

CALL FOR EVIDENCE RESPONSE FORM

SOCIAL SECURITY COMMITTEE

SOCIAL SECURITY (SCOTLAND) BILL

SUBMISSION FROM INDEPENDENT ADVOCACY PERTH AND KINROSS

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?

We feel that it is important to write a bill that embeds human rights at its core and therefore into every aspect of the legislation, policy and practice to ensure a rights based approach for anyone going through the system. To achieve this, we feel it is essential to provide a system that considers properly the overall experience of users, and to do this it needs to detail how the system will operate and the outcomes aimed for. A key element to achieving this and reassuring people that their rights are at the heart of the Bill is to include a legal right for anyone going through the social security system the right to access independent advocacy.

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.

Whilst the principles of the Bill are welcomed, we feel that the status of the principles should be within the legislation. In addition, more detail about accountability to protect rights of people when the principles are not upheld, for example what action will be taken. Incorporating the PANEL principles and clear definition of what is meant by 'dignity' would support the Bill as based in human rights and the statement that it is an "investment in the people of Scotland".

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

As stated above, accountability as a key principle along with robust reporting mechanisms for the Scottish Government to ensure there are means of assuring this.

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.

A 'charter' is welcomed, however we feel it is important that it has proper legal status to prove its commitment to the International Covenant on Economic, Social and Cultural Rights.

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

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?

As stated in above responses, we feel the rules should encompass a rights based approach with accountability. It would also be important to include an independent review of the implementation within a time period. If this were included, clear timescales and time limits would be essential along with transparency and fairness

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for the whole system. We also feel that the rules should be clear and easy to understand.

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?

No comments

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?

To avoid unnecessary difficulties for people using the system, easy to understand and clear processes should be agreed. We feel that the most practical and transparent process for this would be to continue payment whilst an appeal process is being undertaken.

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?

No comment

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?

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We welcome this proposal

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?

No comment

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

No comment

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

We believe that the Bill could be strengthened if it included a clear and evidenced commitment to upholding the human rights of anyone claiming social security.

As a key way of ensuring this commitment, we would like to see anyone claiming social security to be able to receive support from an independent advocate at any stage of the process if they need it. Independent Advocacy organisations have individuals who have significant experience of supporting people through the social security system, which could help to make it more accessible, more user focussed, more efficient and responsive. We also believe that there needs to be a clear commitment to provide sufficient resources to independent advocacy organisations in order to realise this, and that it is essential for this to be advocacy that is independent for the trust and confidence of the people who need it. We believe this resource should come from the Scottish Government as social security is a Scottish Government responsibility and independent advocacy will help people to effectively navigate, engage with and fully participate with the new system.

Through the pilot Social Security projects, they have evidenced the increased effectiveness of the system when a person has been supported by an independent advocate, the likelihood of which will potentially prevent unnecessary additional expenditure and resources to the system by getting it right at all stages and preventing excessive appeals.