



**OPFS response to the Social Security Committee consultation on  
The Social Security (Scotland) Bill  
August 2017**

**One Parent Families Scotland**

One Parent Families Scotland is Scotland's national single parent organisation. Building on seventy years of advocacy and service-delivery expertise, OPFS provides expert information, advice and support, along with training activities, work preparation programmes and flexible childcare. OPFS delivers services across Scotland in Edinburgh, Dundee, Glasgow, Renfrewshire, Lanarkshire and Aberdeen and provides support to over 5,000 families and 12,000 children. This submission draws on our experience as a service provider, supporting single parents across Scotland as well as previous consultations<sup>1</sup> that we have conducted into their experiences of and views on welfare reform.

**Single Parents Profile**

There are over 170,000 single parents in Scotland, 92% (156,000) are female.<sup>2</sup> Gender is therefore a key issue. By 2033, it is projected that single parent families will rise to 238,000 (24% to 38%).<sup>3</sup> Because of the additional barriers they face, single parents are more at risk of being in poverty. Over four in ten (43%) children in single parent families are poor,<sup>4</sup> compared to just over two in ten (22%) of children in couple families. Research shows that single parents are more likely to report having poor health (13%) being disabled or having a long term condition (15%) and have a disabled child (17%) than parents in couple families, where the figures are 7%, 9% and 14% respectively.<sup>5</sup>

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<sup>1</sup> OPFS Stakeholder Focus Group Discussions Report: Response to the Scottish Government Expert Working Group on Welfare: Call for Evidence (February 2014)

<http://www.gov.scot/Resource/0045/00451857.pdf>

Universal Credit, Single Parents and Gender Issues [www.opfs.org.uk UniversalCredit](http://www.opfs.org.uk/UniversalCredit)

<sup>2</sup> Census 2011: Key results on Households and Families, and Method of Travel to Work or Study in Scotland - Release 2C. (December 2013)

<http://www.scotlandscensus.gov.uk/news/census-2011-key-results-households-and-families-and-method-travel-work-or-study-scotland>

<sup>3</sup> General Register Office for Scotland; Household Projections for Scotland 2008-based (June 2012)

<http://www.nrscotland.gov.uk/files/statistics/household-projections/2008-projections/household-projections-2008-based.pdf>

<sup>4</sup> Department for Work and Pensions; Households Below Average Income: An analysis of the income distribution 1994/95 – 2010/11 (June 2012)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200720/full\\_hbai12.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200720/full_hbai12.pdf)

<sup>5</sup> Department for Work and Pensions; Families with children in Britain: Findings from the 2008 Families and Children Study (FACS) (2010)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214426/rrep656.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214426/rrep656.pdf)



## Introduction

Single parenthood itself does not cause poverty but the way in which the labour market, taxation and social security system operates mean that single parents are more likely to experience poverty. Single mothers are more likely to experience multiple disadvantages – the gender wage gap, low incomes, poverty and material deprivation, and unstable, low-paid, poor-quality employment, which have consequences for maternal and child wellbeing. Poverty is not an inevitable outcome for single parent families as can be seen by the experience of countries with better policies to support lone parents, for example in the Nordic countries. We hope Scotland’s emergent Social Security System will reflect that while the resources generated by economic growth are essential for sustained poverty reduction, international experience shows that growth does not automatically reduce poverty without putting redistributive mechanisms (such as social security systems) in place.

### Q.1 The Bill framework - use of regulations

- 1.1 The Bill aims to provide a framework for the creation of the Scottish social security system and the Scottish Government has chosen to put most of the rules about the new benefits in Regulations. However we would question the **balance between primary & secondary legislation** and the dependence on regulations to provide specific details on the procedures governing conditions, rights and obligations that will not be open to the same level of transparency, scrutiny or accountability. Parliament cannot change Regulations, only approve or reject them. We believe the new Social Security System and the benefits it delivers should be subject to parliamentary scrutiny and debate to ensure full democratic accountability. We should also ensure that the legislation is future – proofed so that forthcoming governments can be held to account over any planned changes and in turn not be constrained because powers have not been legislated for.
- 1.2 OPFS believes that more detail around the eligibility and operation of the benefits should be included in the primary legislation.

