



Evidence submitted by CIH Scotland: Call for evidence on Social Security Bill 22 August 2017

About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world including over 2,000 in Scotland.

Further information is available at: www.cih.org

CIH contact:

Ashley Campbell,

Policy & Practice Manager

ashley.campbell@cih.org

1. General comments

- 1.1 CIH Scotland welcomes the opportunity to respond to the Social Security Committee's call for evidence on the Social Security Bill. The devolution of powers over certain areas of social security presents an opportunity for the Scottish Government to shape a system that better meets the needs and aspirations of the people of Scotland.
- 1.2 We support the Scottish Government's focus on creating a system based on human rights, dignity and respect. However, we do have some concerns about how these principles will be applied and measured. We also have some concerns about how the performance of the new social security system will be monitored and reported on. These concerns are set out below.
- 1.3 Given our focus on issues relating to housing, we have not addressed all of the questions set out by the Committee but have focussed on those most relevant to our members and our expertise.

2. Questions

- 2.1 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?

We understand that setting out rules in relation to specific benefits in regulations rather than in the Social Security Bill is intended to make the legislation easier to follow or to revise at a later date if necessary and agree that this is a sound objective. However, we do have some concerns about the drafting and scrutiny of regulations. Consideration should be given to the introduction of an independent body equivalent to the Social Security Advisory Committee (SSAC) for Scotland. Such a body could advise on the content of regulations, which in many cases will require specific technical expertise, and help to ensure impartial and transparent review of and reporting on the operation of the new social security system as a whole.

It will be important to ensure that the expertise of those who work directly with the current system (such as welfare rights advisors) is taken into account during the drafting of the regulations as well as the experiences of service users. Frontline workers will be able to advise on aspects of the current system that could be improved and the how the new regulations are likely to work in practice and alongside reserved benefits.

- 2.2 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.

CIH Scotland's submission to the Social Security Committee



- 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.
- 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 welcome the Scottish Government's principles based approach to social security. We hope this will mark the start of a culture change in Scotland and a move away from the negative rhetoric which has come to be associated with the UK welfare system in recent years. The use of divisive labelling such as "strivers and skivers" is damaging and needs to be reversed.

While we agree with the general principles set out in the Bill, we do have some concerns about how they will be interpreted, how they will be applied within the new system and how performance against these principles will be measured.

It is not clear how subjective terms such as "dignity" and "respect" will be measured, who will be responsible for ensuring that the principles are adhered to (Scottish Ministers, the new Social Security Agency or agency staff) and what the consequences will be of failing to meet them. Similarly, principle 7 states that the new system should be "efficient". This could be interpreted as needing to drive down the cost of delivery or, on the other hand, needing to provide a quick and accessible service for members of the public. The intentions of the principles need to be clarified.

Principle 5 states that the new system will be based on evidence. We welcome this approach but again, it is not clear what evidence it will be based on, who will be responsible for collating the evidence or testing the effectiveness of the system.

2.3 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 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 a charter? Please explain the reason for your answer.

Yes, we agree that a Charter should be introduced. It may help to make the system and the rules relating to social security more accessible to the general public and help people to understand what they can expect from the system. The Scottish Social Housing Charter, introduced in 2012 has helped to encourage greater participation from social housing tenants and customers in service development and scrutiny and more transparency in the performance of social landlords. We think that a similar Charter relating to the social security system could deliver similar benefits.

However, we do have some concerns about the proposal for performance monitoring. The Bill requires Scottish Ministers to prepare and publish an annual report on the performance of the social security system in relation to the Charter. The Bill requires Ministers to set out a description of what they have

done to meet the expectations of the Charter but it does not mention any requirement for Ministers to set out plans to improve performance or what the consequences would be for failing to meet the expectations set out in the Charter.

We believe that an element of independent scrutiny should be introduced to ensure impartial reporting. We also think that the annual report should flag up performance failures if there are any and set out actions to be taken to rectify these. As stated above, consideration should be given to the introduction of an independent body similar to the SSAC.

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

The Charter should clearly define the seven principles that are to underpin the new system and how these will work in practice. For example, will the principles just set a basis for performance monitoring or will a claimant be able to appeal a decision or an action if they feel that the principles have not been adhered to? The Charter should set out how performance will be measured against the principles, the consequences for failing to meet these expectations and steps that will be taken to address any specific issues arising or to improve performance in general.

2.4 The Bill proposed 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?

We welcome the provision for Ministers to be able to make a determination of an individual's entitlement to assistance without an application in certain circumstances. This would be very useful where Ministers decide that a specific group should be entitled to assistance such as those affected by the 'bedroom tax'. However, we do have some concerns about potential unintended consequences relating to the claimants' duty to notify changes in circumstances and rules relating to overpayments.

If a payment is made automatically to a person for any reason, they may not be aware of what that payment is or what it is for, especially if they are in receipt of Universal Credit and receiving a number of benefits as a lump sum. Experience of communicating with tenants following the introduction of the 'bedroom tax' showed that many were unaware of their rent liability or that they were even in receipt of housing benefit as it was paid directly to their landlord. If a claimant is unaware of their entitlement, they may be unable to or unaware of their obligation to notify changes in circumstances and could therefore be overpaid.

This is particularly concerning given that the proposals in the Bill allow for overpayments to be recovered in full regardless of whether the error was made by the claimant or a mistaken decision made by agency staff. With regards to overpayments in general, the circumstances under which these can be recovered following an error made by the agency and when this would be reasonable need to be set out.

2.5 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?

We support the introduction of 'Short Term Assistance'. It is vitally important that a person has access to income while an appeal is being considered to prevent loss of income which can lead to build up of rent arrears, other debt or difficulty in paying for essentials such as food and fuel.

Ideally we would like to see extension of similar payments for reserved benefits but acknowledge that this could potentially have significant financial implications for the Scottish Government which does not have any influence over the decision making process or timescales of the DWP.

2.6 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?

We welcome the inclusion of powers for the Scottish Government to top up reserved benefits. This power can provide a much better basis for financial mitigation of welfare reform measures than the current use of discretionary funding such as Discretionary Housing Payments (DHPs) used to mitigate the 'bedroom tax' and Scottish Welfare Fund (SWF) used to mitigate the removal of automatic entitlement to housing assistance for 18-21 year olds.

It is not clear why the power to create new benefits has not been included in this Bill. We acknowledge that the application of such a power is likely to be complicated and costly and that the Scottish Government may not wish to make use of such a power in the immediate future or at least until the new system is established and there is a means of delivering a new benefit. However, if the basis for creating new benefits is not to be included in this Bill, we would welcome clarification of how or when the use of this power is to be addressed.

2.7 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?

The current system for DHPs being administered by local authorities generally works well. Our members and other stakeholders agree that using DHPs to provide longer term mitigation against welfare reform measures such as the "bedroom tax" and the benefit cap is not ideal. It does not provide certainty for households and uses what is intended to be a discretionary fund to support a range of households. We understand that the Scottish Government is exploring options to mitigate the "bedroom tax" through top ups to Universal Credit. This would be a welcome move and top ups could potentially be used to address other cuts to entitlement.

CIH Scotland's submission to the Social Security Committee



It is not clear why a local authority would be able to opt out of providing DHPs, especially if funding is provided by the UK or Scottish Government. The Bill should include a duty for all local authorities to provide DHPs subject to funding being available.