

Independent advocacy and the Social Security (Scotland) Bill

Stage 3 briefing

March 2018

We believe that a new Section 8A of the Social Security (Scotland) Bill would help to ensure the practical and affordable provision of independent advocacy services for anyone requiring assistance under the new Act who wants it and call on the Scottish Government and MSPs to support this amendment. **A longer version of this paper, including the wording of the proposed amendment is also available.**

Effect

Supported by over 40 organisations, this amendment aims to ensure that individuals requiring assistance under this Act have a right to support from independent advocacy services, and that the Scottish Ministers have a duty inform individuals requiring assistance of the availability of such services to support their applications for social security entitlements and at all stages of the determination of their applications. The amendment also gives Scottish Ministers the powers to make provision for, or in connection with, independent advocacy services.

We believe that the Social Security (Scotland) Bill must be strengthened by the inclusion of provisions recognising the universal right to independent advocacy and providing access to independent advocacy services. This call is supported by over 40 organisations and is vital if the Social Security (Scotland) Bill is to fully recognise the right to social security – as indicated in the Principles at Section 1 – and improve outcomes for everyone who requires assistance under the legislation.

We acknowledge that the Scottish Government's Stage 2 amendment constitutes a step forward for those we represent. We particularly appreciate the clause placing a duty on Scottish Ministers to ensure that sufficient advocacy services are made available to make this right one which can be exercised by individuals. We believe, however, that a universal right to independent advocacy is required to make sure that people who are not covered by the provision of the Mental Health (Care and Treatment) (Scotland) Act 2003 can also access independent advocacy.

A typical independent advocacy service

In practise, independent advocates provide a few hours' support to people going through the process of claiming social security entitlements. Often they have been referred from an advice agency or third sector organisation. Each case is considered on its own merits. On referral, an independent advocate explains what their role is and the person can decide whether or not they require advocacy and, if not, be referred to other services, e.g. advice. If the person requires independent advocacy support, the

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advocate will meet with them and discuss their needs. Typically a person may need help to attend an advice appointment, complete a claim form or attend an assessment. A typical example of support, over a 4 – 6 month period would be 1 – 2 hours to complete the claim form, 1 – 2 hours for an assessment plus travelling time. Therefore, approximately 6 hours of support per person in a 6 month period.

Scottish Government research with the social security Experience Panels has very recently highlighted how important advocacy services are:

During my first assessment I asked my assessor what she had written and she refused to tell me. This made me very distressed and I became very ill worrying about this for months afterwards as I could not stop worrying about what she had written about me and why she wouldn't let me see it. At my second assessment I had an advocacy worker present and she made sure that the assessor treated me properly and spoke to me slowly and clearly. She also explained to the assessor how important it was that I knew what was being written about me and had the assessor tell me everything that she was writing. It was a completely different experience.¹

Affordability of providing independent advocacy services based on anticipated demand

Supporting the provision of independent advocacy services is affordable and will help save public money by reducing the number of appeals. The Scottish Independent Advocacy Alliance (SIAA) estimates that the cost of providing this support would be around £1.68m a year to provide 48 FTE staff across Scotland working in already constituted and operating independent advocacy organisations. Each Local Authority already has at least one independent advocacy organisation and could easily build capacity to meet the increase in demand. This funding would support thousands of people across Scotland and seeks to mitigate the risks and financial burden of lengthy appeals and redetermination processes if someone has not been heard during a face to face assessment. It is also anticipated that demand will be lower in the future as the Scottish Government has committed to reduce face-to-face assessments.

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¹ Scottish Government (2018), Social Security Experience Panels: About Your Benefits and You - Qualitative Research Findings (<http://www.gov.scot/Resource/0053/00531971.pdf>), p.35

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