### Q.2 Social Security System Principles

- 2.1 OPFS agrees that the Scottish Government’s seven proposed principles should be placed in legislation. Entitlement to social security should be framed as a human right, underpinning the legislation, and ensuring a culture of dignity and respect is integrated into the delivery system.
- 2.2 The **right to independent advocacy** should be placed in legislation to ensure consistency or services across Scotland.
- 2.3 We also think the **“best interests of the child “**or to determine what constitutes those interests is an important principle. We therefore suggest that consideration should be



made of how the services of the new Scottish Social Security Agency relate to the other key Scottish Government policy frameworks and in its operations should be required to take into account, and to accord highest priority, to the “best interests of the child“, as enshrined in Article 3 of the UN Convention on the Rights of the Child. This principle is also enshrined in the Children (Scotland) Act 1995, which provides that each child has a right to be treated as an individual; and that each child who can form a view on matters affecting him or her has the right to express those views if he or she so wishes; and that any intervention by a public authority in the life of a child must be properly justified and should be supported by services from all relevant agencies working in collaboration.

2.4 The Scottish Social Security System should also contribute towards ensuring people have an income that meets the “**Minimum Income Standard**” for the United Kingdom, thus showing respect for human rights & dignity.<sup>6</sup>

2.5 Have a key role as part of an integrated, preventative cross-cutting **anti-poverty strategy**.

2.6 Involve people with experience of using social security in **co-producing** the future development of the system and resource the cost of this.

2.7 OPFS has uneasiness around the principle “a social security system that is efficient and delivers value for money”. This principle appears counter to a human rights approach which should be based on the adequacy of benefits rather than efficiency and value for money.<sup>7</sup> We believe “the social security system should provide value for money through reducing poverty”

### 3. Social Security Charter

3.1 OPFS organised various consultations with single parents about the new devolved powers over social security. Parents were clear they felt it was important to have a charter of rights as well as enshrining the principles in legislation. It was felt important by parents that the principles should “come to life” and be reflected throughout all legislation, regulations and guidance linked to devolved social security powers and their delivery. It is important that the principles are not just detailed in legislation, but that they are also replicated in every part of the legislation. People accessing the new Social Security Agency should be more informed of their rights, and who to turn to for support if their rights are not being fulfilled. The staff delivering the service should be aware and trained to deliver a fair and consistent service that respects the service users.

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<sup>6</sup> <https://www.jrf.org.uk/report/minimum-income-standard-uk-2017>

<sup>7</sup> <http://socialprotection-humanrights.org/wp-content/uploads/2015/06/CESCR-General-Comment-19.pdf>



### 3.2 The Charter should be set within the following framework:

- **Quality:** A commitment to quality of service
- **Choice:** Providing choice of communication methods wherever possible;
- **Standards:** Specify what to expect and what to do if standards are not met;
- **Accountability:** Be accountable to individuals and organisations; and
- **Transparency:** Ensure transparency in Rules / Procedures / Complaints.

### 3.3 The Charter should:

- Be simple and accessible
- Be framed not only by officials, but by interaction with grassroots staff who will finally implement it and with people with direct experience of the social security system.
- Include that the agency staff should be familiar with the philosophy, goals and main features of the Charter;
- Begin with a statement of the service(s) being offered.
- Place against each service the entitlement of the user, service standards and options available to the user for the non-adherence to standards
- Frame a structure for obtaining feedback and performance audit and fix a schedule for reviewing the Charter every year, preferably through an outside agency.
- Consider separate Charters framed for distinct services and for any organisations/agencies linked to the new Social Security Agency.
- Funding should be specifically earmarked for development of the Charter, and for staff training on various components of the Charter.

## **Q. 4 Rules for Social Security**

### 4.1 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.

### 4.2 Redeterminations and appeals

OPFS agrees that the Scottish Social Security system should include an internal review procedure to help reduce pressures on the appeals service, and to increase the likelihood of the right decision being made in a timely fashion. This internal review process should differ from the DWP “mandatory reconsideration process”, which most people do not challenge and is a barrier to people from appealing. Although the Bill provides for the redetermination period to be time limited and for “short term assistance” to be available during this period the requirement for a second application creates an avoidable barrier. A human rights based approach requires that complaints



procedures should include an appeal process that is independent, accessible, simple, fair and effective. The system of redeterminations and appeals could be improved by getting the internal review right in the first place and making it one continuous process from the viewpoint of the claimant. In our view, the review decision, with a statement of reasons should be forwarded from the Agency to the Scottish Tribunals Service, rather than the claimant having to lodge an appeal themselves.

#### **4.3 Independent advice and independent advocacy**

OPFS believes citizens should have the right to advice and information before benefit eligibility assessments and the right to independent advocacy and support should be in the Bill. It should include a duty on Scottish Ministers to make provision for access to free, confidential and independent benefits advice.

