likely to make the most difference. While such an approach inevitably means that consumers who do not claim the social securities to which they are entitled would be excluded from eligibility for the devolved replacement for CWP's, we do not believe that an alternative approach would meet the requirements of the Minimum Viable Product. The use of qualifying benefits as a proxy for households likely to be in need of additional support is also consistent with the approach adopted in the provision of other forms of domestic energy bill support for vulnerable low income households, including the Scottish Government's Child Winter Heating Assistance, the WHS scheme, and the WHD scheme. We would however underline how important it therefore is to ensure that all households in Scotland, including those considered hard to reach, receive the support they are entitled to through both the devolved and reserved social security systems.

The Scottish Government has leaned heavily on the third sector in the development of its Benefit Take Up Strategy²⁷ but has said little to date on how it will support the role of the third sector in its delivery. The recently published Fuel Poverty Strategy²⁸, and proposals for the future of the WHD scheme in Scotland, are also less explicit in their support of the role of the third sector in meeting the statutory fuel poverty and CO₂e emissions reduction targets than they might have been. CAS does not believe that the public sector and centralised services such as Home Energy Scotland alone can deliver the improved levels of consumer engagement and behaviour change that is sought by the Scottish Government across each of these policy areas. We therefore believe that the Scottish Government needs to come forward with firm proposals as to how it intends to support its third sector partners in

²⁷ <https://www.gov.scot/publications/social-security-scotland-act-2018-benefit-take-up-strategy-october-2021/>

²⁸ <https://www.gov.scot/publications/tackling-fuel-poverty-scotland-strategic-approach/>

the realisation of our shared objectives of reducing inequality and improving consumer outcomes for the citizens of Scotland.

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

Not applicable.

13. Do you agree or disagree with the proposal to retaining the current qualifying benefits to indicate eligibility for this new payment?

CAS considers that the Minimum Viable Product for the devolution of CWPs should retain, as a minimum, the current qualifying benefits to indicate eligibility for this new Payment, particularly in view of the absence of time available to undertake a comprehensive overhaul of eligibility criteria before the targeted commencement date. We do however believe there to be scope in future to revisit the qualifying benefits used to determine eligibility for the replacement for CWPs to ensure that those most in need of additional support are not unfairly excluded from it.

14. If you disagreed, please could you explain why?

Not applicable.

15. Do you agree or disagree that the eligibility criteria for the LIWHA are clear?

The eligibility criteria for the devolved replacement for CWPs, as currently proposed, are complex. However, they are no more complex than the eligibility criteria for the current CWP scheme, with which many vulnerable low income consumers in Scotland are already familiar.

CAS recognises that in targeting support to the most vulnerable low income consumers, an element of complexity within eligibility criteria is inevitable; the nature of the reserved benefits system means that a mixture of proxies must be used to ensure that vulnerable low income households are treated equally, regardless of the principal means tested benefit they receive. We agree that the devolved replacement for CWPs should continue to focus its support on the most vulnerable low income consumers and we therefore believe that the eligibility criteria proposed by the Scottish Government are as clear as they reasonably can be in the circumstances.

However, while the sample size was small, we note that although more than three quarters of consumers who participated in the Scottish Government's Social Security Experience Panels on Cold Spell and Winter Heating Assistance reported that they understood what CWPs are, many of the consumer comments which came out of that research suggest that some consumers are misinformed as to who is currently eligible for CWPs²⁹. For example, it is reported that "some [participants] also said that the eligibility criteria for who gets the payment should be reviewed – with some feeling that

²⁹ <https://www.gov.scot/publications/social-security-experience-panels-cold-spell-winter-fuel-payment-report/>

they are too strict and that people on Employment Support Allowance should also be eligible³⁰. This suggests that there is scope for the Scottish Government to better inform consumers of the relevant eligibility criteria applicable in Scotland once it becomes responsible for the delivery of the devolved replacement for CWPs.

Given the above, CAS would encourage the Scottish Government to work with the DWP to ensure that communication of eligibility for the devolved replacement for CWPs is made clear in all relevant communications issued to consumers through the reserved benefits system. This may involve the inclusion of wording bespoke to the new Scottish Payment on award letters issued to consumers by the DWP, including those issued to communicate any relevant reserved benefit uprating. We would consider it good practice for this wording to be co-designed with stakeholders including but not limited to current recipients of CWPs in Scotland.

We would also note that any change of name to CWPs in Scotland following devolution should be communicated in such a way that current and future claimants clearly understand not just the eligibility criteria for the new Payment, but also that the new Payment has *replaced* CWPs for consumers in Scotland. This will help to ensure that consumers are not left confused as to their respective entitlements from the Scottish and UK governments. Again, good practice would see a form of words developed with the help of stakeholders including but not limited to current recipients of CWPs in Scotland.

