

SOCIAL SECURITY (SCOTLAND) BILL POLICY POSITION PAPER

DISABILITY ASSISTANCE AND EMPLOYMENT-INJURY ASSISTANCE

Introduction

This paper is one of a series of papers in which the Scottish Government is happy to set out and provide an update on its position on various matters relating to the Social Security (Scotland) Bill. The purpose of this paper is to set out the Scottish Government's current position on Disability Assistance and Employment-Injury Assistance and related matters.

Our position on Disability Assistance

The Scottish Government has made clear it will use opportunities presented by devolution to take a different approach to providing social security for disabled people. We want to make sure that the process from start to finish is clear and accessible, treats people with dignity and respect and that people understand how and when their claim will be dealt with.

We will protect disability assistance ensuring that it continues to be non-means tested. Reflecting the results of the consultation and engagement with stakeholders, we have already identified a number of areas that can be redesigned so that they better meet the needs of individuals. We will co-design these, and the end to end process from application to award, with people with experience of the current system.

We are aware of calls from stakeholders and others to set out more detail in relation to the administration of Disability Assistance. Our approach will not only allow for all of the detail to be set out in secondary legislation, making it more coherent and easier to understand, but more importantly it will also allow us to listen to those with experience and consult with experts to deliver improvements over time. In addition to what is set out in the powers in section 14 and schedule 4, the Scottish Government will set out the form of applications and notifications. The Scottish Government recognises that people may wish to have another person apply on their behalf and is making arrangements for this.

The Scottish Government considers that its actions and commitments to date demonstrate an intent to provide an approach that better meets the needs of individuals. Commitments to date include:

- that any child in receipt of DLA will be given an automatic award of that DLA to age 18 to allow for continuity for families (currently age 16);
- the introduction automatic awards in certain circumstances;
- longer term or lifetime awards for people whose condition is unlikely to improve; and
- maintaining the level of the disability benefits paid to individuals and raising them annually by at least the rate of inflation.

However, the first, over-riding priority must be to ensure a smooth transition for people receiving DWP disability benefits. This means, from the point at which the Scottish Government commences the delivery of Disability Assistance, it will take as is the existing Personal Independence Payment, Disability Living Allowance, Attendance Allowance and Severe Disablement Allowance. We have, and will, continue to engage with the Ill Health and Disability Benefits Stakeholder Reference Group on issues associated with the transfer of Disability Assistance.

Our position on Employment-Injury Assistance

As with Disability Assistance, the first and guiding priority is to ensure a smooth transition for people receiving industrial injury scheme benefits, these include:

- Industrial Injuries Disablement Benefit
- Constant Attendance Allowance
- Exceptionally Severe Disablement Allowance
- Reduced Earnings Allowance
- Retirement Allowance
- Unemployability Supplement (closed to new cases)
- Industrial Death Benefit (closed to new cases)

We will protect Employment-Injury Assistance to ensure that it remains non-means tested, no-fault and non-contributory. The Scottish Government has committed to maintaining the level of Employment-Injury Assistance paid to individuals and raising it annually by at least the rate of inflation. We have, and will, continue to engage with stakeholders on the Industrial Injuries Advisory Group on issues associated with the transfer of Employment-Injury Assistance.

The current UK Industrial Injuries Advisory Council will not be allowed to advise Scottish Ministers after these benefits transfer. The Scottish Government is therefore considering how it might replicate their expertise in Scotland to provide advice and recommendations to Scottish Ministers on prescribed diseases and other relevant matters. Officials have engaged with the current Council on this, and have sought their views on functions, remit and associated issues relevant to establishing a similar role in Scotland. The Disability and Carer's Benefits Expert Advisory Group have been commissioned to consider and make recommendations to Scottish Ministers as to how this expertise can be replicated in Scotland.

The Scottish Government is aware that some stakeholders have called for provision to ensure Employment-Injury Assistance adequately supports people whose mental health has been significantly and directly impacted by their employment. Establishing causation to an occupation in such cases is complex and it is a matter that has been considered by the current Industrial Injuries Advisory Council. As yet, they have not found sufficient evidence to support a recommendation to include mental health conditions in the list of prescribed diseases. That said, we are aware that a few European countries do have provision within their schemes for mental health conditions to be considered, and this is something that would be considered when the Scottish equivalent of the Industrial Injuries Advisory Council has been established.

