

CPAG in Scotland

Briefing Note for Members of the Social Security Committee

Consideration of Social Security (Scotland) Bill: 08th February 2018

Child Poverty Action Group are leading experts on social security. Our social security training, handbooks, information resources and casework support are used by thousands of advice workers and other frontline professionals. Our expertise helps ensure low income households across Scotland and the rest of the UK receive the financial support they are entitled to.

The Social Security (Scotland) Bill is fundamental to the shape and direction of social security in Scotland.

For ease of reference, we have set out again our views on key Part 1 amendments still to be dealt with by the Committee

Amendments to Part 1 – Charter and Accountability

Sections 2 - 5: Charter

1. CPAG recognise the role of the Charter in providing a useful way to ensure the stated principles are well publicised and understood by members of the public. We have been clear that the Charter must have a clear and practical purpose and be enforceable.
2. Specifically, we are keen to express support for **amendments 103 and 104** which provides for the inclusion of persons in receipt of child benefit to the list of consultees when preparing the first Charter as we strongly support amendment 109 (Part 3, after Section 46) which introduces a child benefit supplement.

After Section 5 - Due Regard.

3. We welcome the approach taken by the Scottish Government to ensuring that the principles underpin the new social security legislation. We further welcome the recognition within the Bill that social security is itself a human right and essential to the realisation of other human rights but believe the Bill should be strengthened with more explicit reference to the International Covenant on Economic, Social and Cultural Rights.
4. **We therefore urge committee members to support amendments 116 and 117, lodged by Mark Griffin MSP, which place a duty on Scottish Ministers to have due regard to the right to social security in the implementation of the new legislation.**
5. We recognise the work of the Scottish Human Rights Commission in this area and support their view that these amendments would also ensure the right to social security must be considered by courts and tribunals when making decisions around social security.

After Section 6 - Scottish Commission on Social Security.

6. CPAG welcomes the establishment on a statutory footing of the Scottish Commission on Social Security and supports the recommendations of the Disability and Carers Benefits Expert Advisory Group (DACBEAG).
7. In particular, the DACBEAG recommended that: “there should be no exceptions to Scottish social security regulations that are within scope for scrutiny”.¹
8. As the SPICe briefing on independent scrutiny of the Scottish social security system noted², the following provisions would not be subject to statutory scrutiny under the proposed new Schedule:
 - *Provision about determining entitlement under Chapter 3 of part 2 (in some cases this may form part of a single set of regulations making provision for a particular type of assistance)*
 - *Provision for fraud investigations and creating new criminal offences (s 43)*
 - *Provision about who is eligible for a carers allowance supplement (s47)*
 - *Provision under other acts, for example the Welfare Funds (Scotland) Act 2015 asp 5.*
9. As proposed in Amendment 131, statutory scrutiny of regulations would be restricted to provisions about entitlement conditions and amounts. This does not go far enough. ‘Technical’ rules on applications and decision making, on overpayment and fraud, have real impacts on people’s money and experience of the system. They should all be in scope for scrutiny.
10. **We would support an amendment being brought forward to Amendment 131 to extend the scrutiny function of the Commission to all regulations.**

Amendments to Part 2, Chapters 1 & 2, and Schedules

Based on our experience, expertise and extensive case evidence we **strongly urge Committee members to support the following key amendments to Part 2, Chapters 1 & 2.**

Right to Cash Benefits

11. The right to assistance in cash is fundamental to ensuring that social security protects and enhances dignity and human rights. Individuals are best placed to understand their own needs and prioritise their resources to support themselves and their families, and assistance in the form of cash is the best way to protect this choice.

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http://www.parliament.scot/S5_Social_Security/Inquiries/Scrutiny_Workstream_DACBEAG_final_report.pdf, (Page 5)

² http://www.parliament.scot/S5_Social_Security/Meeting%20Papers/PublicPapers_20180125.pdf
SC/S5/18/2/2

12. Only in carefully defined circumstances, and once cash has been offered as the default form in the first instance, should in-kind benefits be offered.
13. Scottish Government amendments **20, 22, 24, 26, 28, 29, 31**, whilst welcome, must be strengthened to ensure cash is **always offered in the first instance**.
14. CPAG, along other members of the Scottish Campaign on Welfare Reform (SCoWR) **urge MSPs to support the amendments 20a, 20b, 20c, 22a, 22b 22c, 24a, 24b, 24c, 26a, 26b, 26c, 28a, 28b, 28c, 29a, 29b, 29c, 31a, 31b, 31c** lodged by Mark Griffin MSP. These strengthen the provisions within the schedules to ensure that **assistance is always first offered in cash**, in addition to always being a choice and choice that individuals can change their mind on at any time. Without these amendments, the Scottish Government amendments provide for choice, without the explicit statement that financial assistance shall be the default option. It is important that these amendments are passed to protect the fundamental right within the Scottish social security system to assistance in the form of cash.

New Schedule - Housing Assistance:

Amendments 152 – 153, 161, 165

15. These amendments provide for regulations to pay housing assistance to individuals who are entitled to universal credit, who when the bedroom tax is abolished, become affected by the benefit cap; and to 18-21 year olds who are not entitled to the housing element of universal credit.

Mitigating the bedroom tax/benefit cap

16. The Scotland Act 2016 gives the Scottish Government the power to vary the housing element of universal credit which will allow it to set the rate at which deductions are made for the bedroom tax at 0%, effectively 'abolishing the bedroom tax.' However when some people cease to have their universal credit award reduced by the bedroom tax, they will find that it is reduced by the benefit cap instead, leaving them no better off despite the effective abolition of the bedroom tax.

Amendment 153 ensures that people in this situation fully benefit from the effective abolition of the bedroom tax and do not lose the additional financial support such abolition provides through the benefit cap.

18-21 Year Olds and Assistance with Housing Costs

17. We continue to believe the removal of assistance with housing costs for a large proportion of 18-21 year olds should be repealed by the UK Government. However we are pleased that the Scottish Government has brought forward an amendment to deliver on its commitment

to find a long-term solution by providing a right to assistance to young people aged 18-21 who are no longer eligible for the housing element of Universal Credit.

Further ways to strengthen the Housing Assistance provisions at Stage 3.

18. We would welcome further clarification on what is intended when the Schedule states:

- eligibility might depend on taking part in education or being resident and present in a particular place
- the regulations may provide for housing assistance to be paid to another person to meet any liability to that person.

CPAG support the Scottish Government amendments 152 – 153, 161, 165.

CPAG has previously set out its views on the Bill as a whole to Social Security Committee members and other MSPs, both during the [call for evidence on the Bill](#) as part of the Committee's consideration, and ahead of the Stage One debate on the [general principles of the Bill](#). CPAG's briefing note on Part 1 of the Bill – which began consideration on the 1st February, [can be read here](#).

For more information on the above, or should you have any questions regarding the remainder of the Social Security Scotland Bill, please contact Jenny Duncan, CPAG Policy and Parliamentary Officer on jduncan@cpagscotland.org.uk or 0141 611 7090.