CAS looks forward to engaging further with the Scottish Government on these matters in due course.

16. If you disagreed, please could you explain why?

Not applicable.

17. Do you agree or disagree that the proposed rate of £50 for LIWHA is appropriate?

CAS strongly disagrees that an arbitrary cap and floor on the level of support to be offered by the devolved replacement for CWPs is either appropriate or equitable.

18. If you disagreed, please could you explain why?

CAS welcomes the desire of the Scottish Government to better support vulnerable low income consumers with the cost of their domestic energy needs. However, we believe that the proposed cap and floor on the level of financial assistance provided under the proposed LIWHA is insufficient to result in any meaningful improvement to the outcomes experienced by the majority of vulnerable low income consumers in Scotland. Our response to Question 20 explores this issue in further detail, but in short it is evident that the quantum of the proposed LIWHA will result in no statistically significant

³⁰ Low income consumers in receipt of, or with an underlying entitlement to, income-related Employment and Support Allowance have been eligible for CWPs since 2008, provided they have undergone a work capability assessment; they are responsible for a disabled child or any child under the age of 5; or they are entitled to an enhanced disability, severe disability, or pensioner premium.

improvement to the level of fuel poverty among those households who would benefit most from it. Conversely, among households who live in parts of Scotland more regularly exposed to periods of temperature-driven enhanced building heat loss, the Scottish Government's proposals will increase the fuel poverty gap and are likely, in a cold winter, to result in many experiencing adverse outcomes to their health and wellbeing. The Scottish Government's default position that the proposed LIWHA would be best paid as a cash benefit also has a negative effect on the likely impact of the proposed Payment on fuel poverty rates among the target demographic. This has wider implications for public spending in other areas which are relevant to the cost-effectiveness of the overall LIWHA policy.

We also do not agree that the level of the proposed cash benefit should be immune from uprating each year, in line with the CPI measure of inflation. While we recognise that the existing CWP scheme has been paid at a flat rate of £25 since it was uprated from £8.50 ahead of the 2008/9 winter period, we note that the Scottish Government has taken an alternative approach in the delivery of its Child Winter Heating Assistance and we would expect it to replicate that approach with its devolved replacement for CWPs if these are, as proposed, to remain payable as a cash benefit³¹.

More fundamentally, we also question the outcomes that the proposed cap and floor will deliver. As set out in our response to Question 2, the existing CWP scheme is more of a response to the short-term effects of fuel crisis caused by extremes in external temperature than it is a long-term response to fuel poverty. As such, it is responsive to regional variations in the extent and timing of periods of temperature-driven enhanced building heat loss, and in many respects is more closely analogous to the Scottish Welfare Fund's Crisis Grants scheme than it is to a WFP or WHD rebate, both of which are targeted at more systemic issues of fuel poverty.

In the year to 30 September 2021, local authorities in Scotland provided £19.796 million in Crisis Grant support to consumers experiencing an emergency, or following a disaster³². This is very similar to the aggregate annual investment the Scottish Government proposes for its devolved replacement for CWPs. However, although the average Crisis Grant award in the year to 30 September 2021 was £113.82, significant regional differences are evident within the data. For example, average awards ranged from £69.76 in the Scottish Borders and £71.76 in West Dunbartonshire, to £143.70 in The Highland Council area and £170.50 in Orkney. Applying the same principles as the Scottish Government has applied in the development of its proposals for LIWHA, this level of locally responsive variability to the provision of support with unexpected household costs is unfair because consumers in different parts of the country receive different levels of financial assistance. By this measure, a fairer system would seek to remove this variability and ensure that all households with low levels of financial resilience are treated equally. This might ultimately lead to the conclusion that the Crisis

³¹ Payment of the devolved replacement for CWPs as an energy bill discount would result in a scheme of support more analogous to the current WHD scheme, and the absence of an annual uprating mechanism could therefore be more easily justified. As we set out in our response to Question 20, it would also be more impactful from a fuel poverty perspective, and without uprating its effect on the fuel poverty rate would erode at a slower rate than if paid as a cash benefit due to the nature of the current fuel poverty definition in Scotland.

³² <https://www.gov.scot/publications/scottish-welfare-fund-statistics-update-to-30-september-2021/>

Grant scheme should be replaced with a single annual payment of £42 to all 474,190 households in Scotland in receipt of a council tax reduction³³, with the guaranteed payment assumed to deliver better consumer outcomes by making it less likely that low income households would lack the financial resilience to absorb an unexpected financial shock.

