

Social Security (Scotland) Bill

Stage 2 Consideration, Day 1

1 February 2018

Written briefing from Citizens Advice Scotland

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.

In 2016/17 the Citizens Advice network in Scotland helped over 310,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £120 million and our Scottish self-help website Advice for Scotland received over 4 million unique page views.

Summary

Citizens Advice Scotland (CAS) supports the following amendments (in Marshalled List order):

77; 4; 57; 138; 7A; 7B; 7; 8; 9; 58; 59; 112; 114; 115; 139; 10; 13; 116; 117; 14; 15; 16; 118; 18; 80.

Introduction

In 2016/17, Scotland's CAB network provided advice on 94,301 new issues relating to the benefits being devolved, representing 37% of benefits advice given by Scotland's citizens advice bureaux in that year. CAS has provided a substantial body of evidence based on CAB clients and advisers' daily experiences of engaging with the current system, together with their priorities for the new Scottish system.¹ We look forward to continuing to work with the Scottish Parliament and Scottish Government to ensure the new system is fair, equal and responsive with Scotland's citizens at the heart of it.

This briefing covers amendments to Part 1 of the Bill, which will be considered by the Committee on 1 February.

Take-up of assistance and income maximisation

One of the main areas where the work of citizens advice bureaux complements the work of the social security system is through benefit checks and income maximisation. We know from our work that a substantial number of people are entitled to social security support but are

currently not receiving it. Bureaux play a hugely important role in maximising the income of clients, ensuring that they are claiming all the benefits that they are entitled to. In many instances, clients may be seeking advice about another issue (eg. debt), with the bureaux able to improve their financial circumstances through ensuring that they are claiming the right benefits. In 2016/17, the client financial gain as a direct result of advice on benefits and tax credits was almost £90 million.

In addition to the recognition of the role of independent advice, CAS welcomes proposals requiring the Scottish Government to take steps to support income maximisation and the take-up of benefits. These proposals include the Scottish Government's amendments that place a duty on the Scottish Ministers to take steps to promote take-up, further strengthened by those from Mark Griffin, which would also add a role in promoting take-up of reserved benefits. We also welcome Alison Johnstone's amendment which would require targets to be set for the take-up of Scottish social security payments, and Mark Griffin's requiring the Scottish Government to publish an income maximisation strategy.

CAS supports amendments 4 and 7 (in the name of the Minister), amendments 7A and 7B (in the name of Mark Griffin), amendment 14 (in the name of Alison Johnstone) and amendments 114 and 115 (in the name of Mark Griffin).

Effect of Scottish social security principles

CAS welcomed the Scottish Government's principles for the new social security system, which have the potential to create a new system based on dignity and respect. We welcome amendments from Adam Tomkins, which would allow courts and tribunals to take the principles into account when considering cases related to social security; and from Mark Griffin which would place a duty on Ministers to comply with the principles.

CAS supports amendment 57 (in the name of Adam Tomkins) and amendment 138 (in the name of Mark Griffin).

Advocacy and information provision: Recognition of Independent Advice

Independent advice plays a key role in a well-functioning social security system, including support with entitlement, take-up, applications, complaints, appeals, access to information, outreach and continuous improvement. The development of the new Scottish Security System offers a unique opportunity to harness and support the key role of independent advice in Scotland, both to ensure access to quality independent advice through citizens advice bureaux, but also to support the aims of the new system. When respondents from the Scottish Government's Experience Panels were asked about their top priorities for improvement in the new system, 71% listed 'advice and support about claiming' as a priority.ⁱⁱ

Issues relating to benefits and tax credits are the most common area of advice provided by citizens advice bureaux, with over 253,000 new issues advised on in Scotland in 2016/17, representing 43% of their work. This equates to 970 new benefit issues for each working day of the year. As a result, citizens advice bureaux supported clients to claim almost £90 million in benefits they were entitled to.

Citizens Advice Scotland welcomes the Scottish Government's amendments that would recognise the role that independent advice plays in ensuring access to the social security system, and its crucial role in assisting individuals to claim all the benefits they are entitled to. CAS also welcomes Jeremy Balfour's amendment which would achieve the same positive outcome.

CAS supports amendments 7 and 8 (in the name of the Minister) or amendment 58 (in the name of Jeremy Balfour). Either of these blocs of amendments would have a positive effect.

Advocacy and information provision: Inclusive Communications and Accessibility of Information

The Bill could set out rules for communicating with people, including ensuring that benefit claim forms are in clear, accessible language, and come accompanied by guidance on how to complete the form; and that written communications should be individualised, written in clear, plain English, avoiding medical jargon, legalistic language and abbreviations. There should also be an acknowledgement immediately sent when any benefit claim has been received which also sets out reasonable and realistic timescales within which someone can expect their claim to be dealt with.

CAS welcomes the amendment from Ruth Maguire which would require the Scottish Government to have regard to using an inclusive communication standard,ⁱⁱⁱ which would benefit all users of the Scottish social security system, but particularly those requiring support from disability benefits. Similarly, we also welcome the amendment from Mark Griffin which would require relevant information about social security claims to be given to individuals in an accessible manner.

