July 2018

**Funeral Expense Assistance Regulations**

**Scottish Government**

1. **Do you think that the draft regulations (Annex A) are likely to meet the policy intent set out in this document?**

Yes- We believe the draft regulations will meet the intention of reducing the burden of debt people on low incomes may face when paying for a funeral. However, we believe the draft regulations could go further to meet this goal and set out our proposals in more detail below.

1. **Can you identify any potential unintended consequences of the regulations?**

No

1. **Can you identify any gaps in the regulations?**

As we highlighted in our evidence submission to the Social Security Committee, we believe that the Scottish Government has missed a vital opportunity to raise the FEA flat rate payment. Whilst we welcome the commitment to increase payments with inflation, the current maximum assistance payable is £700 which, as the consultation document notes, has been frozen since 2003.

It is evident that £700 is not enough to meet the cost of a basic funeral as highlighted by research from Citizen Advice Scotland, the average fee for a funeral director alone is £1,900.[[1]](#footnote-1) Our Freephone helpline, which provides advice, information and friendship to people over 50, receives calls asking for advice in relation to the cost of funerals. In one situation, one of our callers had been informed by their funeral director that they were confident the Funeral Payment would cover the cost of the funeral being arranged. Unfortunately the caller, who accepted this guidance, was left with a substantial bill as the Funeral Payment turned out to be less than had been expected, and the funeral had already taken place by the time the benefit was received, leaving the person with substantial debt.

We, therefore, not only recommend the Scottish Government review the flat rate payment in light of the real costs of a funeral, but also ensure there is better communication with local authorities and funeral directors, so it is clear how much money claimants will receive, and avoid substantial bills based on misinformation.

1. **Is the application window for FEA clear?**

Yes

1. **We have proposed that the applicant must usually have the nearest relationship to the person who has died, and in exceptional family circumstances, such as estrangement, that they explain to Social Security Scotland why they should be considered to be the appropriate person who will take financial responsibility for the funeral. Do you agree with this approach?**

Yes

1. **We have proposed that applicants must be habitually resident in Scotland, and the person who has died must be ordinarily resident in the UK to qualify. Do you agree with a this approach?**

Yes

1. **We propose that qualification by being in receipt of UC should be an award of more than £0 in the month before or the month in which the application is made. Do you agree with this approach?**

Yes

1. **Is the qualifying benefit / tax credit eligibility clear?**

Whilst the list of qualifying benefits are clear, there are specific issues for older people in relation to FEA’s qualifying benefits. As we stated in our submission to the Committee, we would therefore like to see the list of qualifying benefits to be reviewed in light of the issues we’ve highlighted below.

The new Single Tier State pension is set at £164.35 a week, and Pension Credit for a single person is £163. Despite the mere £1.35 difference in weekly income, an older person receiving Single Tier State pension will not be entitled to FEA.

Age Scotland is also aware of the issues people receiving Council Tax Support, which is no longer a qualifying benefit after replacing Council Tax Benefit. This is despite the fact that for older people it is based on the same criteria and provides the same level of support as the previous system. This means a homeowner with an income of £5 more per week than the Pension Credit threshold, cannot claim a funeral payment, whereas a tenant receiving Housing Benefit who has the same level of income could receive FEA.

We are also concerned that the **mixed age couple** rules concerning Universal Credit and Pension Credit will prevent some older people from receiving qualified benefits for FEA. This scenario relates to a couple where one is of working age and the other is of pensionable age. Under the mixed age couple rules, due to be introduced in autumn 2018, a couple will not be able to claim Pension Credit until the youngest reaches their State Pension age. Instead the younger member of the couple will need to claim Universal Credit, and satisfy the Universal Credit rules, which may require signing on at the jobcentre and seeking work, or qualifying as a carer, or proving they are not well enough to work.

It is also important to note that it is likely there will be occasions where the spouse of the deceased person is **living in a care home**, and has a low income, is supported mainly by public funds, but has no entitlement to a qualifying benefits. This is a situation which must be considered seriously by the Scottish Government in regards to FEA.

The issue of having an income which is marginally too high for entitlement, or not being in receipt a qualifying benefit, is addressed by the **Scottish Welfare Fund guidance**, which we believe should be applied to FEA regulations. This could also help to mitigate against the confusion caused by changes to Support for Mortgage Interest (SMI), as for some older people SMI changes will mean they are no longer entitled to Pension Credit. It is unjust that only those in receipt of SMI would qualify for FEA, rather including those who would be entitled but who choose to cut back on their spending instead of taking the secured loan. The discretion about low income, is therefore a useful tool in identifying those who should benefit from FEA.

1. **We have proposed to continue with the presumption that where there is a bill outstanding and the applicant consents, the payment will be made directly to the funeral director. Where the bill has already been paid, the payment will be made to the applicant.**

Yes

1. **We have proposed not to make deductions from the payment award where there are assets in the name of the child who has died.**

Yes -This sounds a good approach although other organisations are better placed to comment on this point.

1. **We have proposed that requests for an FEA re-determination should be made within 31 calendar days of receipt of notification of the original determination. Do you think that is an acceptable time period**

Yes

1. **We have proposed that an FEA re-determination should be processed within 15 working days of receipt of a request.**

**Do you think that is an acceptable time period?**

Yes

1. **Do you have any additional evidence or impacts which are not covered in the EQIA or CRWIA?**

Yes

For FEA to be truly accessibly it must take into account potential barriers older people may face in making claims, such as those **living with long term conditions and, or disabilities**.

It is essential that people who are appointees, or who have **Power of Attorney** should be recognised as having the authority to act on behalf of the claimant, in an efficient manner. We expect the delivery of social security at a local level will help in these situations, and information regarding claiming FEA to be provided in an accessible and variety of different languages and formats, such as BSL, audio, braille, and easy read versions. Social Security Scotland’s FEA Advisors also have an invaluable opportunity to act as a point for further support, and should able to signpost people to services such as bereavement charities, and information and advice services such as Age Scotland’s Freephone helpline.

1. **Do you have any additional evidence or impacts which are not covered in the draft BRIA?**

**No**

**Want to find out more?**

As Scotland’s national charity supporting people over the age of 50, Age Scotland works to improve older people’s lives and promote their rights and interests. We aim to help people love later life, whatever their circumstances. We want Scotland to be the best place in the world to grow older.

Our Policy, Communications and Campaigns team research, analyse and comment on a wide range of public policy issues affecting older people in Scotland.

Our work is guided by the views and needs of older people themselves.

**Further information**

Contact the Age Scotland Policy, Communications and Campaigns team:

policycomms@agescotland.org.uk

0333 323 2400

Twitter [@agescotland](http://www.twitter.com/agescotland)

Facebook [/agescotland](http://www.facebook.com/agescotland)

Linkedin [Age-Scotland](https://www.linkedin.com/company/age-scotland/)

[www.agescotland.org.uk](http://www.agescotland.org.uk)

1. Citizens Advice, The Real Deal: Funeral Costs, <https://www.cas.org.uk/publications/real-deal-funeral-costs> [↑](#footnote-ref-1)