For the avoidance of doubt, CAS does not believe that such an approach would deliver improved consumer outcomes for households experiencing an emergency, or following a disaster, and we are not proposing that the Scottish Government should replace the Crisis Grants scheme with an alternative scheme of assistance. Indeed, we recognise that, in providing support which is responsive to local circumstances, the Crisis Grants scheme provides a timely and proportionate means of ensuring that consumers facing a short-term financial crisis are treated equitably, regardless of their circumstances or geographic location, precisely because it is responsive to local needs and is not subject to an arbitrary cap or floor on the level of assistance that can be provided. By the same token however we do not believe that the Scottish Government's proposed LIWHA will deliver improved outcomes for vulnerable low income consumers who experience periods of weather-driven enhanced building heat loss because it is *not* proposed to be responsive to local needs and *does* impose an arbitrary cap and floor on the level of support provided. We consider that this will increase, rather decrease, inequality between communities of place and within communities of interest.

We strongly agree that many vulnerable low income households require additional help to that currently available if they are to be sustainably removed from fuel poverty. We do not agree however that this should be achieved at the expense of vulnerable low income consumers in parts of Scotland that are already exposed to greater levels of temperature-driven enhanced heating need. CAS does not therefore agree that the devolution of CWPs is the appropriate vehicle by which to provide this additional support to consumers and we wish to reiterate our strong desire to work with the Scottish Government to develop a more coherent and complimentary package of financial support to address these more systemic issues for all low income and fuel poor consumers in Scotland.

19. Do you agree or disagree with the proposal for LIWHA to be given to clients in the form of a cash payment and not another form?

CAS neither agrees nor disagrees with the proposal for the devolved replacement for CWPs to be given to consumers in the form of a cash payment and not another form.

20. If you disagreed, please could you explain why?

The Scottish Government states in support of its proposals for LIWHA that because there is an overlap between the proposed eligibility criteria for the devolved replacement for CWPs and the household characteristics identified by the terms of The Fuel Poverty (Enhanced Heating) (Scotland) Regulations

³³ <https://www.gov.scot/publications/council-tax-reduction-local-authority-tables-and-charts/>

2020³⁴ as needing an enhanced heating regime, “it can be assumed that a guaranteed payment [of £50] each winter would have the effect of reducing the fuel poverty rates in those households.”

In our Mind the Fuel Poverty Gap report [2020]³⁵, CAS found that the combined effect of the existing CWP, WFP and WHD schemes on the rate of fuel poverty in Scotland in 2018 was negligible. Having undertaken an analysis of a dataset from the SHS, we concluded that the three payments combined resulted in only a 0.3 percentage point reduction in the level of fuel poverty in 2018, from 25.3% to 25.0%. This is equivalent to relative decrease in the fuel poverty rate of 1.19%, which represents an extremely poor return on a total annual investment of almost £240m³⁶. In contrast, we found that if all three payments were applied as energy bill discounts, as is currently the case with WHD, the fuel poverty rate in Scotland in 2018 would have decreased by 3.2 percentage points, to 22.1%. Without any change to the quantum of financial assistance provided to individual households, or to the eligibility of households for support under any of the three schemes, this would have been equivalent to a 12.65% relative decrease in the fuel poverty rate.

Because the definition of fuel poverty in Scotland is a function of both a household’s fuel bills and its adjusted net income, a household whose adjusted net income is sufficient to meet 90% of its relevant Minimum Income Standard (MIS) can be removed from fuel poverty if either its income increases or its fuel bills decrease. These can be considered as addressing the “income-related fuel poverty gap” and the “fuel bill-related fuel poverty gap”, respectively. An efficient suite of policies would address the lowest of these figures to sustainably and equitably lift the greatest number of households out of fuel poverty with the funds available.

Our research has shown that 93% of households in Scotland had a fuel bill-related fuel poverty gap that was lower than the relevant income-related fuel poverty gap in 2018³⁷. As such, if household adjusted net income is sufficient to meet 90% of the relevant MIS then the vast majority of households in Scotland can be more easily removed from fuel poverty through an energy bill reduction than they can through an increase in income. This can be demonstrated by the sensitivity analysis on page 19, in which we increased the net adjusted income of households in the SHS dataset by 2%, 5%, 10%, and 15%, while keeping everything else the same. We then repeated the analysis by decreasing the modelled fuel bills in the SHS dataset by 2%, 5%, 10%, and 15%, while keeping everything else the same.