Independent advocacy also plays a vital part in a human rights approach particularly for complicated benefit issues which requires a level of expertise so we believe there should be a statutory duty to provide independent advocacy to those who need it.

#### **4.4 Overpayments:**

OPFS is concerned that the legislation being introduced around recovery of overpayments and consequent sentencing is very punitive. The issue of liability even when it's the agency's error is worrying, especially in a situation where people are dealing with a new system and in most cases 2 systems (Westminster & Scottish). We do not believe repayments of benefit should be sought where an official error has been made. If an error was made in the decision making process, as long as the correct information was provided by the applicant, then it should not be up to the individual to find a way of paying this money back.

#### **4.5 Fraud**

It should therefore be made clear that in cases where an overpayment has happened due to official error, all correct information has been submitted by the claimant and the claimant could not have known that they were being overpaid then recovery should not be an option.

We are also concerned about the proposal in the Bill to criminalise honest mistakes. We are concerned that the sanctions for the offences listed in sections 39, 40 and 41 are excessively punitive. There are many multifaceted reasons why some changes are not reported, e.g. mental illness, family stress etc. We would welcome a reconsideration of the rules covering recoverability and what is and isn't treated as a transgression

#### **4.5 Complaints**

Claimant's rights to complain about poor service, or where they feel that they have not been treated with dignity and respect is not at present covered in the Bill. The Bill should include specific times for decision making and what action will be taken if these schedules



are not met. The Bill should include information on a claimant's right to complain without affecting their claim. This would also strengthen the rights-based approach to the intention of the system.

#### 4.7 Choice of cash or payments in kind:

The Bill includes provisions that social security assistance 'may or may not take the form of money'. OPFS believes most social security benefits should be provided in cash rather than in kind. We agree with CPAG there is a risk that any other approach is contrary to the Scottish Government's stated principles of promoting dignity and respect. Substituting cash for goods, vouchers or cards can imply that people cannot be trusted to spend the money they receive prudently. However choice is important. OPFS has had feedback from parents using the SWF where they have felt stigmatised by having to choose between 2 colours of carpet and being embarrassed by the fact that it's clear they have "carpets from the social". However other parents, especially with young children were pleased to receive goods which were delivered and put in place, which meant less stress for a parent on their own having to set this up while dealing with a multitude of other problems. In relation to disability benefits it is vital that a Scotland-wide system of non-means-tested cash disability benefits is retained

#### 4.8 Uprating

The Bill's principle of social security as an investment in the people of Scotland needs to be backed by a statutory requirement for the annual uprating of benefits.

There should also be a commitment in legislation to uprate benefits to ensure they keep pace with the cost of living - at the very least be uprated annually in line with the Retail Price Index. This could take the form of a 'triple lock' similar to the approach taken for reserved benefits for pensioners (i.e. uprate them in line with the higher of the growth in average earnings, CPI, or 2.5% - in the same way as pensions). This would be an important means of ensuring that low income families do not continue to fall behind the rest of society. This would ensure that the principle aim of making the new Social Security system an investment in the people of Scotland is achieved. We also believe there should be a commitment in the "Social Security Rights" Charter or legislation to consider uprating above inflation to provide an adequate standard of living when possible.

#### **Q. 5 Schedules covering benefits in the Bill. 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.**

5.1 The schedules set out areas where it is expected that regulations will be made for each benefit and contain little detail therefore it is difficult to provide comprehensive commentaries at this stage.



- 5.2 The schedule for Carer's Benefit includes as part of the eligibility criteria whether or not a claimant is in employment or education. We support Engenders call for the abolition of restrictions on education and employment restrictions for carer's allowance. Imposing this conditionality restricts women's economic, social and cultural rights. Many women carers are also single parents and they would welcome the opportunity to take up paid work or further/higher education
- 5.3 We know from our consultations with single parents, many of whom have a disability or poor health that they hope that the number of avoidable medical assessments for disability benefits is substantially reduced by making the best use of current evidence. Parents told us that the Westminster PIP assessment process was incredibly stressful for them, including not being treated with dignity or respect. They felt strongly that much greater emphasis should be given to submissions from people who know the, including health and other relevant professionals,

**Q.6 Short-Term Assistance: 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.**

OPFS very much welcomes the proposal for a new type of "short-term assistance" for claimants who are challenging a decision to stop or reduce a Scottish benefit. This is recognition of the costs and stress people face while awaiting a decision and will address a major concern regarding proposals for a mandatory redeterminations process. We would suggest it is automatically awarded rather than needing a separate application and should not require to be repaid. We believe it would be best for this assistance to apply to all benefits, including those that will remain reserved, but we realise there may be financial constraints on an area which is not within the gift of the Scottish Government.