CAS supports amendment 112 (in the name of Ruth Maguire) and amendment 139 (in the name of Mark Griffin).

Advocacy and information provision: Independent Advocacy

Independent advocacy also plays an important role in a well-functioning system particularly those with specific needs and vulnerabilities. CAS would also support a statutory duty to provide independent advocacy to those who need it. It is important to recognise that independent advocacy is different to independent advice, and that advocacy is most effective when it is undertaken in partnership with independent advice services.

CAS welcomes the recognition of the role of independent advocacy brought by amendments from the Scottish Government and Jeremy Balfour. We favour the broader definition of advocacy set out in Jeremy Balfour's amendment

CAS supports amendment 59 (in the name of Jeremy Balfour), or if that is not preferred, amendment 9 (in the name of the Minister).

Advocacy and information provision: Right to Support

CAS welcomes the introduction of statutory guarantees that an individual can be accompanied to appointments and assessments for the new social security system. This step has the potential to make the process less daunting and stressful for the individual and help secure them their entitlements in the new social security system.

CAS supports amendment 39 (in the name of the Minister).

Private sector involvement

In the minority of cases where face-to-face assessments might be required, CAS recommends that these are carried out by a public sector body, either the NHS or the Social Security Agency. There was a clear view amongst CAB clients and advisers that private companies should not have a role in assessments, due to the lack of specialist expertise, difficulties with the assessments requiring to be carried out in an inflexible 'box-ticking' manner, and due to a lack of clear lines of accountability in certain situations where it is unclear whether the DWP or contractor is responsible for particular actions.

We welcome amendments from the Scottish Government which rule out the use of private companies in the new system, and George Adam's amendment which would set out the principle that the social security system is a public service.

CAS supports amendment 10 (in the name of the Minister) and amendment 77 (in the name of George Adam).

Effect of charter: Complaints

Whilst the Bill sets out procedures for redeterminations and appeals, it did not make provision for people's right to complain about poor service, or where they feel that they have not been treated with dignity and respect. CAS has recommended that the Bill guarantee people's right to complain without prejudicing their claim, clearly setting out how people can make a complaint and receive redress. In addition to making the process clearer, this would also strengthen the rights-based approach to the design of the system. There are unique challenges faced by users of the social security system and from consultation with CAB advisers, there are a number of barriers their clients face which discourage those clients from raising a complaint under the current social security system.

CAS welcomes the Scottish Government's amendment which would give people a right to complain if the service they receive does not meet the expectations set out in the Social

Security Charter. The amendment would also require complaints to be fully investigated, allowing the possibility of redress for the individual and a culture of continuous improvement to be facilitated. The amendment also strengthens the role of the Charter in guaranteeing individuals' rights in the new system.

CAS supports amendment 18 (in the name of the Minister).

Right to social security

CAS welcomed the addition of the principle in the Bill as introduced that recognised social security as a human right. We welcome amendments drafted by the Scottish Human Rights Commission that would further strengthen these provisions by requiring Ministers to have due regard to the right to social security and relevant human rights covenants when exercising their functions.

CAS supports amendment 116 and 117 (in the name of Mark Griffin).

Annual report and other accountability mechanisms: Independent Review of Act

Given the challenges in developing a new Scottish social security system, CAS would support recommendations made by other organisations for an independent review of the operation of the Act, the new system and structure of the benefits after three years of the system being in operation.^{iv} This should ensure that longer-term development of the benefits continues to take place.

CAS supports amendment 80 (in the name of Mark Griffin), which would make provision for this review to take place.

Scottish Commission on Social Security

As drafted, the Bill made no provision for the independent scrutiny of regulations by expert advisory bodies. CAS has recommended that the existing functions of the current UK Social Security Advisory Committee (SSAC) are reflected in the Bill in a Scottish context, establishing in statute an independent expert body. Its role would be to provide advice to the Scottish Government on the development and drafting of regulations. In addition, the relevant Scottish Parliament Committees should be permitted to make referrals to the independent expert body to allow advice to be provided on regulations to aid the Parliamentary scrutiny process.

We welcome the Scottish Government's amendments in this area which would provide for a robust independent scrutiny process for regulations establishing the new benefits, together with any further changes over time.

CAS supports amendments 13, 15, 118 (in the name of the Minister).

For more information or CAB cases, contact:

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- ⁱ A New Future for Social Security: Consultation on Social Security in Scotland – Response from Citizens Advice Scotland, October 2016 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-consultation-new-powers>
- ⁱⁱ Social Security Experience Panels: About Your Benefits and You – Quantitative Research Findings – Scottish Government Social Research - <http://www.gov.scot/Resource/0052/00527173.pdf>
- ⁱⁱⁱ Inclusive Communications Standards – Royal College of Speech and Language Therapists - https://www.rcslt.org/cq_live/resources_a_z/inclusive_communication/overview
- ^{iv} Response to A New Future for Social Security in Scotland: Consultation on Social Security in Scotland – Disability Agenda Scotland, October 2016 http://www.disabilityagenda.scot/images/das_documents/DAS-response-to-scot-social-security-consultation-FINALversion.pdf