

SOCIAL SECURITY COMMITTEE
SOCIAL SECURITY (SCOTLAND) BILL

SUBMISSION FROM THE GLASGOW CENTRE FOR POULATION HEALTH

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?

In principle, we welcome this approach and the intention to develop Regulations with external help. When creating the new Regulations it is important that it leads to processes that are clearer and less confusing for claimants. This could also reduce the effect on frontline services. Since the introduction of the Welfare Reform Act (2012) the scale and pace of change continues to impact on how frontline services, such as General Practitioners working in deprived areas¹ and third sector organisations,² support those affected by the various reforms. A follow-up tracking study over 2½ years looking at the impact of the reforms on households across Scotland highlighted how a lack of clarity and confusion still persists for some claimants:

“There is a need for much improved official communication about benefits and benefit changes, not only by DWP, but also by Local Authorities regarding issues such as council tax.”

2015 report³

“Participants often found official communication about benefits and benefit changes – not only by DWP, but also by Local Authorities – to be confusing and poorly or negatively worded.”

2016 report⁴

To address this confusion, when moving from a 'dual system' of support to one where individuals or households could face navigating three systems (local authority, Scottish Government and UK Government), two newly established structures could help to ensure clarity. These are: the 'Experience Panel' which involves over 2,400 volunteers from across

¹ Deep End Report 21 GP experience of welfare reform in very deprived areas. Available at:

<http://www.gla.ac.uk/researchinstitutes/healthwellbeing/research/generalpractice/deepend/reports/>

² The changing nature of work in the third sector in Glasgow (2015), Glasgow Centre for Population Health. Available at: http://www.gcph.co.uk/assets/0000/5083/Changing_nature_of_work_in_the_third_sector.pdf

³ Graham, H., Egdell, V., McQuaid, R. and Raeside, R. (2015). The Impact of Welfare Reform in Scotland - Tracking Study - Sweep 3 Report. Available at: www.gov.scot/Resource/0047/00477917.pdf

⁴ Graham, H., Egdell, V., McQuaid, R. and Raeside, R. (2016). The Impact of Welfare Reform in Scotland - Tracking Study - Sweep 4 Report. Available at: <http://www.gov.scot/Resource/0050/00501110.pdf>

Scotland with direct, personal experience of the benefits that will be devolved; and the 'Disability and Carers Benefits Expert Advisory Group', which has been tasked on providing recommendations and advice to Scottish Ministers on the policy and practice options being developed on disability and carers benefit.

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.
- 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.

We agree with these principles. However, it is important that the principles are translated through the delivery of frontline services. The Scottish Welfare Fund (SWF) already has a principle in relation to dignity and respect. However, some evidence captured by the Child Poverty Action Group (CPAG) Scotland Early Warning System describe a process that for some claimants appears to fall short of offering dignity and respect.

This CPAG case study involved 'Mary' who lives with her 17 year old son with extensive disabilities. The family faced a temporary change in circumstances which led to a significant overnight reduction in household income. She described the SWF process as being excruciating and felt judged by call centre staff. When going to the local shop, in a small town, to claim her payment, staff shouted out that it was the crisis fund code.

'I was desperate... I was so embarrassed... I was so embarrassed. I wish I had just left it. It was so degrading. I know we all need help in life now and again and you have to hit the bottom before you come up again but it was so degrading... I'm not caring if I've got half a slice of bread I'll never do it again never ever'.⁵

⁵ Further details from the case study are available at: <http://www.cpag.org.uk/content/public-services>

This case study illustrates the delivery challenges that can emerge even when principles in relation to dignity and respect have already been established.

There is also scope to be more explicit on how the principle of trying to improve the new system could serve as a foundation towards improving health and tackling health inequalities across Scotland. The majority of UK benefit payments still remain well below the level required for a minimum income for healthy living (MIHL).⁶ Although MIHL focusses on health, it is very similar to the minimum income standard (MIS) which members of the public consider households need to reach a minimum acceptable standard of living.⁷ Therefore, there is opportunity to ensure that the new Scottish social security system aspires towards a level of social protection in Scotland that is comparable with MIHL or MIS.

On a broader note, it is important that the development of this new approach does not unintentionally contribute towards the emergence of a two-tier system of support. In other words, a shift in policy and service delivery (e.g. welfare advice, Scottish Welfare Fund) towards devolved benefit claimants in such a way that overlooks other groups requiring support, such as Jobseeker Allowance (JSA) claimants. In Scotland, there were 21,958 benefits sanctions in 2015/16 of which the majority (63.5%) were claiming JSA. Although the design and implementation of sanctions remains a reserved matter, nevertheless it is important that the principles, particularly around dignity, accessing assistance and putting the needs of those who require social security first, are equally applied to all those in receipt of benefits, devolved or reserved.