Our analysis shows that while a relative increase in income or an equivalent relative decrease in fuel bills achieves roughly the same impact on the fuel poverty rate up to a relative change of ±15%, in

³⁴ <https://www.legislation.gov.uk/ssi/2020/58/made>

³⁵ <https://www.cas.org.uk/publications/mind-fuel-poverty-gap-warm-home-discount-scottish-context>

³⁶ For comparison, the Scottish Government’s investment in fuel poverty and energy efficiency in the 2018/19 financial year was £114.3m

³⁷ Note that this research was undertaken before the MIS uplift for rural, remote rural and island households was formally quantified in 2021. It therefore relies on the application of the remote rural, remote small towns, and island uplift based on the approach taken by the 2017 Scottish Fuel Poverty Definition Review Panel, as used by the Scottish Government in the fuel poverty analysis in the Scottish House Condition Survey: 2018 Key Findings.

absolute terms the average increase in net adjusted income needs to be significantly higher than the corresponding decrease in fuel bills before the same effect on fuel poverty rates is achieved. This difference is specifically due to the nature of the fuel poverty definition in Scotland; in practice, all else being equal it ought to make little difference to a household whether financial support of a given value is provided as a cash benefit or in the form of an energy bill discount as the quantum of financial support provided would be the same in either case.

Increase in net income or decrease in modelled fuel costs	Income increase		Fuel bill decrease	
	Fuel poverty level	Average needed net income increase	Fuel poverty level	Maximum needed fuel bill reduction
2%	24%	£254	24%	£57
5%	24%	£599	24%	£385
10%	22%	£1,175	22%	£374
15%	21%	£1,640	20%	£454

Source: <https://www.cas.org.uk/publications/mind-fuel-poverty-gap-warm-home-discount-scottish-context>

These findings demonstrate that the provision of financial assistance to aid with winter heating costs as a cash benefit to eligible recipients is an inefficient means of addressing fuel poverty for the majority of households in Scotland under the current definition of fuel poverty. As such, by bringing forward proposals that would see the devolved replacement for CWPs paid as a cash benefit to eligible recipients, the Scottish Government’s proposed LIWHA will have less of an impact on the rate of fuel poverty in Scotland than payment as an energy bill discount would achieve. Indeed, in contrast to the Scottish Government’s assumption that a guaranteed annual payment of £50 would have a positive impact on fuel poverty rates among consumers who require an enhanced heating regime, we conclude that the proposals would have no statistically significant positive impact on fuel poverty rates, and in the best-case scenario would have only a minor impact on the relevant fuel poverty gap. At worst, in a cold winter – as was the case in the winter of 2017/18 – the data makes clear that vulnerable low income consumers in many parts of predominantly remote and remote rural Scotland would be faced with an even higher fuel poverty gap than would have been the case under the existing CWP scheme. Ultimately, the proposed LIWHA would therefore result in a greater number of households remaining in fuel poverty than would be the case under an alternatively designed scheme. In turn, this will require the provision of even greater investment in other forms of support before these households can be lifted out of fuel poverty.

In December 2021, the Social Justice and Social Security Committee wrote to the Cabinet Secretary for Net Zero, Energy and Transport to ask the Scottish Government “to make use of its devolved powers to the full extent to make sure that social security benefits are used for the maximum impact on tackling fuel poverty”³⁸. CAS agrees that it is essential that public funds are used efficiently to improve equality of outcomes for all consumers in Scotland. Without evidence to support the proposals

³⁸ <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-social-justice-and-social-security-committee/correspondence/2021/tackling-fuel-poverty-in-scotland-a-strategic-approach>

in the consultation, we are therefore unclear why the Scottish Government's default position for the payment of the devolved replacement for CWPs is for the provision of financial support to vulnerable low income consumers as a cash benefit.

For the avoidance of doubt, CAS recognises that there are challenges to the delivery of direct financial assistance as an energy bill discount. We do not however consider these challenges to be insurmountable; we would cite for example the apparent success of the Scottish Government's Home Heating Support Fund as proof that direct financial support can be provided to consumers as an energy bill discount, irrespective of payment method or fuel type. Although some of the Scottish Government's stakeholders have expressed concern that replicating such an approach in the payment of the devolved replacement for CWPs might result in energy suppliers using such monies to pay down a consumer's energy debt where they are in arrears, and in so doing erode the immediate value of the payment to eligible recipients, it is our considered view that such concerns would only have practical implications for consumers with prepayment meters. With an appropriate use of energy industry data, which can be used to identify households with prepayment meters, we believe that this risk could be avoided through the issuance of payments as fuel vouchers to consumers who use prepayment meters³⁹. CAS would therefore welcome the opportunity for further discussions with the Scottish Government about the most appropriate means by which to provide financial support to consumers eligible for the devolved replacement for CWPs before any final decisions are made.

