



The Scottish Parliament  
Pàrlamaid na h-Alba

## **SOCIAL SECURITY COMMITTEE**

By email:  
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Dear Jeanne

### Consultation on Draft Regulations Making Provision in Relation to Social Security Appeals

The Committee took evidence on 29 March on the above and agreed to write to you with our comments.

These can be summarised as follows:

- In general we are comfortable with the proposals, as were our witnesses.
- Where there was concern expressed, it tended to relate to deviations from the existing regulations, which people feel work well.
- We note that the draft regulations were prepared before changes to the Social Security Bill at stage 2, so there will need to be some amendments to the regulations to reflect these, e.g. redetermination notices.
- Social Security Charter – we are supportive of the tribunals having regard to the Charter.
- Supporters/ representatives – we detect some confusion in the regulations as regards the role of supporters and representatives, particularly as regards their functions as set out in paragraphs 11 and 12 of the rules of procedure of the Social Security Chamber. We believe that these paragraphs would benefit

from a clearer exposition of the differing roles of supporters and representatives.

- Expenses – there was no support for a provision to award expenses and indeed the need for it was questioned. We would welcome an explanation of the reasoning behind including provision to award expenses in the regulation.
- Mediation – similarly there was doubt expressed that mediation was appropriate in this sort of tribunal procedure. We believe that the regulations would be improved if this provision were removed.
- Barring of people – the common view was expressed that the issue of disruptive participants can be covered by existing procedural rules and that there was therefore no need for a barring provision. We believe that the regulations would be improved if this provision were removed.
- Membership of panels – we are supportive of the current format, particularly including a member with lived experience of disability, but do not necessarily feel that that member's disability needs to be matched to that of the appellant.
- Redetermination notice – this issue may be overtaken by changes to the regulations required by stage 2 amendments to the Social Security Bill, but we do not believe that the ability to appeal should be dependent on an appellant being required to provide a copy of a redetermination notice, as this should be readily available from the social security agency.
- Review time limit – whilst we were told that appellants often receive their decision letter on the day of the tribunal, we feel that a 14 day deadline post-tribunal is too short a time to allow for a review to be requested.
- Transparency – we are supportive of the current transparency of tribunals but believe more could be done to make the process clear to appellants, by making sample tribunal decisions, and statements of reasons and outcomes generally more easily available online, for example. Outcomes of appeals should be published, to allow success rates to be monitored.

Whilst this issue does not specifically relate to the regulations, it became clear to us through the evidence taken that one of the ways that could help the social security agency to 'get it right first time' would be the availability of evidence at the initial decision stage, as this is of great assistance to tribunals. This applies to medical evidence, but also other evidence provided by professionals, e.g. community care plans. We suggest that ensuring that agency staff have access to computerised extracts of medical and other records through information sharing protocols should therefore be a priority in establishing the working processes for the agency.

I hope that you find these comments helpful in the preparation of the final draft of the regulations.

Yours sincerely

*Clare Adamson*

**CLARE ADAMSON MSP  
CONVENER**