

CALL FOR EVIDENCE RESPONSE FORM

SOCIAL SECURITY COMMITTEE

SOCIAL SECURITY (SCOTLAND) BILL

SUBMISSION FROM NATIONAL DEAF CHILDREN'S SOCIETY

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.

Introduction and context

The National Deaf Children's Society (NDCS) is the leading charity in Scotland dedicated to creating a world without barriers for deaf children and young people. In Scotland, we have a dedicated team based in Glasgow led by Angela Bonomy, Director (Scotland & Northern Ireland).

Disabled Living Allowance (DLA) and Personal Independence Payments (PIP) are vital for families of deaf children. It can help with purchasing of equipment, communication support and transport costs to and from appointments. The development of a fair and accessible social security system in Scotland is vital to ensure families are not left unable to pay for the extra support their deaf children need, leaving them vulnerable to isolation, bullying, low levels of achievement and unemployment and poverty in later life. Deaf children already have significantly poorer life outcomes than their hearing peers.

It is critical that the experience of recipients of DLA and PIP are given careful attention in the development of the new Scottish system. As outlined below, the experiences of many deaf young people and their families have been negative. The barriers they have experienced require to be closely examined if the new system is to be underpinned by the ethos of dignity and respect.

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 are of the view that embedding the principles within legislation is the most secure option of ensuring they are met and those people using it have recourse in the event of failings by the system. The principles should be embedded in legislation and

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reflected throughout legislative guidance and not merely referred to, which leaves them open to interpretation.

The development of the new rules should be done in co-production with those that will use the system with a view to promoting their independence whilst meeting their needs. For deaf young people this means an inclusive communication approach. Deaf young people themselves should feed into this consultation as well as their families, third sector organisations and existing relevant working groups and forums.

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.
- 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 broadly agree with the seven principles, however to make them effectual, the detail within each principle will require to be set out clearly and robustly in accompanying guidance. This should include for example, eligibility criteria. We also recommend that the Bill outlines options for redress and appeal for those individuals who are incorrectly deemed ineligible for receiving benefits.

Accountability must also be clearly defined in terms of ensuring those people eligible for receiving benefits do so. The current wording around the Scottish Government having a 'role' in this aspect of accountability is vague.

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

We recommend principles are included around accessibility and inclusive communication. The provision of accessible information and advice is critical to ensure families of deaf children and young people understand the benefits they are entitled to and the process they must follow to make the necessary applications. In addition, the complexities that can arise from application processes often means that families require support to complete these.

Our Child and Family Support Officers support deaf young people and their families across Scotland to complete these applications, guiding them through the process and supporting during appeals when required. Without support of this kind many families would be unaware of funding available, or would be unable to complete applications successfully.

We recommend the new system invests in independent advocacy structures in Scotland to ensure the new system works for everyone.

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 broadly agree with the idea of a charter which will compliment the principles and assist in ensuring they are understood by claimants. However, more information is required on the level of enforceability carried by the principles if embedded within a charter.

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

Accountability and recourse for claimants also needs to be clearly set out. Further information is also required around the mechanisms for assessing whether the Scottish Government has met their actions when producing the annual report. We recommend an advisory committee is set up in this regard. This would allow for standards to be set in Scotland and independently monitored and regulated. This would also allow for ongoing drive and improvement and better accountability and governance.

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Co-production of this charter with those that use the system is vital. This will work towards promoting their independence whilst meeting their needs. For deaf young people this means an inclusive communication approach. Deaf young people themselves should be part of this consultation as well as their families, third sector organisations and existing relevant work groups and forums.

Using experience from the third sector will be important in drawing on users experiences of the social security system and suggestions for improvement. We would welcome the opportunity to involve deaf young people in this process through our membership links.

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?

Many deaf young people have told us their experience of the appeals process is that it holds up their benefit at a crucial transition stage in their lives. The new system should provide information that is fully accessible to deaf young people on all aspects of the appeals procedure including possible methods of appeal following Mandatory Reconsideration (MR). Decision letters to claimants should include clear and accessible information on the options available to claimants to appeal, for example on the basis of discrimination or unfair assessment.

We recommend that the current process of MR is made more thorough in terms of revaluation of all evidence submitted and an examination of the initial assessment to determine accuracy.

Decision makers should take an active role in gathering evidence out with the face to face assessment process. This should involve input from specialist professionals such as Teachers of the Deaf or audiologists.

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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?

We are concerned about a number of issues in relation to PIP, which continue to undermine the experiences of deaf young people. The development of a new system in Scotland is an opportunity to fully address these in the future.

Accessibility

We are concerned about the accessibility of the current PIP application process and recommend this is fully addressed within the new Scottish system. The process assumes everyone can use the telephone and alternative ways of applying for the benefit are not clearly promoted or encouraged.