Type of assistance

The Bill provides that Disability Assistance and Employment-Injury Assistance are types of *'assistance (which may or may not take the form of money)'*. We want to make clear that assistance provided is currently intended only to be in the form of money and that our intention will always be that any other form of assistance would always be a choice for the individual, not a decision of the Scottish social security agency.

Assessments

The Scottish Government intends to make the assessment process fairer, focusing on standards and quality rather than case volumes. The first step in achieving this is a commitment that profit making companies will not be involved in carrying out assessments for disability benefits. We will ensure that whoever undertakes assessments on behalf of the agency will provide a flexible service, including offering home visits if required and that the assessments process works effectively across all conditions. The new Scottish Agency will be built on a culture of dignity and respect and this will flow through to the culture and attitude of assessment staff. To ensure this, assessors will be appropriately and consistently trained to carry out their role effectively.

We intend to reduce the number of face to face assessments and reassessments being carried out unnecessarily. We are exploring potential to make better use of existing information within the health and social care sector and other public bodies. This will mean that, subject to consent from the individual, the agency may use existing information to aid decision making and where possible, to reduce the need for face to face assessments before making awards. Any systems developed would need to have robust safeguards to protect information about an individual's condition or diagnosis. This will help the agency to make better decisions, getting them right the first time.

The Scottish Government is aware that some MSPs have called for provision to be included in the Bill to rule out the use of profit making companies within the assessments process. We can deliver on our commitment in full, without express provision in the Bill. Our priority is to put in place a system that works in the best interests of the people who need it. Using legislation to place a ban on profit making companies creates the risk that the unintended consequences of that ban will make it harder, not easier, for us to deliver the support that people need.

The Disability and Carer's Benefits Expert Advisory Group have been commissioned to consider and make recommendations to Scottish Ministers as to how we can improve assessments in Scotland.

Developing a new approach to Disability Assistance and Employment Injury Assistance

Taking an enabling approach in the Bill allows us to continue to engage extensively with experts, organisations and individuals. We have recruited over 2,400 people with direct experience of the current system to help design a new and better social security model for Scotland as part of the Experience Panels. This includes individuals who have significant experience of ill-health and disability benefits. The Experience Panels have provided information on their experiences of the current system, and their priorities for improvement, as part of the About Your Benefits and You research. Over 1,000 people have responded to this survey, and over 250 participants took part in a total of 34 focus sessions across Scotland over the summer. Going forward, the panel members will be involved in a meaningful way. The detailed service design and modelling work to co-design the new processes for Disability Assistance and Employment-Injury Assistance, working with Experience Panels, users and stakeholders is still to be undertaken.

This approach will also allow the independent Disability and Carer's Benefits Expert Advisory Group to provide recommendations and advice to Scottish Ministers on the policy and practice options, including, but not limited to reform of assessment, award periods, automatic awards and lifetime awards, eligibility criteria, and accessibility. We will continue to engage and seek input from the Disability Stakeholder Reference Group and the Industrial Injuries Advisory Group.

We have bold aspirations for the medium and longer term. For example, we want to ensure that disability assistance works as effectively as possible with other devolved services such as health and social care and housing and to continue to explore the potential for a disability assistance that is responsive to people's needs at different stages of their lives. The Bill provides us with the flexibility to substantially reshape and improve how Disability Assistance and Employment-Injury Assistance is delivered in future.

Timeline

We have committed to having a Scottish social security agency delivering all of the devolving benefits by the end of this parliamentary term. The timetable and process set out for the full transfer of our new Social Security powers will help ensure that we get delivery right, and that those who depend on this vital support do not miss a payment.

Scottish Government

Social Security Directorate
October 2017

All enquiries in relation to this paper should be sent to:

Claire McDermott
Claire.McDermott@gov.scot
2F-South Victoria Quay