

CALL FOR EVIDENCE RESPONSE FORM

SOCIAL SECURITY COMMITTEE

SOCIAL SECURITY (SCOTLAND) BILL

SUBMISSION FROM Link Housing Association Ltd.

Control of a number of existing social security benefits is being passed from the UK Government to the Scottish Government. The Parliament would like your views on the Scottish Government's plans before they become law. The Social Security Bill is the proposed law.

1. The Bill aims to provide a framework for the creation of the Scottish social security system. In addition the Scottish Government has chosen to put most of the rules about the new benefits in Regulations. It believes that putting the rules in Regulations will make things clearer and less confusing. Parliament cannot change Regulations, only approve or reject them. The Scottish Government intends to develop Regulations with external help.

Q. Do you have any views on this approach?

Having the rules written in a regulatory manner should provide a clear understanding of how the rules will apply. However, often regulations become written in an overly legalese manner without clear guidance, providing an inaccurate understanding and interpretation which can lead to inappropriate decision making.

Regulations need to be clearly laid out with explanatory notes if necessary to avoid having to provide guidance to supplement regulations. Two (or more) documents covering the rules lead to confusion. Also, what is meant by "... most of the rules ...". What format will the rest of the rules be in? Who will the external help be? It should be an unbiased organisation with knowledge of how the current system does not meet the needs of vulnerable people it is supposed to assist.

2. The Bill proposes that the Scottish social security system will be based on the following seven principles:

- Social security is an investment in the people of Scotland.
- Social security is a human right. It is essential to accessing other human rights.
- Respect for the dignity of individuals is at the heart of the Scottish social security system.
- The Scottish Government has a role in making sure that people are given the social security assistance they are eligible for.
- The Scottish social security system will be designed with the people of Scotland, and based on evidence.
- The Scottish social security system should always be trying to improve. Any changes should put the needs of those who require social security first.

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- The Scottish social security system is efficient and delivers value for money.

Q. What are your views on these principles and this approach? Please explain the reason for your answer.

We fully support these principles in that the principles should be the cornerstone of any social security system. Having the right to manage certain benefits separate from the rest of the country should allow the new system to be delivered in a much more person centred manner with a working knowledge of how poverty affects the most vulnerable in our country. However, applying these principles in the day to day management of claims and administration of benefit payments is crucial

Q. Are there other principles you would like to see included?

We believe the principles listed in Q2 are sufficient, if adhered to and implemented within the spirit intended. Regulations/Charter must be robust enough to ensure that these underlying principles prevail.

3. The Bill proposes that there will be a publicly available social security 'charter'. This will say how the Scottish Government will put the seven principles above into practice. It will also say what is expected from people claiming benefits. A report on the charter will be produced by the Scottish Government each year.

Q. Do you agree with the idea of the charter? Please explain the reason for your answer.

We do agree with the idea of a charter –

- Easier for a claimant to access rather than trying to research legislation to find relevant sections.
- Easier to read and be understood by claimants than the legalese involved in the writing of legislation.
- More straightforward for claimants to try and challenge the principles if they are not implemented.
- As many claimants are disabled and/or suffer from poor health, having a Claimant Charter in line with the NHS Patient Charter provides consistency and clarity

Q. Is there anything specific you would like to see in this charter?

- The responsibilities of the claimant and the social security staff (eg the HMRC Code of Practice COP26 states "When you contact us for information we should give you correct advice based on the information you give us. We'll offer you support if you want us to explain your decision to you and talk you through this in detail".
- If these responsibilities are not met, the outcome.
- Which circumstances could be considered exceptional if a claimant fails to meet their responsibilities.

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- The role of any appointee.
- Implicit consent consistently applied.
- How to challenge decisions which are made by social security staff.

4. The Bill proposes rules for social security which say:

- how decisions are made and when they can be changed
- how to apply and what information people have to provide
- how decisions can be challenged
- when overpayments must be repaid
- what criminal offences will be created relating to benefits.

Q. Do you have any comments on these rules?

No, as long as the rules are clearly laid out and easily understandable

5. The Scottish Government will take over responsibility for some current benefits. The Bill does not explain how they will work in detail. This will be set out in Regulations at a later date. The current benefits which will be run by the Scottish Government are:

- disability assistance (including disability living allowance, personal independence payment, attendance allowance and severe disablement allowance)
- carer's allowance
- winter fuel payments
- industrial injuries disablement benefit
- cold weather payments
- funeral payments
- sure start maternity grants

Q. What are your thoughts on the schedules in the bill in regard to these benefits?

Carer's Allowance – Appears to allow for an award even if the disabled person is not in receipt of a “disability benefit” in certain circumstances and this appears to be a positive move. The rest of the schedule is rather vague at this time.

6. The Bill proposes that a new type of short-term assistance will be introduced. This will be for someone who is challenging a decision to stop or reduce a Scottish benefit.

Q. What are your views on this proposal?

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Having a short-term assistance payment is crucial to support and also encourage claimants to challenge decisions which they deem to be unfair. The definition of “short-term” would need to be made clear. Also this payment must not require to be repaid by the claimant, regardless of what the outcome of the challenge may be and must be easy for claimants to access.

7. The Bill includes the power for the Scottish Government to be able to top up ‘reserved’ benefits (ones controlled by the UK Government), but does not say how these will be used. The Scottish Government also has the power to create new benefits. This is not included in the bill.

Q. Do you agree with these proposals?

Yes. The impact of the austerity measures put in place by the UK Government has hit some of the poorest in Scotland considerably therefore having a fund to mitigate some of these impacts should be incorporated into the new bill.

The power to create new benefits should be incorporated into the bill but as the current system is extremely complex already, this power should be used with caution.

8. The Bill proposes that carer’s allowance should be increased as soon as possible to the level of jobseeker’s allowance (from £62.10 to £73.10 a week).

Q. What are your thoughts on this proposal?

At a minimum, CA should be increased to the level of JSA. The role of carers, whilst acknowledged publicly by government, is not reflected in the amount they receive. As means tested benefits are not devolved it is important that either the increase in CA is disregarded for means tested benefits or there is also a top up for the Carer Premium in means tested benefits. Without this the increase to CA would simply be deducted from the means tested benefit, leaving the claimant no better off. In the worst case scenario, it could remove entitlement to the means tested benefit and all the passported benefits associated with it.

9. The Bill proposes that discretionary housing payments continue as they are. They will still be paid by local authorities. The Bill does not require any local authority to have a discretionary housing payments scheme but if they do, they must follow Scottish Government guidance on running it.

Q. Do you agree that discretionary housing payments should continue largely as they are?

A consistent approach is required when administering DHPs across all local authorities. This is extremely important for RSLs and welfare rights agencies which

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cover several local authorities within their remit. The DHP fund should not just be to mitigate the impact of the “bedroom tax” but increased to also cover short falls in rent for other reasons and to support those in financial distress

Q. Do you have any other views on the proposals for discretionary housing payments?

If DHPs are not to be regulated it is important that the Scottish Government produces robust guidance to ensure consistency across local authorities. The guidance should also determine the manner in which applications are made, the duration of awards, reviewing and renewing claims and explicitly determine when the payment should be made to the claimant and when it should be made direct to the landlord.

10.Q. Is there anything else you want to tell us about this Bill?

No.