

## **PCS submission to Social Security Committee**

1. PCS represents around 190,000 members in the civil service and related agencies, bodies and contractors. Within this, PCS represents over 51,000 members in the Department for Work and Pensions (DWP). In Scotland, overall, we have over 24,000 members, including 8000 in the Scottish Sector (under the remit of the Scottish Parliament) and nearly 8000 in DWP.
2. A Social Security Agency Partnership Working Forum (SSAPWF) has been established as the main interface between the Scottish Government (SG) and the civil service trade unions to discuss employee relations matters. The Minister for Social Security has also met with PCS on several occasions to foster an open working relationship.
3. In this submission, we have responded to the questions set out in the call for evidence and highlighted issues which we ask the Social Security Committee to consider.
4. The process of laying the enabling bill, followed by the later development of regulations which will then stipulate the rules of benefits, makes sense in the context of consulting the public and other stakeholders on how the rules will work before putting them into law. However, it isn't clear to us whether these regulations will include benefit rates or uprating rules, or whether that will be dealt with separately by the Finance Minister. We have submitted a response to the call for evidence to the Finance Committee as we have queries over the funding allocations.
5. In Westminster, DWP routinely faces scrutiny from the Work and Pensions Committee, the Social Security Advisory Committee and the Public Accounts Committee (PAC). Maintaining a high degree of scrutiny by the Scottish Parliament of the Scottish Social Security Agency (SSA) is essential. It will be important for regular investigations into major projects (e.g. a PIP/DLA replacement) and into key elements of how the SSA works, e.g. decision making, customer appeals etc. to take place. The PAC currently reviews Universal Credit every six months; something equivalent for decision making in a new Scottish system would enhance the credibility of the SSA.
6. We would like to see the scrutiny process, whether carried out by the Social Security Committee or another body, made clearer in supporting regulations to the bill and future announcements.
7. Our submission to the Scottish Government's public consultation on social security in 2016<sup>1</sup> is still relevant to the development on the Social Security Charter. We said, "PCS has worked with the unemployed workers centre Combine, Disabled People Against Cuts (DPAC) and Unite Community to create a 'Welfare Charter' which covers what workers and service users would want to see covered by a social security system. However, given the limited devolved powers within the Scotland Act 2016, some objectives in the 'Welfare Charter' are outside the remit of what could be implemented the Scottish Government, but we would welcome further discussion on

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<sup>1</sup> [https://consult.scotland.gov.uk/social-security/social-security-in-scotland/consultation/view\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&q\\_text=PCS+&uuld=817356711](https://consult.scotland.gov.uk/social-security/social-security-in-scotland/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&q_text=PCS+&uuld=817356711)

the principles to which we adhere. Despite this caveat, PCS believes that the long-term aims should be encapsulated by the Scottish Government as they provide a useful starting point covering broader issues such as an end to precarious work and low wages; these are areas to which the Scottish Government is already committed under the Fair Work agenda". We also said, "At the heart of any social security system should be the aim to end poverty, and the right to a basic income as a basic and fundamental human right."

8. PCS believe that the aim of eradicating poverty in Scotland needs to feature as a principle in both the bill and the social security charter: the welfare state should ensure everyone has a decent standard of living free from poverty.
9. As we referred to in our consultation response, within the "Welfare Charter"<sup>2</sup> we helped create, PCS and its partners believe a Claimant's Ombudsman should be established to arbitrate unresolved complaints that are not necessarily suitable for the tribunal process. An ombudsman would provide the scrutiny, not only on individual decisions but on the service as a whole to ensure that the principles set out by the Scottish Government are being put into practice. The Scottish Public Service Ombudsman has recently taken on a new role in relation to the Scottish Welfare Fund and we suggested that there is the potential for widening their remit to cover the new social security powers.
10. The Social Security Minister stated in her speech to parliament on 27<sup>th</sup> April 2017, "profit should never be a motive, nor play any part, in making decisions or assessing people's health and eligibility". If this is indeed a principle, as referred to in the announcement to parliament, then it should feature as a primary principle in the bill, as well as further legislation, and the social security charter.
11. We believe that the commitment to eliminate the potential for privatisation should go beyond health assessments. PCS's position is that contracted out work ultimately lacks transparency, on grounds of 'commercial sensitivity'. It involves the loss of direct control and a concomitant reduction in how responsive a service can be to stakeholders. It should therefore not form any part of a Social Security Agency.
12. Though there is no specific detail on how to apply or evidence requirements for the new benefits, PCS believe that improving the ease of application and simplicity, so that users fully understand the process, is key. A universal method of applying, as proposed within the supporting memorandum to the bill, may be a way of doing this.
13. Staff working within the SSA will need to understand how the Scottish Government's benefits interact with the reserved system so that they are able to signpost or assist with applications to DWP 'passport' benefits. Claimants accessing benefits from both the devolved and reserved system may not understand the distinction between different government benefits.
14. We believe that allowing choice in the method of applying is essential to restoring dignity and respect, with ongoing face-to-face support at local level as a necessary option. We understand that the Scottish Government have commitment to provide this. A local delivery service will need to be properly resourced in terms of staffing, training, and risk assessments of processes.