“Without my help with the application my son would have struggled. The first thing you have to do is call them by telephone to request the forms this in itself is a non starter for most deaf people.”

Parent of a deaf child

We believe this is a clear breach of the Equality Act 2010. The development of the new system in Scotland is an opportunity to promote independence among disabled people by ensuring its systems are fully accessible to those who require them.

Assessment

We are aware of a number of serious challenges within the current system which can undermine the assessment process for deaf young people.

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It is vital that communication support is provided for deaf young people that request it for their assessment. Communication support ensures that a deaf young person will fully understand what is being said at the meeting, meaning they can communicate their case effectively as part of this process. If this support is requested ahead of the assessment and is not provided, any assessment **should not go ahead**.

We are aware of cases where communication support has not been provided during assessment. This demonstrates an extreme lack of deaf awareness and could jeopardise the chances of the deaf young person being awarded PIP. It can also cause considerable stress to deaf young people.

Assessors' decision making

NDCS UK has had considerable concerns around the training of assessors when making their decisions and the Department for Work and Pensions (DWP) decision making process. This marks an opportunity for Scotland to develop a fit for purpose assessment process which reflects the principles of dignity and respect.

We are aware of a number of cases where an assessor and the DWP have determined that a deaf young person is ineligible for PIP, legal action has subsequently been taken and the decision reversed. NDCS UK wins the majority of the cases it supports with points tallies regularly being increased 5-10 fold, and sometimes even more. Discrepancies of this order of magnitude should not exist within a new Scottish welfare system. The necessary training and guidance developed and put into place to address these errors. Legal action should be a last resort for claimants and not a facility to allow a system to continuously issue similar erroneous assessments and decisions to be corrected later through appeals.

K's PIP Story:

Hello. My name is K, I am 21 years old. I have been deaf all my life and have worn two hearing aids since I was 4. I live in the very North of Scotland in a small town called Wick, I am a qualified Early Years Practitioner and work in a playgroup. It can be hard sometimes because of the noise and young children's speech isn't always the best, but I love my job!

I have been doing some research over the past few years about disability benefits, but I couldn't really see much for deaf people. In 2010, I applied for DLA but was told because I didn't need any help doing things for myself I wasn't able to get it.

I recently moved into my own house, with my boyfriend, so I went to citizens advice for help on benefits in general not just disability ones. I asked about DLA again and they explained it was now PIP and we looked through the criteria together. It turns out I only got 2 points and needed more. I did not need an interpreter, etc so therefore I was not eligible for PIP. I felt that I didn't get to put across my individual struggles. I felt this unfair as in Wick most of the jobs which are in shops, restaurants, offices, etc. Now I am not saying deaf people cannot do these types of work, because they can, it's just that it can be difficult. I know this because I worked in a shop and found it extremely difficult.

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My hours have been cut down at work and I am looking for another job. PIP would have helped financially. I feel really disappointed that there is not enough help for deaf people.

The development of a new system of social security in Scotland presents the opportunity to ensure that assessors have appropriate levels of skills and knowledge to make informed decisions about eligibility for benefits. For example, a new system could make increased use of professionals who specialise in a particular condition either directly or indirectly in the assessment process. This is as opposed to relying solely on assessors with no experience or knowledge in a particular area.

“The assessors were definitely not deaf aware. I did not feel the process was fair and they certainly the assessor did not understand deafness and did not record his answers appropriately. The interview environment was artificial and did not take into consideration day to day living, background noise etc.”

Parent of a deaf child

We would welcome the opportunity to provide further information on how assessors can gain the appropriate skills to assess deaf young people.

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?

No answer.

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 answer.

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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No answer.

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 answer.

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

No answer.

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

We have previously raised concerns about some of the rhetoric used by the UK Government when referring to supporting the 'most vulnerable' disabled people. We are concerned that there is an implication given that people with some disabilities are less 'vulnerable' or in need of support. In addition, the current system of claiming benefits often requires claimants to take a deficit approach by asking them to consider what they cannot do. This process can often leave claimants feeling disempowered and insecure.

"I feel that the process is not dignified. You have to explain and evidence all the difficulties that you work so hard everyday to overcome. For example walking down the street, when somebody walks past me i jump as cannot hear them approaching this shows how vulnerable i am to anybody else about. It also makes me feel 'not good enough' which as a young deaf adult i try to avoid the feeling."

Deaf young person

We welcome the principles of respect and dignity as underpinning the new system in Scotland. This presents an opportunity to redress the issues with the current system and take a more assets based approach. Development of the new system should be made with full consideration of the impact deafness has on children and their families.