

Age Scotland's evidence to the Social Security Committee of the Scottish Parliament on the Social Security (Scotland) Bill

Age Scotland welcomes the introduction of the Social Security Bill to the Parliament, and the opportunity to give evidence both in writing; we are also scheduled to give oral evidence to the Committee in October.

Introduction

The Bill is one of the most important the Parliament has ever considered, for numerous reasons.

Firstly, claimants and recipients of devolved assistance will rely upon the system to achieve an adequate quality of life, and conversely failures or even delays in delivering support to those in need can have devastating consequences, which emphasise the need to get this Bill right. As the Bill's associated documents note, there is a right to social security recognised in international human rights law¹ which has been described as "of central importance in guaranteeing human dignity for all persons".²

Secondly, the complexity and scale of the challenge is significant, which is partly indicated by the scale of the sums involved. Once the powers have been transferred to the devolved institutions, simply spending the current £2.9bn on forms of assistance governed by the Bill will instantly represent 7% of all devolved spending.³ This represents more than the entire annual spend on the Justice Department, including all police, prisons, courts and tribunals, legal aid, criminal justice social work, fire safety and rescue, community justice and resilience, cyber security and terrorism prevention, which cumulatively accounts for hundreds of different pieces of primary legislation. It is ambitious to seek to organise a comparable level of public activity principally through one Bill.

Age Scotland has engaged with the scope and use of these powers since the work of the Smith Commission, and subsequently with the Scottish Government. With their support, we held nine separate events with older people around Scotland, involving over 100 people, focusing on the aspects of devolved social security which were most relevant to them. We reported our findings to the Scottish Government and our own detailed submission to the Government's consultation drew strongly upon the feedback we obtained.⁴ For reasons of brevity, at several points we will refer back to that submission in this evidence.

Purpose of the Scottish social security system

The Bill does not set out a purpose for the new Scottish social security system. However, para 49 of the Policy Memorandum curiously states that the purpose is to avoid criticism by the UN that the Scottish Government has failed to guarantee the international law right to social security. It seems to us peculiar and convoluted for

the express aim of a system of such importance to government and civic life to be the avoidance of criticism, however official or well-informed. It also seems an oddly process-driven approach for a Government which has sought to instil outcomes-based policy, notably through the National Performance Framework.

It would to us seem far more fitting and encouraging to affirm that the underlying intent comprises goals such as **greater social inclusion and cohesion, alleviated and reduced poverty**, and an ability for those in economic need to overcome such hindrances and thereby **participate fully in their community and society**. Ideally a statement of this broader purpose should feature in some way in the Bill itself. Achieving these broader aims, so as to ensure that the right to social security is enjoyed and experienced in practice by the people of Scotland, could then properly be considered the preferred benchmark for these broader aims. Confirmation by a UN body that the standard has been achieved, or the absence of criticism that it has not, should then rightly be considered a highly persuasive indicator, rather than the ambition for the system in itself. This may simply be a case of inelegant wording, but it matters. The proposed model of putting almost all details in regulations rather than in the Bill itself (see Q1 below) means that there is little by way of standards against which to judge the regulations when they are eventually made. Articulating a purpose of the system, and making the principles more connected to the outcomes, would both provide reference points for the greater detail to follow.

Q1. The Scottish Government has chosen to put most of the rules about the new benefits in Regulations. Do you have any views on this approach?

We accept that this approach is more likely to achieve the Government's stated ambition of greater flexibility and the opportunity for more responsiveness to changes in circumstances. However, we believe this approach overlooks other factors such as consistency, certainty and accountability.

We note that regulations made under Chapter 2 of the Bill would be subject to the affirmative resolution procedure (section 55(2)). However, even the affirmative resolution procedure affords far less opportunity for scrutiny and debate in practice than the Parliament's legislative procedure for public bills, especially in relation to the input from interested and informed external organisations. The history of the Parliament and its committees are that even regulations subject to affirmative resolution receive far less examination and are typically approved with minimal deliberation. The opportunity for amendment is also significantly curtailed. We therefore strongly disagree with the assertion in the Policy Memorandum (para. 12) that "the Scottish Government's view is that taking this approach should improve Parliament's ability to scrutinise executive action."

This approach also means that the opportunity for scrutiny of the substance of the new social security system by the Committee (and organisations providing evidence,

such as Age Scotland) via the legislative process relating to the Bill is appreciably limited. The Committee is essentially inviting evidence on a framework, not an entire scheme for social security. Some of the issues arising elsewhere in the Bill are therefore essentially hypotheticals: for example, the Bill does not settle whether (or if so, in what circumstances) support for eligible persons *would or should* be in forms other than cash payments; instead debate on the Bill has to focus on whether they *could* be so.