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<sup>2</sup> <http://www.unitetheunion.org/uploaded/documents/Welfare%20Charter%20Booklet11-23990.pdf>

15. In our response to the public consultation in 2016, we called for the abolition of the mandatory reconsideration (MR) stage and suggested closer working of decision makers to improve the quality of decisions at an early stage. We note that the bill introduces a “re-determination”, which is mandatory before appeal stage, unless timescales are breached. Essentially a mandatory reconsideration has become a mandatory redetermination. PCS believe this is a problem because there is little public faith in the MR process, it exists as a bureaucratic box-ticking exercise which delays appeals. There should be encouragement to resolve disputes quickly and internally, but the framing of the re-determination mirroring the DWP MR system does not inspire confidence.
16. Re-determinations could be handled very differently with less formality, allowing obvious mistakes or omissions to be corrected at an early stage. Short timescales for the agency to respond to the reconsideration request, with the genuine potential to uphold grievances made clear, could provide the public with some assurance that the process is not the same as the DWP.
17. There should be no targets for staff on upholding the agency’s original determination, as there is in DWP for the MR process. Such targets interfere with natural justice as it puts pressure on decision makers to clear cases, rather than making fully informed decisions. Instead, staff handling any internal re-determination should be encouraged to speak to the applicant or their representative to seek clarity and further information, and should be required to explain how they have considered additional evidence.
18. PCS supports the Scottish Government’s approach not to introduce civil penalties. We also agree that ‘official error’ overpayments are not recovered, but believe that this should be for all official error and not dependent on the figure which is yet to be determined.
19. PCS understand that the Scottish Government are approaching the devolution in gradual stages to avoid the rushed failures that DWP experienced in large scale benefit projects. However, it is concerning that until that time disabled people will be made to transition through to PIP until the new disability benefit is ready in Scotland. The committee will be aware of the many flaws with the PIP assessment process which has already seen thousands of people in Scotland lose the financial support that they need.
20. We agree with the concept of short-term assistance proposed within the bill, to allow for a payment to remain in place whilst claimants are challenging decisions to stop or reduce their assistance. This appears to be similar to the “payment pending appeal” rate of Employment Support Allowance (ESA), which ceased as part of the UK government’s ESA reforms.
21. The policy memorandum to the bill, in paragraph 303<sup>3</sup>, refers to limitations preventing the provision of top-up assistance for housing costs or where the requirement arises from the DWP sanctions regime. Whilst there are limitations, we understand from the

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<sup>3</sup> [http://www.parliament.scot/Social%20Security%20\(Scotland\)%20Bill/SPBill18PMS052017.pdf](http://www.parliament.scot/Social%20Security%20(Scotland)%20Bill/SPBill18PMS052017.pdf)

SPICE briefing 16/45 May 2016 <sup>4</sup> that it is not prohibited in the following circumstances:

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and*
- (b) the requirement for it is immediate (and short-term in the case of discretionary payments to help meet a need that requires to be met to avoid a risk to the well-being of an individual)*

22. According to the Scottish Parliament's report in November 2016<sup>5</sup>, in the year to December 2015 a total of 27,817 adverse sanctions were applied, affecting 25,033 individuals excluding UC claimants. The same report highlighted that sanctions tend to affect the most vulnerable in society. PCS would therefore like to see legislation which allows payment to those in the circumstances mentioned in paragraph 21, which is likely to cover many of those who have been sanctioned.

23. PCS support the interim method of uplifting the Carer's Allowance to JSA rates. However, as we said in our consultation response last year, we believe that there is further work to be done in establishing whether the level proposed by the Scottish Government is enough, as effectively it falls well below the minimum wage. Further investigation should be carried out into the level of unpaid care work, whether the current eligibility is fair given take-up rates of the corresponding qualifying benefits, and how take-up can be encouraged.

24. PCS agree with the continuation of discretionary housing payments (DHPs) being administered by local authorities. We are concerned that the bill allows local authorities the choice over whether or not to use DHPs

25. We note that the Social Security Minister stated to parliament on 22 February 2017 that there were two areas of disagreement with the UK government in reference to the benefit cap and the removal of housing benefit for 18 – 21 year olds. PCS believe that it is necessary for the Scottish Government to be able continuing supporting claimants in these circumstances to prevent a 'bedroom tax 2' situation undoing the good work already done, and the positive steps planned.

**On behalf of the PCS Union**

**Joy Dunn, National Officer**

**25<sup>th</sup> August 2017**

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<sup>4</sup> [http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB\\_16-45\\_New\\_Social\\_Security\\_Powers.pdf](http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-45_New_Social_Security_Powers.pdf)

<sup>5</sup> <http://www.gov.scot/Resource/0050/00502470.pdf>