21. Do you agree or disagree with the proposal to pay LIWHA as an annual one-off payment each winter?

CAS does not consider a single annual payment to be an appropriate or effective way to provide support to vulnerable and low income households in this context.

22. If you disagreed, please could you explain why?

Please refer to our response to Question 9.

23. Do you agree or disagree with the proposal to set a 'qualifying week' during which eligible clients for LIWHA will be identified?

CAS strongly disagrees with the proposal to set a single qualifying week during which eligibility for the devolved replacement for CWPs would be set for the duration of the relevant winter period.

24. If you disagreed, please could you explain why?

CAS recognises that the requirement to introduce a qualifying period to set eligibility for the proposed LIWHA is an inherent part of the scheme design chosen by the Scottish Government; in practice, it is the only practicable way that eligibility for a benefit in the form proposed can be set. However, adopting such an approach to eligibility for what is currently effectively a crisis support payment is

³⁹ The Scottish Government has experience of funding the provision of fuel vouchers to vulnerable low income consumers through its apparently successful partnership with the Fuel Bank Foundation.

inherently much less fair than the system it is intended to replace as it creates “cliff edges” of eligibility that do not exist under the current CWP scheme.

Currently, consumers need only be in receipt of a qualifying benefit (and meet any other relevant qualifying criteria, as required) for one day in a period of cold weather to be found eligible for a CWP in relation to that period of cold weather. This means that the circumstances of consumers at the point of need can be adequately reflected in eligibility for additional support at the time that the need occurs. This is an approach that is replicated in our proposals for an AWP, as detailed in our response to Question 8.

Conversely, the Scottish Government’s proposals for LIWHA mean that if a consumer begins to meet the qualifying criteria after the relevant qualifying date, they are excluded from 100% of the financial assistance proposed under the LIWHA scheme for that financial year, irrespective of their acknowledged need for additional financial support on the basis of low income and vulnerability.

While such an approach was acceptable in the creation of the Child Winter Heating Assistance because no extant scheme was being replaced, we do not consider it appropriate to insert additional barriers to eligibility when devolving an existing benefit from the UK Government. With no proposals brought forward in mitigation of these issues, CAS therefore cannot support the introduction of arbitrary qualifying periods for the proposed LIWHA as they will only serve to exclude vulnerable low income consumers from eligibility for support to which they would have otherwise been entitled under the existing CWP scheme. We acknowledge the absence of a qualifying period renders the entire LIWHA proposal unworkable, and we refer to our alternative proposals for an AWP accordingly.

25. If you agreed, please indicate a preference for when you think the qualifying week for LIWHA should be?

Not applicable.

26. Do you agree or disagree with the proposal to make LIWHA payments to clients in February of each year?

As set out in our response to Question 21, CAS does not consider a single annual payment to be an appropriate or effective way to provide support to vulnerable and low income households in response to a period of weather-driven enhanced heating needs. While we recognise the operational considerations that have influenced the Scottish Government’s proposed payment date in the first year following the devolution of CWPs, we also do not consider February to be the most appropriate month in which to issue such payments.

27. If you disagreed, please could you explain why?

One of the most frequent criticisms of the UK Government’s WHD scheme is that many eligible households in the Broader Group do not receive their rebate until March. Many consumers, and particularly those with prepayment meters, feel that the provision of financial assistance through the

WHD scheme arrives significantly after the period when such support would have made the most difference⁴⁰.

CAS understands that the Scottish Government's proposal to issue its LIWHA in February is partly driven by practical considerations relevant to the delivery of the proposed Payment in its first year. We also understand that February is considered to be the most appropriate month in which to provide support for winter heating costs as this is when the majority of CWP triggers in Scotland have historically occurred. However, although many parts of Scotland experience periods of severe weather in February, and for some communities February is typically the coldest month of the year, for the majority of consumers January is, on average, colder. As such, it might reasonably be expected that average heating costs for most households in Scotland would be higher in January than they are in February, and that the consumer outcomes delivered by a single annual payment of the proposed LIWHA would be greatest if financial support was provided to vulnerable low income households ahead of the period of greatest need.