**Q.7 Top Up Powers and the power to create new benefits. 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.**

- 7.1 OPFS is particularly concerned that the Scottish Social Security System will impact on poverty and inequality and that new powers to top-up UK benefits and to create new benefits might be used to ensure social security plays its full part in tackling & preventing poverty and decreasing inequality. OPFS believes it is not possible to achieve the values of dignity and respect without looking at adequacy of social security but unfortunately there is very little mention of adequacy of benefit levels. The current social security system fails to protect too many of those on the lowest incomes from poverty. OPFS also believes that new powers should be used to top-up Child Benefit. Child Benefit has a high take-up rate and provides near-universal support with the costs of raising children. It acts as a kind of "Citizens Income" for children. Increasing its value and increasing the rate of payments for second and subsequent children could protect





family incomes from losses due to ongoing cuts to the UK social security budget. This would reinforce the role of universal benefits within the Scottish social security system, and Child Benefit is already disregarded as income for most other benefits, meaning its contribution to reducing child poverty would not be nullified by means-testing. Moreover it is there as a dependable income for any parents affected by benefit sanctions or the 6 week waiting period before the first UC payment kicks in. OPFS supports CPAG's call that the Scottish Government should top-up child benefit by at least £5 a week for every child in Scotland. This alone would reduce child poverty by 14% against current levels, lifting up to 30,000 children out of poverty, according to analysis of the impact of an increase to child benefit by the University of York<sup>8</sup>. This would also reinforce the role of universal benefits within the Scottish social security system in line with the SCoWR principle to 'radically simplify the social security system'.<sup>9</sup>

- 7.2 The power to create new benefits in areas of devolved responsibility is not included in the Bill. Scottish Government has previously talked about the creation of the Jobs Grant. We would to see that more details of this in the legislation

#### **Q. 8 Increase in carer's allowance to JSA level (from £62.10 to £73.10 a week).**

- 8.1 We welcome increase rate of Carers Allowance, which is a move towards a carer's benefit that better recognises and supports Scotland's carers. However, that rate is not sufficient to fully compensate carers for loss of income, nor fully recognise the substantial effort put into caring. Unpaid carers, around 60 percent of whom are women, save Scotland an estimated £10.8bn per year, which amounts to over a third of the national budget.<sup>10</sup> Carers UK research showed that women were four times as likely as men to have given up paid work because of multiple caring responsibilities.<sup>11</sup> We support Engenders call on the Scottish Government to develop a staggered plan to uprate Carer's Allowance to recognise carers' contributions to the social and economic well-being of Scotland.

#### **Q.9 Discretionary Housing Payments**

- 9.1 Discretionary housing payments (DHP) are vital to some single parents who have split up from their partner and had to move house or are affected by the benefit cap. In many cases however awards across Scotland show great disparities and are often short term.

<sup>8</sup> <http://www.york.ac.uk/inst/spru/pubs/pdf/CB&CTCtopups.pdf>

<sup>9</sup> <http://www.cpag.org.uk/sites/default/files/SCoWR-Manifesto-Supplement-Holyrood-2016.pdf>

<sup>10</sup> Engender. (2016) Securing Women's Futures: Using Scotland's new social security powers to close the gender equality gap'.

<sup>11</sup> Carers UK (2014) State of Caring 2014





9.2 We agree with the SFHA that “there is an opportunity to both review the expectations and intended outcomes of the scheme, whether it remains the best vehicle for mitigating the bedroom tax and benefit cap given their ongoing nature and whether the resources being allocated to it are adequate to meet the intended outcomes.” Changes to the UK’s welfare system have significantly affected single parents. Key changes included a lowering of the benefit cap and a new requirement that single parents look for work when their children reach three years old as a condition of receiving benefits. A ‘cap’ on the amount of money any individual can receive in benefits was introduced under the previous government and set at £26,000 per year, to match average incomes. As of November 2016 this was reduced to £20,000 in Scotland.

We are concerned the two main ways people can ‘escape’ the cap – moving to reduce their housing costs (rent is often the biggest slice of people’s benefit payments) or finding work of at least 16 hours a week (so they qualify for working tax credit which is exempt from the cap) are not easy options for single parents, especially those with very young children. We know that of the adults who will be affected, 59 per cent will be single mothers, and an increasing amount of housing will become unaffordable for these families.<sup>12</sup> Therefore in relation to discretionary housing payment (DHP) without significant additional investment, the DHP budget will not be sufficient to meet rising demand for help with housing costs in Scotland. Social security cuts at UK level and, as of November, the lowered benefit cap has resulted in a sharp increase in the number of single parents who face a shortfall on their rent. OPFS proposes that to respond to the crisis situation of families with under-fives who are being victimised by the benefit cap policy Scottish government should look to implement mitigating proposals in the way that the bedroom tax was mitigated. Although recently increased, the adequacy of the overall level of DHP funding would need to be reviewed.

