

SUBMISSION FROM INCLUSION SCOTLAND

Inclusion Scotland is a network of organisations led by disabled people, individual disabled people and other organisations that support the principles of the Social Model of Disability. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people's everyday lives and exclude us from participating in the mainstream of society.

We welcome the opportunity to provide written evidence to the Welfare Reform Committee on the Welfare Reform (Further Provisions) (Scotland) Bill.

1. Are you generally in favour of the Bill and its provisions?

Yes. We believe this bill is necessary but insufficient alone to address the devolved aspects of the Welfare Reform Act 2012. We eagerly await the details that will be necessary in the secondary legislation and regulations to this bill, including clear guidance for Local Authorities and Public Bodies and for those people impacted.

2. What are your views on this principle?

Tens of thousands of people will lose their status as disabled persons but will still be affected by their impairments/ conditions and the barriers they face to living independently in the community.

Modelling of the cumulative impact of the cuts is required by the Scottish Government - or could be requested from the DWP- so that secondary legislation and regulations can be designed to mitigate the worst of the impacts. Otherwise those who will be disproportionately impacted by the cumulative loss of a variety of benefits, but whose needs and additional expenses will be no less, could be severely affected. We provide further information on the groups most likely to fall foul of the Act below.

Modelling could also identify more precisely where loss of benefits will carry across to devolved passported benefits and new eligibility criteria, for example, could then be designed with those people in mind.

Universal Credit

3. What are your views on the proposed powers in relation to Universal Credit?

We are pleased to see that the Government has proposed powers in relation to the Universal Credit. However, we are very concerned how new legislation will safeguard passported benefits for those new 'claimants' who would normally qualify under the existing (to be phased out) benefits but fail to qualify under UC.

For example, we can suggest that one potential way of addressing this problem might be to continue to passport people onto devolved passported benefits after they have lost entitlement to one of their disability benefits (e.g. ESA) under the Universal Credit. Many of those losing this and other disability benefits (e.g. via the

introduction of PIP, see below) will lose their status as disabled people yet still experience the impact of living in society with an impairment or condition. It will create a limbo where people with limiting long term health conditions or impairments will no longer have the status of a disabled person, even if their impairments and conditions continue to limit their equal access to good and public services. We would like the Scottish Government to consider ways of safeguarding the passporting of these former benefit claimants if they otherwise lose this status.

We do recognise however that there are inherent problems in such an approach. For example, this would not provide entitlement to a new claimant who fails to get the new disability benefit but who would have got it under the previous entitlement regime. They might have similar, or even greater, impairments to those who continue to be passported due to past entitlements, but would not themselves be entitled due to failing to meet the requirement of having previously qualified.

However, we are concerned that over time tens of thousands of disabled people will lose access to passported benefits either through loss of entitlement under Universal Credit or under PIP. As many of these will be losing entitlement to more than one of the current benefits due to be replaced then they would potentially require the passported benefits even more than before.

4. Do you have any other comments on the introduction of Universal Credit?

A substantial number of claimants already classed as disabled people, or might become ill or impaired in future, but still fail to qualify for the new disability related benefits. Therefore any secondary legislation, regulations and guidance introduced by the Scottish Government should attempt to put in place alternative simple and efficient eligibility criteria for passported benefits. We readily admit that this will not be easy to achieve as few proxy indicators of entitlement exist.

Personal Independence Payments

5. What are your views on the proposed powers in relation to Personal Independence Payments?

Again, we do not have an alternative proposal for the proposed powers in relation to further provision under the new Personal Independent Payment.

We reiterate that there needs to be some far reaching changes to the way people qualify for the devolved passported benefits as to have a disabling condition or impairment alone may no longer be sufficient for a large number of people who have (or would have) previously been entitled to DLA.

6. Do you have any other comments on the introduction of Personal Independence Payments?

In order to assess the true impact of cutting 20% from DLA by introducing PIP, as well as the unanticipated impacts of changes brought about by the introduction of the Universal Credit, the Scottish Government should commission additional research i.e. it should undertake a cumulative impact assessment.

Thus far, the DWP has not conducted such an assessment due to what it argues are the difficulties in modelling 'behaviour effects'. However, using the DWP's own figures in relation to the benefits disabled people received, we have already been able to calculate that working age disabled people who are 40+ will be devastatingly impacted by cuts to:

- PIP (2/3 of people on the soon to be defunct lower rate of care are over 45);
- ESA (the majority of people who will lose entitlement to the means-tested PIP will be 40+, more likely to have savings and/or a partner in work); and,
- The Bedroom tax (65% of those who will lose are disabled (DWP) and 55% are aged 45+); according to Scottish government modelling, this will account for something over +60,000 households) and of those we know that the most likely people to have a spare room are those whose grown up children have left home.

Subordinate Legislation

7. What are your views on the proposed subordinate legislation powers in the Bill?

Please see our comments above regarding disability status and passporting benefits.

8. Do you have any other comments on regulations that would follow this Bill on 'passported' benefits and eligibility for them?

No, please see responses given above.

Financial Memorandum

9. Do you have any views on the assumptions and calculations contained in the Financial Memorandum?

There is potential that people could lose automatic entitlement to legal aid due to losing their entitlement to, for example, means-tested ESA. Our key concern is that those losing ESA because of a poor work capability assessment decision may also automatically lose the access to assistance in appealing this decision if necessary. We fear that as an unintended consequence this would nevertheless be a retrogressive step in terms of realising disabled people's human right to access to justice (article 12 of UN CRPD) and the Scottish Legal Aid board would itself be breaching this Convention in-so-doing.

Effects on equal opportunities, human rights, island communities and sustainable development

10. Are you satisfied in the assessments that have taken place in regard to these matters and in the conclusions reached by the Scottish Government?

Please see our response to question 9 regarding human rights assessments on potential consequences of loss of pass-ported benefits and please reconsider the human rights implications of further provision and in drafting secondary legislation.