

SIAA Response to the Local Government & Communities Committee

Tribunals (Scotland) Act 2014: Consultation on draft regulations making provision in relation to social security appeals

April 2018

Part 1 & 2

We welcome Part 1 section 3 regarding mediation and would like to see more detail about the support an appellant will be able to access when going through mediation, e.g. people with a learning disability or for whom English is not their first language. It would be useful to also clarify who will pay for this support.

Redetermination

We have concerns about the accessibility of the redetermination process firstly that appellants need to apply for a redetermination before they can apply to the Tribunal. Secondly we believe that some appellants will be put off by this and will not pursue the redetermination. There needs to be a simple and accessible process for redetermination and appeal so that it is as easy as possible to use by as many people as possible. This also will support the principle of income maximisation. There is a likelihood that these regulations will have equality and human rights impact on marginalised people.

Independent advocacy

There needs to be mention of section 1G which gives a right to access independent advocacy for anyone covered by the MHA.

Supporters

There needs to be clarity about the differences between supporters and independent advocacy.

Interpreters

It would be useful to have clarity about who has responsibility for sourcing and paying for interpreters, as this is a duty under the Equality Act 2010

Part 4

Recording hearings

We agree with hearings being recorded and believe that a copy of the recording should be readily available to appellants.

Medical examinations

We think if there is need for a medical examination, this should only be considered after the appellant's medical records have been viewed. The appellants should also be provided with a copy of the medical examination report.

We think that independent advocates and supporters should have the right to make representations on behalf of the appellant.

We think this section of the regulations also need to make reference to independent advocacy and people subject to the MHA having a legal right of access to independent advocacy.

Part 5

We believe that all First-tier Tribunals should be considered by a panel of 3 with at least one general member in each panel. We do not agree that there should ever be a legal member sitting alone as this makes the process consistent and fair for all appellants, as is the case with Mental Health Tribunal Hearings.

Part 6

We believe it would strengthen the Tribunal if unpaid carers were also eligible to be ordinary members, in addition to people with lived experience of disability.

The Scottish Independent Advocacy Alliance (SIAA) is Scotland's national membership body for advocacy organisations. The SIAA promotes, supports and defends independent advocacy in Scotland. It aims to ensure that independent advocacy is available to any person who needs it in Scotland.

SIAA is a Scottish Charitable Incorporated Organisation Charity number SC033576

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