28. Do you agree or disagree with the proposal that clients have 31 days to request a redetermination?

It is unclear from the consultation whether the Scottish Government intends to define the proposed 31-day period in which a consumer can request a redetermination of the proposed replacement for CWPs in calendar days or working days. More fundamentally, it is also unclear how the Scottish Government intends to communicate a nil award to consumers ineligible for the proposed replacement for CWPs. As it is proposed that consumers would not have to apply for the benefit and there would be no obvious trigger for payment, it is unclear how consumers might reasonably be expected to identify that an error may have been made in the determination of their eligibility for financial assistance. Consequently, it is also unclear how consumers with an unidentified eligibility for the proposed replacement for CWPs might reasonably know that they had the right in law to challenge a nil award that they considered to be incorrect, or when the time period in which a request for redetermination to be set out in regulations might commence. CAS would welcome further clarity on these matters as, if the Scottish Government introduces its proposed LIWHA on the basis consulted on, we consider that the only way to avoid these ambiguities would be for Social Security Scotland to write to *every* recipient of a qualifying benefit with a registered address in Scotland. It is however not clear whether claimants of qualifying benefits ineligible for the devolved replacement for CWPs because they do not meet the relevant additional criteria would welcome the receipt of an annual letter informing them of a nil award of a benefit they had not applied for and in relation to which they could have no reasonable expectation of entitlement. An assessment of the likely administrative cost incurred in writing to all recipients of a qualifying benefit with a registered address in Scotland each year would also help to inform wider considerations as to the cost-effectiveness of the overall LIWHA policy.

⁴⁰ https://www.cas.org.uk/system/files/publications/cas_whd_fp_report_final_version_mw.pdf

29. If you disagreed, please could you explain why?

Please see our response to Question 28.

30. We have proposed that Social Security Scotland have a period of 16 working days to consider a redetermination of LIWHA. Do you agree or disagree with this proposal?

The Scottish Government has not set out why Social Security Scotland would require more than 3 calendar weeks to redetermine eligibility for the devolved replacement for CWPs. We note however that under current proposals, eligibility for the devolved replacement for CWPs would be determined entirely through data matching with elements of the reserved benefits system. We do not anticipate that redeterminations for a single annual payment benefit determined on such a basis would be a high volume or resource intensive workflow, but greater clarity would be necessary for us to take an informed view on this aspect of the Scottish Government's proposals. We do not, for example, currently have access to mandatory reconsideration caseload data in respect of CWPs in Scotland and so we have no baseline against which to assess how appropriate the proposed target is.

We also note that there is an inconsistency in the use of "working days" by which to set the proposed redetermination target when compared to other Social Security Scotland administered benefits which use equivalent timeframes measured in "calendar days". The reasons for this are not set out and it is not therefore possible for CAS to take a view as to whether this is appropriate in the circumstances. In the absence of good cause, we do not however believe it is helpful to vulnerable consumers, or those who support them, for the Scottish Government to employ arbitrarily different metrics by which to set redetermination timeframes across the Scottish social security system. It would in our view therefore be preferable if redetermination timeframes were consistently defined either in terms of "working days" or "calendar days", even if for practical reasons the number of relevant days differs between social securities.

There also appears to be some ambiguity within the consultation document as to when the 16 working day period in which a redetermination is to be made would start; in successive sentences across pages 25 and 26, the Scottish Government suggests that the redetermination period would begin on the day on which a request for redetermination is received, and that the redetermination period begins on the following working day:

"Social Security Scotland should have 16 working days, beginning with the day Social Security Scotland receives the request, to make the fresh determination. This period is to be counted from the next working day after Social Security Scotland receives a redetermination request in the format required by the Agency."

With reference to other Scottish social securities, we suspect the relevant time period is intended to begin on the day on which the request for redetermination is received. Clarity on this is, however, required.

31. If you disagreed, please could you explain why?

Please see our response to Question 30.

32. Can you identify any potential unintended consequences which we have not considered in these proposals?

As we have set out throughout this response, CAS is concerned that for many vulnerable low income consumers, LIWHA will make fuel poverty, and in particular extreme fuel poverty, worse. The evidence, including a considerable body of peer-reviewed academic research^{41, 42}, also strongly suggests that in a cold winter, LIWHA is likely to prove prejudicial to the health, wellbeing and attainment of many vulnerable low income households in Scotland. We are extremely concerned about the negative consumer outcomes this will deliver, including the impact on winter mortality.

The proposed redistribution of income in a cold winter from areas of Scotland that are most exposed to prolonged periods of cold weather to areas of Scotland which are relatively less exposed to extended periods of weather-driven enhanced building heat loss is in our assessment extremely likely to increase material deprivation and inequality between communities of place and within communities of interest at times of acute household financial stress. While the majority of vulnerable low income households would benefit from a small net increase to their average annual income under the proposed LIWHA, we do not consider that the timing and quantum of the proposed Payment will result in any material improvement to consumer outcomes for the majority of such households. In contrast, the scale of the detriment experienced by those who stand to lose the most is disproportionately greater, both in financial and non-financial terms, than any benefit derived by those who would be perceived to gain. We do not therefore consider that proposals for a LIWHA currently meet the requirements of the Minimum Viable Product, and in a reasonable worst-case scenario we consider it likely that the Scottish Government's proposals would lead to an increase in adverse health outcomes including an increase in winter deaths in those communities most adversely impacted.