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

Other planned legislative changes strengthen the case for aligning the principles closer to improving health and tackling health inequalities. For example, the Child Poverty (Scotland) Bill introduced on February 2017 recognises the legislative relevance of the Welfare Reform Act 2012 and Welfare Reform and Work Act 2016 and contains provisions that require health boards and local authorities to prepare and publish annually a joint local child poverty action report.⁸

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.

⁶ Morris JN, Donkin AJM, Wonderling D, Wilkinson P and Dowler EA. (2000) A minimum income for healthy living. *J Epidemiol Community Health* 2000; 54:885–889.

⁷ Minimum Income Standard has been defined as the income that people need in order to reach a minimum socially acceptable standard of living in the UK today, based on what members of the public think. It is calculated by specifying baskets of goods and services required by different household types in order to meet these needs and to participate in society. See: <http://www.lboro.ac.uk/research/crsp/mis/whatismis/>

⁸ SPICe Briefing Child Poverty (Scotland) Bill 21 February 2017. Available at: http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_17-10_Child_Poverty_Scotland_Bill.pdf

In our past response to the Scottish Government's consultation on Social Security in Scotland we acknowledged the strengths and limitations of a charter versus legislation.⁹ On balance, we argued that legislation was a more robust approach than a charter as it could ensure that the principles were protected, as well as supporting efforts to address stigma, act as a safeguard for those accessing the new system, and support ongoing efforts to improve uptake of unclaimed benefits. Legislation could also act as a safeguard to protect vulnerable groups against important factors that can shape disability programmes: increasing public anxiety or insecurity about who is entitled or not entitled to claim; general societal change in the future that is encouraged by politicians or media; fiscal pressures forcing or justifying 'welfare retrenchment' that is translated into reductions in national and local expenditure; and institutional factors within services, including staff.¹⁰

We also recognised the possible benefits of a charter, such as individuals being more informed of their entitlements and expecting minimum standards of service delivery. The principles of co-production should underpin the drafting of a charter. For example, advisory input comprising representation from potential users, such as the 'Experience Panel' and the 'Disability and Carers Benefits Expert Advisory Group'. In operational terms, the charter document would need to be accessible and widely available, particularly within known settings, such as post offices, pharmacies, doctors' surgeries, and known areas with existing high rates of claimants and digital exclusion.

Q. Is there anything specific you would like to see in this charter?

As covered in response to question one, the charter should support claimants when navigating and attempting to understand the three possible sources of welfare support.

Equally, as covered in response to question two, the charter should contribute towards ensuring that we avoid unintentionally moving towards a two-tier system of general support for those on devolved and reserved benefits.

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?

⁹ GCPH response: Social Security in Scotland. November 2016. Available at: http://www.gcph.co.uk/assets/0000/5959/GCPH_consultation_response_-_Scottish_Government_consultation_on_Social_Security_in_Scotland.pdf

¹⁰ Morris Z. Constructing the need for retrenchment: disability benefit reform in the United States and Great Britain. *Policy & Politics* 2015. DOI: 10.1332/030557315X14381812909357. Available at: https://www.researchgate.net/publication/281208480_Constructing_the_need_for_retrenchment_Disability_benefit_reform_in_the_United_States_and_Great_Britain

It is important that the agreed rules are provided in a range of accessible formats and ensure that they do not add to the lack of clarity and confusion reported by claimants participating in the tracking study on the impact of Welfare Reform in Scotland.^{3,4} Those who will be affected by the new social security rules need to receive clearer information about what will happen, and when. Communication of decisions should also be clear and unambiguous with a need to identify examples of good practice in this respect.

On a more general note, we have some concerns that the choice of language could be construed as placing the burden of proof on claimants instead of ensuring that there is a balance of duty that includes agencies delivering the new social security system, including a need to improve wider access to and uptake of unclaimed benefits. Moreover, the choice of language contains conditional elements redolent of the current UK system, which appears to be in contrast with the more progressive, rights-based language within the principles.

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?

We do not have any specific comments on the schedules in the bill in regards 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?

If an individual challenges the determination to stop or reduce a devolved payment then it is important to avoid a situation where they face sudden, financial hardship, such as the scenario described in the CPAG (Scotland) case study. This type of hardship could be avoided by introducing automatic payment until the outcome of the reconsideration.

