

# CALL FOR EVIDENCE RESPONSE FORM

## SOCIAL SECURITY COMMITTEE

### SOCIAL SECURITY (SCOTLAND) BILL

#### SUBMISSION FROM NHS Lothian Public Health and Health Policy

*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?***

It is imperative that the experience of social security recipients, their advocates and agencies with experience in this topic area eg Citizens Advice Scotland, Child Poverty Action Group, are central to the drafting of Regulations and the design of the Scottish social security system.

The current UK social security system also places an excessive burden on NHS staff, notably GPs and others based in community settings, for reports during assessment and appeals. These reports compromise time available for clinical work. The Scottish social security system should not increase workload for NHS and other care staff.

- 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.**

Six of the principles refer to the rights of Scottish citizens and are very welcome. The seventh refers to money. It seems inconsistent to frame social security in terms of human rights and then to seek another principle about cost-effectiveness. Cost-effectiveness ought to be an operational goal rather than a founding principle of legislation.

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

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.**

**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?**

Income is one of the most crucial determinants of health. Social security payments are vital for many people. There should be an explicit target to ensure decisions about social security eligibility are made as quickly as possible. In cases where overpayment of benefits occurs without any fraudulent intention on the part of claimants, to avoid financial hardship, there should be no compulsion on claimants to repay money in the short-term, ie. within three months. The legislation should ensure that repayment schedules are established over longer periods so that claimants are not disadvantaged by errors on the part of civil servants administering social security.

It seems inappropriate that the right to appeals (re-determination) is determined by the social security agency. We support the intention to have a speedy, consultative re-determination process and avoid Tribunals. But the re-determination should be

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independent of the social security agency. Appeal conditions should be very clear so that claimants only seek redress when these conditions are met.

The July 2017 Supreme Court judgment about Fees Orders and Employment Tribunals reiterated that the right to access to justice is a core constitutional right. The Social Security Bill must ensure its appeal process meets this right.

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?**

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?**

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?**

This is an improvement but still below the minimum income level required for healthy living. Annual uprating of benefits should not be discretionary.

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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?***

All local authorities should have a discretionary housing payment scheme. Government should monitor to ensure equity and avoid a postcode lottery for this benefit. There should be a requirement for local authority housing departments to act when a significant reduction in reserved administered benefit occurs e.g. recent rapid reductions in housing benefit support have left families at risk of homelessness.

***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?***