In 2014, CAS estimated that the effect of fuel poverty on the health of consumers in Scotland costs the NHS up to £80 million per year⁴³. We consider that the outcomes delivered by the Scottish Government's proposed LIWHA will increase these costs. This then becomes a relevant factor to wider considerations as to the cost-effectiveness of the overall LIWHA policy.

In addition, by reducing during a cold winter the amount of financial support provided to vulnerable low income consumers from communities most exposed to prolonged periods of cold weather, and removing the link between the occurrence of periods of weather-induced enhanced building heat loss (i.e. need) and the payment of support, we consider it extremely likely that additional costs will be borne by the public, private and third sectors as consumers in financial distress seek crisis support

⁴¹ <https://www.nrscotland.gov.uk/files//statistics/winter-mortality/2020/winter-mortality-19-20-info.pdf>

⁴² <https://webarchive.nrscotland.gov.uk/20210317083750/https://www.nrscotland.gov.uk/files//statistics/winter-mortality/2018/winter-mortality-17-18-pub.pdf>

⁴³ <https://www.cas.org.uk/system/files/publications/economic-impact-of-energy-efficiency-investment-in-scotland.pdf>

from other services. These impacts will be localised in both time and place and will include an increased demand on the Scottish Welfare Fund for Crisis Grant support. We note that no assessment of these impacts appears to have yet been made by the Scottish Government, nor measures proposed in mitigation.

33. Please set out any information you wish to share on the impact of LIWHA on groups who share protected characteristics.

As we have set out throughout this response, while the majority of vulnerable low income households would benefit from a small net increase to their average annual income under the Scottish Government's proposals for LIWHA, we do not consider that the timing and quantum of the proposed payments will result in any material improvement to consumer outcomes for the majority of such households. In contrast, the scale of the detriment experienced by those who stand to lose the most is disproportionately greater, both in financial and non-financial terms, than any benefit derived by those who would be perceived to gain. Due to the targeted nature of the proposed Payments, these risks – including risks to health, wellbeing and attainment – will be disproportionately born by disabled adults, disabled children and young people, children under the age of 5, women (including but not limited to women during pregnancy), and vulnerable pensioners. We would also anticipate negative outcomes will be experienced by low income vulnerable members of the Gypsy/Traveller community where they reside in areas of the country more exposed to prolonged periods of cold weather due to the generally lower levels of energy efficiency from which such households benefit and their consequential increase in exposure to the effects of cold weather. We do not consider any of these additional risks are present in our proposals for an AWP.

34. Please set out any information you wish to share on the impact of LIWHA on children's rights and wellbeing.

Any policy which holds the potential to reduce, without appropriate mitigation, the provision of crisis support to low income households with disabled children, or households with non-disabled children under the age of 5, at times of exceptional financial stress is likely to present a risk to the health, wellbeing and attainment of children in Scotland. While it is true that many such households in Scotland would stand to benefit from the Scottish Government's LIWHA proposals from a net financial perspective, we do not believe that the timing or quantum of support they would provide will result in any meaningful improvement to the experience of vulnerable low income households struggling with the cost of keeping warm during the coldest periods. However, in a cold winter, and particularly in those areas of Scotland most exposed to periods of adverse weather, it is apparent that many vulnerable low income households will see the amount of financial support they receive to assist with the cost of staying warm reduce. This is likely to have a negative effect on the respiratory and mental health, wellbeing, and attainment of some children in Scotland which outweighs any marginal gains experienced by households that live in less exposed areas of the country and will lead to an increase in material detriment and inequality between communities of place and within communities of interest.

For all vulnerable and low income households, but particularly those who use prepayment meters, the provision of a single annual payment on an arbitrary date in February each year also means that,

unlike with the current CWP scheme and our proposals for an AWP, the link in time between the point of greatest need and the provision of financial assistance is broken. We do not consider that this is helpful in ensuring positive consumer outcomes.

In addition, the imposition of a qualifying date or dates that are not linked to the point of greatest need (i.e. periods of weather-induced enhanced building heat loss) also means that low income households which become vulnerable after the qualifying period will be excluded from the proposed scheme of assistance for the duration of that winter period. Among the groups affected by this are low income households into which a baby is born, and low income households in which a child becomes disabled, after the qualifying period. We note that these risks are neither present in the current CWP scheme nor in our proposals for an AWP.

CAS therefore considers it likely that the Scottish Government's proposals for LIWHA will have a negative overall effect on the health, wellbeing and attainment of many children in Scotland, the majority of whom live in remote or remote rural communities and many of whom already live in extreme fuel poverty.