9.3 We do not agree that the Bill should allow local authorities to refrain from providing a Discretionary Housing Payment scheme. We would prefer Section 49(1) to say that a local authority has a ‘duty’ rather than a ‘power’ to give financial assistance. If local authorities are to continue to administer Discretionary Housing Payments we believe it should be ring fenced and retained as a separate fund to ensure accountability and transparency.

9.4 OPFS believes that people affected by the Benefit Cap should continue to be considered a priority for DHP support, and Local authorities should look to make longer-term Discretionary Housing Payment awards to people affected by the Benefit Cap, covering the full value of the loss. Guidance should also be reviewed to ensure that

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<sup>12</sup> <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>



administrative issues, such as delays and differential treatment are removed and local authorities and the DWP are encouraged to set up cross-functional / sector action groups to ensure homelessness is avoided esp. for families with children

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

10.1 The EHRC research report published this year describes the advantages of an **independent expert advisory committee on Scottish social security**.<sup>13</sup> The advisory committee should include a wide range of stakeholder expertise.

OPFS agrees that there is a need for an independent body to be set up to scrutinise Scottish social security arrangements. This will ensure that voices from outside government are involved in the development of the social security system in the longer term, improving accountability and performance. OPFS supports the establishment of a statutory Scottish Social Security Advisory Committee (SSAC), following a similar model to the current UK SSAC. The exact role of such a committee would need to reflect the Scottish context, with its remit designed to avoid duplication of any roles already performed by, for example, the Scottish Parliament's Social Security Committee.

OPFS recognises the value of the statutory role of the UK Social Security Advisory Committee, a model which would ensure that the Scottish Government's actions are subject to expert independent scrutiny. We believe such a body should be recognized in law. Examination from a body whose role and independence is reputable and protected in statute could be extremely important in ensuring that there is an expert source of independent advice and oversight. The body's legislative underpinning would ensure that it could speak freely and be critical of the government where necessary.

10.2 OPFS is in agreement with SWA and other equalities organisations, call on the Scottish Government to revise its **EQIA** to examine how its proposed social security policies and practices would impact each of the nine protected characteristics.

10.3 The Bill should require the collection of **equality monitoring data** disaggregated by gender and other equality characteristics. This data should be analysed and used to inform and develop social security and related policy areas. Equality Impact Assessment should not be seen as a separate exercise for Managers to undertake. It should be built in as an integral part of continuous service and performance review. The Equality Impact Assessment should consider how the new devolve social security powers could:

- Reduce inequalities – including income inequalities

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<sup>13</sup> <https://www.equalityhumanrights.com/en/publication-download/social-security-systems-based-dignity-and-respect>



- Improve the experience of claimants and reduce financial, attitudinal and organisational barriers experienced by claimants
- Promote socio-economic equality across Scotland
- Promote human rights across Scotland, including realisation of the underlying principles of dignity, respect and fairness.

## 10.4 Split payments to reduce gender inequality

OPFS supports the proposal that the Scottish Government use its powers to split UC payments between claimants. An interim measure might be to ensure that - as a general rule - Universal Credit payments are made to the main carer for any children in the household- the partner who is in receipt of child benefit.

**10.5 Private Companies** There is no legislative provision to prevent the use of private companies in benefit assessments in line with the stated Scottish Government policy intention. The SCoWR Manifesto, to which OPFS is a leading signatory, calls for people rather than profits to come first, and we do not see a role for the private sector here. Where medical assessment is required it is important that whoever does an assessment has a full understanding of the claimant's condition(s). Lack of such understanding is a weakness of the current system. The delivery of social security should put services users' needs - rather than profits - first, with the aim of ensuring that all claimants are treated with dignity and receive an excellent service, which is transparent and democratically accountable. The need for commercial confidentiality by the private sector, which is often employed as a reason to withhold information relating to performance, cost, revenue and profits is not acceptable. OPFS has listened to parents experiences of being part of the Work Programme delivered by private companies and Concentrix, a company desperately out of their depth and unable to deliver on the Universal Credit contract awarded to them by HMRC. This means OPFS feels strongly that the private sector has no place in the delivery of a social security system "within which respect and dignity of individuals is at the heart of everything it does."

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