

# CALL FOR EVIDENCE RESPONSE FORM

## SOCIAL SECURITY COMMITTEE

### SOCIAL SECURITY (SCOTLAND) BILL

#### SUBMISSION FROM ANGUS INDEPENDENT ADVOCACY

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?**

AIA would like to see a more detailed, substantial and robust Bill that includes statutory rights for anyone going through the social security system. In order to create a new rights based social security system in Scotland we need a Bill that embeds a human rights based approach into every aspect of legislation, policy and practice. As the Bill stands there needs to be more detail about how the system will operate, what the overall experience of users will be and what outcomes the legislation hopes to achieve. We believe that social security is a human right and an adequate amount of social security will help people to achieve other rights. AIA believe the Bill must include a legal right for anyone accessing social security to be able to access independent advocacy. The WASP showed good evidenced of the difference independent advocacy made for the people accessing social security.

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.

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- 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.**

AIA welcome the principles of the Bill but would like to see more detail regarding the status of the principles within the legislation. In addition, we would like to see more about accountability of when the principles are not upheld and what action will be taken. We would also like to see clear a definition of dignity outlined in the Bill as this term is often open to interpretation and is subjective. As stated earlier we believe that social security is a human right and therefore the Bill should have a strong human rights basis including the PANEL principles and the AAAQ key elements being clearly stated throughout the Bill.

We also think that the first principle about social security being an investment in the people of Scotland should be further strengthened with a statement about the level of support people relying on social security should have.

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

We would like to see accountability as a key principle. We would like to see robust reporting mechanisms for the Scottish Government.

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.**

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AIA welcome the idea of the charter but would like clarity about its legal status and would like the charter to make a clear commitment to the International Covenant on Economic, Social and Cultural Rights.

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

AIA would like the charter to make a clear commitment to the International Covenant on Economic, Social and Cultural Rights.

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?**

The rules need to:

- encompass a rights based approach
- highlight accountability of the State
- provide for an independent review of the implementation of the Act and any amendments within a 3 year period
- provide clear timescales and time limits
- be clear and easy to understand
- ensure fairness and transparency throughout the whole system

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

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- 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?**

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?**

AIA believe that if someone is challenging a decision to stop or reduce their entitlement then it should only be stopped once they have exhausted all appeal processes.

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?**

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?**

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.

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

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

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

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

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, when they need it. We believe that collective advocacy organisations made up of individuals who have experience of using the social security system could help to make it more accessible, more user focussed, more efficient and responsive. Collective advocacy groups help to co-produce systems, legislation, policy and practice as equal partners. There needs to be a clear commitment to provide sufficient resources to advocacy organisations in order to realise this. 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.

We would like to see anyone claiming social security to be able to easily access independent advice and for this to be clearly recognised as being different from independent advocacy.

AIA support SIAA's belief that the charter will be a useful way to demonstrate the commitment to the principles but we would like to see details around the legal status of the charter and how the Scottish Government will be accountable if the charter is not complied with.

We believe that effective monitoring needs to be built into the new social security system to ensure that the Scottish Government can identify gaps

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amongst claimants. There is extensive evidence to show that many people do not know which, if any benefits they are entitled to, with effective monitoring the Scottish Government would be able to identify groups who are underrepresented amongst claimants and take proactive steps to ensure these groups knew about and claimed their full entitlement.

The Bill needs to ensure there is accountability regarding the new agency, assessments, payments, complaints and appeals. There also needs to be independent scrutiny around the implementation of the Act, which should be periodically reviewed every 3-5 years.