If the new short-term assistance is delivered nationally then it will be important to ensure that effective coordinated links are developed with the Scottish Welfare Fund (SWF) and other local links. For example, if someone applies to the SWF for a Community Care Grant, or Crisis Grant alongside short-term assistance.

During 2016/17 there were 229,920 applications to the SWF. Local authorities have the discretion to process applications and create links to other local services, which is considered more joined up than the national call centre provision which existed under the UK Social Fund.¹¹ It may be important to monitor the impact of this new short-term assistance on changes in SWF volume of applications, types of households applying for support and budget overspend or underspend.

It could also be important to consider what impact this new type of assistance could have on other support, such as Section 12 payments (Social Work (Scotland) Act 1968) to people affected by disability that require assistance in kind or cash.

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?

We agree with the proposals to top-up reserved benefits and create new benefits. Ongoing research on the Minimum Income Standard (MIS) for the UK shows that basic, out-of-work benefits continue to provide:

- Well under half of the minimum income (excluding rent and Council Tax) required by an adult with no children.
- Only 50–60% of what families with children require.

In contrast, Pension Credit (the safety-net benefit for pensioners) provides 97% of a minimum budget, very nearly enough for them to meet MIS.¹²

In terms of creating new benefits, priority should be given to the introduction of a Young Carer's Allowance which would signal the importance of providing a strong focus on early prevention. A new GCPH study suggests that there may be more young carers in Glasgow than previously thought with almost 1-in-8 secondary school pupils surveyed providing care and a third of those stating no one knew about it.¹³ Young carers were more likely to report having a limiting illness or disability when compared with non-carers, poorer health outcomes, particularly

¹¹ Scottish Welfare Fund Statistics: Annual update: 2016/17. Available at:

<http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/swf/swf-statistics-2016-17>

¹² The 2017 Minimum Income Standard levels for the UK are available at: <https://www.jrf.org.uk/report/minimum-income-standard-uk-2017>

¹³ GCPH (2017) Young carers in Glasgow: health, wellbeing and future expectations. Available at:

http://www.gcph.co.uk/publications/721_young_carers_in_glasgow_health_wellbeing_and_future_expectations

among those caring for someone with mental health or addictions issues, and were less likely to see themselves entering further or higher education.

Prioritising the introduction of a new Young Carer's Allowance could support early intervention efforts directed at young people providing care, particularly after the introduction of the Carers Act in April 2018 which requires local authorities to provide a 'Young Carer Statement' which identifies and provides eligible support to those providing care.

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?

We welcome that the value of carer's allowance is being increased by £11. However, as previously noted the majority of benefits still fall way behind what is required for a Minimum Income Standard.

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?

We welcome the £35 million additional contribution from the Scottish Government towards the total £50.2 million available for Discretionary Housing Payment (DHP) funds for Scotland in 2016/17. In terms of accessing future DHP information and support, it is important to recognise the increasing number of people who are private renters.

Although people who are social renters are at higher risk of poverty, levels of vulnerability are only slightly lower among private renters. In Glasgow, private renting has more than doubled from 8% in 2001 to 19% in 2013, which broadly reflect national trends, although levels of private renting are higher in Glasgow.¹⁴ It will be important that those private renters entitled to DHP can access advice and support services more readily visible or available to people who are social renters.

Q. Do you have any other views on the proposals for discretionary housing payments?

¹⁴ Whyte, B. (2016) Glasgow: health in a changing city. Available at: [http://www.gcph.co.uk/assets/0000/5516/Glasgow - health in a changing city final.pdf](http://www.gcph.co.uk/assets/0000/5516/Glasgow_-_health_in_a_changing_city_final.pdf)

See previous comment.

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

It is important that the Bill considers the following:

- Enshrining an approach that places emphasis on a cash-by-default benefits system which treats people with dignity and respect over an in-kind (e.g. vouchers) system which claimants can view as being stigmatising.
- Establishing an independent statutory body, like the UK Social Security Advisory Committee, to scrutinise the regulations on behalf of Scottish Government ministers and the Scottish Parliament, and to provide advice and assistance to ministers whether in response to a specific request or on the new body's own initiative.
- Uprating devolved benefits as an important driver to tackle poverty by using the higher annual inflationary measure at the time i.e. Consumer Price Index or Retail Price Index.
- Addressing the issues of claimants' residency and how backdated benefits claims and backdated payments are managed during the transitional period and afterwards.
- Ensuring the right to access independent advocacy is included in the Bill as advocacy and advice are different and both require support.
- Recognising the importance of digital exclusion and how this could be addressed in terms of accessing services.