

# **Social Security (Scotland) Bill**

**Amendment to ensure people requiring  
assistance under the Act can access  
independent advocacy services**



Scottish  
**Independent  
Advocacy  
Alliance**



**Camphill Scotland**

The membership body for Camphill communities in Scotland

a city-wide advocacy project

**AdvoCard**

for users of mental health services



**Inclusion Scotland**

Disabled People's Organisation

Our voices ■ Our choices



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## **Amendment to ensure people requiring assistance under the Act can access Independent advocacy services**

After Section 8, Page 3, line 33, at end insert new section-

("(8A) Independent advocacy support and representation

(1) Where an individual applies for assistance of a type described in Chapter 2, the individual shall be entitled to support from independent advocacy services at all stages of the determination of their entitlement to assistance where the individual requests the support of independent advocacy services.

(2) The Scottish Ministers must advise the individual of any independent advocacy services which are available to assist individuals to apply for assistance under this Act, and at all stages of the determination of their entitlement to assistance.

(3) The Scottish Ministers may by order or by regulations make provision for, or in connection with-

(a) the provision of independent advocacy services for individuals applying for assistance under this Act, and at all stages of the determination of their entitlement to assistance; and

(b) the requirements that must be met for organisations providing independent advocacy services to be independent for the purposes of subsection (1) above

(4) A power of the Scottish Ministers to make an order or regulations under this section shall be exercisable by statutory instrument.

(5) A statutory instrument introduced under this section containing an order or regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament. "

### **Effect**

To ensure that individuals requiring assistance under this Act are entitled to support from independent advocacy services, and that the Scottish Ministers inform individuals requiring assistance of the availability of such services to support their applications for assistance and at all stages of the determination of their entitlement to assistance. The amendment would also give the Scottish Ministers the powers to make provision for, or in connection with, independent advocacy services.

### **Reason**

Our organisations (listed below) believe that the Social Security (Scotland) Bill must be strengthened by the inclusion of provisions relating to independent advocacy. This is vital if the Social Security (Scotland) Bill is to improve outcomes for those requiring assistance under the legislation.

We welcome the Bill recognising social security as a human right. Our organisations consider independent advocacy as a human right. Independent advocacy helps people to access other human rights and fits with the PANEL principles (Participation, Accountability, Non-discrimination, Empowerment and Legality) because it:

- enables people to participate in systems and processes;
- holds decision makers to account;
- fights discrimination;
- empowers people;
- promotes equality; and
- ensures that decision makers work within the law

Our organisations believe that:

- (a) Anyone engaging with the social security process should have an independent advocate, when they ***feel they*** need one and at any point in the process;
- (b) The Scottish Government should have a duty to fund independent advocacy in each area according to local need, including both individual and collective advocacy; and
- (c) The proposed Scottish Social Security Agency should have a duty to inform people going through the social security process about the right to independent advocacy and contact details of the local advocacy provider.

We believe New Section 8A of the Social Security (Scotland) Bill would help to ensure that anyone who needs independent advocacy support is able to have it where they request such support. New Section 8A would require the Scottish Ministers to inform individuals requiring assistance under this Act of the availability of independent advocacy services to support their applications for assistance and at all stages of the determination of their entitlement to assistance. It would also give the Scottish Ministers powers to make provision for, or in connection with, independent advocacy services, including the funding of such services.

Independent advocacy is vital to ensure that the rights of those who cannot properly communicate their needs are upheld. Independent advocacy helps people to:

- access advice and services that they would otherwise be unable to engage with due to communication needs;
- be understood;
- be heard by professionals and services which make decisions that affect their lives;
- better understand and navigate systems;
- understand their rights, and what to do when those rights are not met;
- think through their choices;
- make informed decisions; and
- influence the design and delivery of systems and services

Advocacy is not:

- mediation;
- giving advice;
- making decisions for someone; or
- speaking up for someone when they are able to express themselves.

We believe that independent advocacy will help to ensure that people are treated with respect and dignity. People who have used advocacy often report that they are more likely to be listened to and treated with respect when their advocate is present. Not only do people benefit from the 'moral support' of an advocate but their advocate helps them prepare for stressful and complex meetings (such as assessments), and to debrief after these have occurred.

The Scottish Government funded 4 advocacy organisations as part of the Welfare Advocacy Pilot Project between March 2015 and August 2016. The 4 organisations were based in Glasgow, Dundee, Falkirk and Edinburgh and were funded to support people going through the PiP and ESA assessments and mitigate the impact of welfare reform. Over the 18 months the organisations were funded they worked with more than 1001 people, 92% of the people supported received a positive result of their claim. In total the Project helped people gain more than £2.7 million in benefit entitlements. Participants reported having a better understanding of the process, being better prepared for their assessment, being listened to and feeling more confident to communicate the impact of their mental illness on their lives.

Independent advice and advocacy are both valuable parts of the system, but should not be confused with each other. An independent advocate offers support and reassurance during an individual's interactions with the state (***to offer redress to the inherent power imbalance***) and puts the emphasis on expressing what the person wants to say informed by the independent advocate's detailed knowledge of the process. Independent advice is usually before, or after, any face to face assessment and is usually an exchange of information.

We believe that the Bill should clearly recognise and state the difference between independent advocacy and advice. We believe that advocacy and advice play very different roles in supporting people who are vulnerable, face discrimination and marginalisation.

Including independent advocacy in the Social Security Bill is consistent with the Scottish social security principles in Section 1 of the legislation, and would enable people to access a range of other rights, help people to reach their full potential and make a positive contribution to society.

**Further information can be obtained from:**

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