35. Please set out any information you wish to share on the impact of LIWHA on businesses.

CAS strongly believes that the Scottish Government's proposed LIWHA will have an adverse impact on businesses and charities who support low income and vulnerable households in Scotland during and following periods of cold weather. These impacts will be localised in both time and place and will be particularly keenly felt by those organisations who assist consumers to access financial and non-financial assistance at times of crisis. This includes community-based organisations such as third sector advice agencies and food banks, regulated energy suppliers, the Extra Help Unit, and organisations providing direct financial aid such as emergency fuel vouchers, including but not limited to Home Energy Scotland.

36. Please set out any information you wish to share on the impact of LIWHA on Island communities.

The analysis of CWP trends included as Appendix A to this response shows that island communities have historically been significantly less likely to receive financial assistance through the CWP scheme than the average community in mainland Scotland. This is a function of the CWP scheme's focus on average median dry bulb temperatures at or below 0°C over 7 consecutive days – temperatures which are less likely to be met in Scotland's island communities. Under the current CWP scheme, the level of need for short-term assistance in response to extended periods of cold weather is therefore less than occurs elsewhere, and thus support on this basis is less likely to be provided. We would note however that our proposals for an AWP, in considering other drivers of increased building heat loss, would make it more likely that island communities would receive financial assistance with the added cost of heating during periods of adverse weather which would give rise to an enhanced heating need.

In our assessment, the Scottish Government's proposals for LIWHA will also have a net positive financial impact for Scotland's island communities. However, as we have set out throughout this

response, we do not consider that the timing or quantum of the proposed payment will make any meaningful impact on the outcomes experienced by the majority of vulnerable low income consumers. This is particularly true in island communities, where fuel poverty and extreme fuel poverty rates are amongst the highest in Scotland and the median fuel poverty gap is generally significantly higher than the national average⁴⁴.

37. Please set out any information you wish to share on the impact of LIWHA on reducing inequality of outcome caused by socio-economic disadvantage.

As we have set out throughout this response, the redistribution of income in a cold winter from areas of Scotland that are most exposed to periods of cold weather to areas of Scotland which are relatively less exposed to extended periods of temperature-driven enhanced building heat loss will in our assessment increase material deprivation and inequality between communities of place and within communities of interest at times of acute household financial stress. This will ultimately present a serious risk to the health and wellbeing of many vulnerable low income consumers in Scotland.

The majority of consumers most likely to be negatively impacted by the Scottish Government's proposals for LIWHA already face a higher cost of living than a typical consumer in Scotland due to the "rural premium" which persists in rural and remote rural communities. For the purposes of the fuel poverty definition in Scotland, this has recently been quantified through the MIS uplift⁴⁵. It is not clear how increasing overall household incomes within the target demographic at the expense of many vulnerable and low income consumers who already experience a higher-than-average cost of living will reduce inequality.

In addition, official statistics show that consumers who reside in those parts of Scotland most likely to be negatively impacted by the proposed LIWHA are more likely to be in fuel poverty or extreme fuel poverty than the majority of those who would be perceived to gain from the Scottish Government's proposals, and are more likely to live in a home with poor levels of energy efficiency⁴⁶. These underlying factors are likely to exacerbate the negative outcomes experienced by low income vulnerable consumers in such areas upon the removal of a form of financial assistance that is responsive to temperature-driven enhanced building heat loss and its replacement with a flat rate payment which would be received on an arbitrary date in February.

Our proposals for an AWP avoid these risks, are more consistent with the methodology used to calculate fuel poverty in Scotland, and in our assessment would drive more positive and more equitable consumer outcomes by reducing, rather than increasing, inequality.

⁴⁴ <https://www.gov.scot/publications/scottish-house-condition-survey-local-authority-analysis-2017-2019/>

⁴⁵ <https://www.gov.scot/publications/cost-remoteness-reflecting-higher-living-costs-remote-rural-scotland-measuring-fuel-poverty/>

⁴⁶ <https://www.gov.scot/publications/scottish-house-condition-survey-local-authority-analysis-2017-2019/>

38. If there is anything else you would like to tell us about the described policy intention, impact assessments or LIWHA in general, please do so here.

It is impossible for CAS to comment on draft impact assessments that have not been published or otherwise shared by the Scottish Government. We are therefore unable to provide the level of scrutiny we believe is appropriate of the statutory consumer advocacy body on these matters. We have previously highlighted to the Scottish Government that access to draft impact assessments during a period of consultation is essential if stakeholders are to be allowed to take a sufficiently informed view of, and enable the provision of constructive feedback in respect of, Government's policy proposals.