

SOCIAL SECURITY COMMITTEE SOCIAL SECURITY (SCOTLAND) BILL  
SUBMISSION FROM AJ Kirkwood

*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.*

*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?*

I have found this difficult to understand. Given that Parliament cannot change Regulations – who can? If whichever person or body decides in future to change the criteria so that, for example, a given category of applicant would no longer receive money, or would receive far less money what recourse would that applicant have to protest those changes? Either as an individual or as a group. How would they find out about the proposed change? While having faith that the current government intends to treat people fairly, how could the Regulations be used/abused by a future government who didn't share those ideals.

The external help, as I understand it, is comprised of two groups, the Experience Panel – members of the public and the Advisory Committee – experts in various relevant fields. I have a concern that some of those working in the Third Sector who claim to represent various groups eg, Disabled People, are not that representative. That they have agendas of their own and, however well meaning, their goal is the continued existence of their organisation. Since these people are appointed, not elected, where is the accountability? Equally “evidence based” policy is a phrase much heard, but can we be sure that the evidence base is wide and robust enough to include potential criticisms of an approach.

*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.*

*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.*

Yes, I do believe it's an investment in people. To imagine yourself never needing support, whether short term or long term, to imagine that you will always be fine, is arrogant in the extreme. All lives have worth and the support provided should be to enable that worth and potential to be maximised as best suits the individual. Judge a society by how they treat the vulnerable and those in need.

The Scottish Government cannot do everything, but the floor, the baseline for a decent standard is the responsibility of government.

Value for money can be seen as more than just the total budget for the department. If someone who works there is given the chance to work there where another employer was less understanding, less flexible, then that person is not requiring out of work benefits – this will not save money for this Government in Scotland, but it would better the life of the individual. Similarly any procurement opportunities within this system – getting the cheapest price may not be the best value for Scottish society. That said, eliminating waste and duplicated effort, eliminating the principle of targets (that so often get overturned at appeal) would save a lot of money. And eliminating *profit* as a motive for any body involved is essential.

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

If there is no demonstrable reason for the information held about an individual to be kept from them, everyone should have access to all official records held about them in the system. Not on the basis they have to fill in forms and request special access, but that the screen is turned toward them, that the decision makers speak directly to them as a matter of course. Where an advocate needs to be appointed to enable this, it should be done, again as a matter of course.

*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.*

I am unclear how the charter would function; from my limited understanding I support the idea.

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

There are 3 groups, the claimants, the government, but also the staff claimants will interact with – their behaviour also needs to be covered by the Charter, as the culture change required to create a system with respect is going to be hard.

As previously stated having the information held about you be open, without needing special requests or forms to be filled in should be part of the new system. For the screen to be turned toward you, both literally and figuratively. If there is no demonstrable reason for the information held about an individual to be kept from them, everyone should have access to all official records held about them in the system. Having this right as a part of the Charter could help with the cultural shift needed.

The right to an advocate could also be included in the charter, creating an obligation to fund and support these services throughout the country. To aid a vulnerable person in understanding what is being said about them or to them, and also in the case of fraud or mistake investigations.

*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?*

My reading of the Bill did not make it clear to me how decisions would be made or when they would be changed. I do not know what is intended. Again, how to apply and what information is to be provided is to be a matter for Regulations, so there is no indication of what is intended.

The right to appeal at various levels is clear and needed. Likewise mistakes or fraud do need to be investigated – and where proven, the money does need to be recovered.

However it must not be underestimated the stress, and damage, that can be done to a person being accused or investigated – especially where the charges prove false. Malicious reporting of fraud exists. Mistakes are frequently made by the current system and blamed on the applicant. One can hope the latter will not be anywhere near as prevalent in the new system and that mistakes will not be assumed to be the fault of the applicant. Investigations will be necessary. Where the system registers that the applicant is a vulnerable person (and the system *must* note this to shape it's responses to people) an advocate should automatically be identified or appointed as part of any investigation. However it turns out the stress involved could quite literally cost someone their life and proper care and support could prevent such tragic consequences and save people a great deal of distress.

*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?*

I support the principle the Minister has stated several times that it is more important to get things right first time, than to rush ahead and risk the future of these payments. However disappointing the time taken is to those of us waiting for a better system, I would rather they got it right.

*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?*

It is very welcome. Leaving people destitute or in financial distress pending an appeal has caused a lot of harm.

*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?*

Since it isn't included, how can one comment?

*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?*

It's a start. There is much work that needs to be done to change Carer's Allowance, especially with regard to permitted earnings in part time work and the hours permitted for education and training. But I don't really have the experience to speak to the detail of this.

*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?*

No. I was unaware that it was not required for all councils. There should be no difference in the level of support from one part of Scotland to another. Making a minimum standard for the provision of Discretionary Housing Payments is needed.

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

I have a concern about the definition the Bill uses for what constitutes a Disabled Person. It is not clear to me that "impairment" absolutely means that people who are disabled through chronic illness are included in this definition. The difficulties experienced by people with an illness, often with fluctuating conditions, are very different from that experienced by someone disabled from a single event, eg an accident causing permanent injury. Nonetheless, those of us with chronic illness need to be able to access care and support services and to be granted the same rights as those who are more commonly thought of by the public as "disabled". I have experienced being told by a person with a different disability that because my illness is not, without exception, permanent that I am not disabled.