

Social Security (Scotland) Bill Stage 3– SAMH Briefing

SAMH welcomes the opportunity to brief MSPs on the stage 3 debate of the Social Security (Scotland) Bill. We warmly welcome the Social Security (Scotland) Bill and call for MSPs to vote in favour of the legislation. This briefing will focus on key issues SAMH has raised throughout the legislative process that are most relevant to people with mental health problems.

SAMH is a member of Disability Agenda Scotland (DAS) and the Scottish Campaign on Welfare Reform (SCoWR).

Key Points

- SAMH welcomes the Social Security (Scotland) Bill and calls on MSPs to vote in favour of it at stage 3
- SAMH calls on MSPs to support amendments 2, 15 and 46 on assessments
- SAMH calls on MSPs to support amendments 29-34 extending the right of Independent Advocacy
- SAMH calls on MSPs to vote against amendment 35 on Advocacy service standards

Introduction and General Points

SAMH believes the Social Security (Scotland) Bill represents a historic moment in the history of devolution, with the creation of a devolved Scottish Social Security System. The new system will have responsibility for non-income related disability benefits and has the potential to make a positive impact on people with mental health problems. We warmly welcome the approach the Scottish Government has taken in consulting stakeholders and importantly people with lived experience of social security and disability, when designing the new system and its legislative framework.

SAMH welcomed the Bill when it was published, but saw several opportunities for improvement. We are pleased to have been heard on these issues and believe the Bill has been significantly strengthened throughout the legislative process. For example the Social Security Committee voted in favour of a SAMH-backed amendment at Stage Two to ensure that a proportional number of people with mental health and other conditions, who are in receipt of legacy benefits, will be consulted when the first Scottish Social Security Charter is produced. We also welcome amendments at Stage 2 to create an independent Scottish Commission on Social Security to scrutinise the new system including future secondary legislation.

The Bill provides the legislative framework for the new Scottish Social Security System. As such much of the detail of how the system will operate in practice, for example

assessment criteria, will be determined by secondary legislation. SAMH will continue to work to ensure that future regulations are fully in line with the principles of fairness, dignity and respect.

Assessors and Assessment – amendment 2, 15 and 46

SAMH warmly welcomes Amendment 2 lodged by Mark Griffin MSP and 46 lodged by Alison Johnstone MSP.

SAMH has campaigned for substantial improvements in face to face assessments for PIP and ESA, particularly where someone has a mental health problem as their primary condition. The new Social Security System has the opportunity to do things differently, rooted in fairness, dignity and respect.

People with mental health problems make up the largest group of people receiving PIP in Scotland, with 39% of all PIP cases being someone with a psychiatric disorder.¹ Significant problems exist with the manner in which face to face assessments for PIP work for people with mental health problems.^{2,3} These include a lack of understanding of the impact of mental health by assessors; face to face assessments' inability to accurately assess the impact of fluctuating conditions; and stigmatising attitudes and behaviours by some assessors. The cumulative impact of these failings has been a loss of trust in the PIP assessment process and in some cases a deterioration of applicants' mental health. These problems are exacerbated where assessors lack mental health knowledge and experience when assessing applicants with mental ill-health as their primary disabling condition.

Amendment 2 builds on progress made at Stage 2, when the Government committed to work with Mark Griffin MSP to lodge an amendment at Stage 3 to ensure assessors under the Scottish system will have the right training and experience to properly assess people with mental health problems. We believe Amendment 2 has the potential to radically improve the experience of people with mental health problems applying for assistance from the new system.

Secondary legislation will be key to realising the policy aim of providing condition specific assessors. Future regulations under subsection (3) and (4) must ensure that people applying for assistance from the Scottish Social Security System can self-declare their primary disabling condition at the earliest opportunity so they are routed to the most appropriate assessor. We welcome the Government's intention to reduce face to face assessments for disability benefits.^{4,5} A reduction in assessments should make it easier to provide condition specific assessors as overall numbers will be lower, making it easier to match assessors to applicants. It will also contribute to building trust between the new Scottish social security system and applicants, which is essential for its long term effectiveness.

¹ DWP [Stat-xplore](#) [accessed April 2018]

² SAMH [Personal Independence Payment – What's the problem?](#) 2016

³ SAMH [Fit For Purpose](#) 2015

⁴ Scottish Parliament [Ministerial Statement - Social Security Minister Jeane Freeman](#) 27th April 2017

⁵ Scottish Parliament [Social Security \(Scotland\) Bill Policy Memorandum](#) 2017

Amendment 15 is a technical amendment to achieve the policy aim of amendment 2.

➤ **Please support amendments 2 and 15**

SAMH welcomes Amendment 46 lodged by Alison Johnstone MSP. The amendment will result in assessments only requiring to be carried out if that is the only practicable way to obtain the information needed to determine eligibility for assistance. This is in line with the Scottish Government's welcome stated aim to reduce face to face assessments. The amendment also requires Scottish ministers to consider the preferences of the person in how the assessment will be carried out.

Lengthy travel to a face to face assessment can be very difficult for people with a mental health problem.⁶ This amendment will mean considerations such as the location of the assessment will need to be considered in line with the person's preferences. We believe this can significantly reduce the distress associated with assessments.

➤ **Please support amendment 46**

Right to Advocacy – Amendments 29 -34

SAMH's long held position is that anyone engaging with the new Scottish Social Security System should have a right to advocacy.⁷ The benefits of advocacy are clear. The Scottish Government funded the Welfare Advocacy Pilot Project between March 2015 and August 2016, which found that advocacy support throughout the assessment process of both ESA and PIP⁸:

- Reduced the stress and anxiety for applicants
- Increased applicants' confidence about communicating and their understanding of the process
- positively impacted the behaviour of assessors
- Increased the accuracy of assessment outcomes.

Almost three quarters of people supported by the project had a mental health problem as their primary health condition. Nine out of ten of those participating received a positive result from their claim.⁹

While we continue to support universal access to advocacy, we do support amendments 29 -34 lodged by the Scottish Government to extend the right to advocacy to anyone with a disability who requires an advocate's assistance. This represents a significant increase in the right to advocacy, which we hope can be extended further in the future.

These amendments build on good progress at Stage 2 of the bill and will result in a significant increase in the right to advocacy for disabled people using the new Social

⁶ SAMH [Personal Independence Payment – What's the problem?](#) 2016

⁷ SAMH [SAMH Response to Social Security Committee Consultation on Social Security Bill \(Scotland\)](#) 2017

⁸ Alliance [Welfare Advocacy Support Project evaluation report](#) 2016

⁹ Alliance [Welfare Advocacy Support Project evaluation report](#) 2016

Security System. Our understanding that the definition of disability will be at least as wide as that in the Equality Act, and that entitlement will not require any tests other than a declaration from the person.

- Please support amendments 29, 30, 31, 32, 33 and 34

Advocacy Standards – Amendment 35

SAMH is unable to support amendment 35, due to the lack of time to debate its proposals. The amendment gives powers to Scottish Ministers to set standards for advocacy services which must be complied with for these services to provide advocacy to disabled people eligible for advocacy under the bill. Standards will cover training; service quality; quality assurance; and record keeping.

SAMH strongly believes that all advocacy service must have high standards, and agrees that clear, consistent standards that apply to all providers are necessary. We do agree that a discussion is needed about how we best secure consistent standards of advocacy for all providers, given the increase in access that will flow from this Bill. However, legitimate concerns have been raised relating to the need for independent scrutiny and standard-setting and there has been no opportunity to debate this new provision at either Stages 1 or 2. Therefore while we have sympathy with its aims, we cannot support the amendment and call on MSPs to vote against it at Stage 3.

Further information

For further information, please contact Craig Smith, Public Affairs Officer, SAMH

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