It is conceivable that Ministers and some Members may assert that the language of the legislation also has to be read and understood alongside policy commitments which the current Government have made about how powers would be used. But Governments change, and legislation is more permanent and reliable because it is harder to change abruptly than policy. An assurance to maintain an entitlement in a particular form, with particular eligibility criteria, and at a particular rate is valuable, unless there are misgivings about the Government giving the assurance. But even in the presence of trust, a rejection of giving that assurance legislative effect raises questions about whether the Government would prefer to have the flexibility to change policy later without the hurdle of negotiating another Bill through the Parliament.

Q2. What are your views on the social security principles and the Bill's approach? Please explain the reason for your answer. Are there other principles you would like to see included?

The principles themselves

We particularly welcome the first three principles, which acknowledge that social security is both a human right and an investment in the people of Scotland, and that respect for people's dignity must be at the heart of the system. This language alone sets a very different tone from several aspects of the current social security system.

We believe that respect for dignity is the most crucial aspect of this: the perception that the process of applying for benefits is demeaning and undermines dignity is itself a barrier to claiming. Part of this appears to be intrinsic to any means-tested entitlement, as many people instinctively don't want to be thought of as not coping, vulnerable or needy, and claimant rates for universal or contributory entitlements are comparatively higher. One-third of eligible Pension Credit recipients, for example, do not claim. But if processes followed and the tone adopted can overcome some of those barriers then that would be most welcome.

Some of the later principles could be defined more specifically. As an example, principle (d) suggests that Scottish Ministers have a "role" in ensuring that entitlements are delivered. This seems to contradict the wording of section 8, which provides that Scottish Ministers "must" give people the entitlements for which they are determined to be eligible. In the light of this, it would seem uncontentious to

redefine this principle to make it a “duty” to ensure this. We also concur with points made by the Health and Social Care Alliance about references to “evidence” in principle (e) and continuous improvement in principle (f). Similarly, the desire for efficiency and value for money in principle (g) seems, in its own terms, appropriate and even welcome. However, this must be coloured by a reflection that efficiency and value for money are often cited within social security systems as a pretext for reducing benefits and creating individual injustices and hardship. It may be more reassuring for the public and organisations which advise and support them through the system that gives a greater sense that this principle would not operate in conflict with or override principles (a), (b) and (c).

The Bill’s approach

Putting broad principles on the face of legislation is a departure from traditional practices of legislative drafting in the UK,⁵ though not unknown. We believe that principle-based legislation can be advantageous, but this depends on how those principles are used and what impact they have. For example, the Social Care (Self-Directed Support) (Scotland) Act 2013⁶ begins with general principles, though three years of that Act’s operation suggest that their impact has been debatable.⁷

However, it does not seem to us that the Bill as presently drafted will deliver a principle-based approach. The Bill articulates the principles but largely does not then specify what impact they will have, the only exception being the provision that the Charter must reflect the principles (section 2(3)). However, we do not yet know if there will be regular monitoring and reporting to the public on to what extent *the principles* are being delivered upon (as distinct from reporting on efforts to meet *the requirements of the Charter*, as per section 6(2)(b)).

We assume that the Government intends the principles to be more than symbolic. There are two other ways by which principles may shape both processes and results. The first is that the principles shape administrative practice, the second is that they may be used by claimants/recipients themselves, through tribunals and courts, to assess their experience and outcomes. It seems the Bill offers little or no assistance with achieving either of these.

The Policy Memorandum notes that the Executive’s preferred delivery mechanism is via an Executive Agency, which is effectively part of a Government department. The agency will almost certainly not have distinct legal personality. Consequently, the Bill does not mention the proposed agency or its officials, and does not impose duties upon them: duties are instead imposed directly on Scottish Ministers. Achieving the principles in practice will therefore depend upon, firstly, internal management and, secondly, the public and political accountability of Ministers. The accountability of Executive Agencies has also previously proved somewhat awkward. In practice, Parliament will likely have little input on the agency’s budget, framework, performance targets or senior personnel. As has been noted:

“While Chief Executives are personally accountable to ministers for operational performance, Ministerial responsibility is largely related to policy rather than operations, although the extent to which ministers should be free from blame when serious operational problems occur has been the subject of debate.”⁸

On a related note, there is no specific duty on Ministers to ensure compliance with the principles, only that they report the extent to which the Charter is being met. This seems an unusually diffuse form of accountability when dealing with something acknowledged as a human right. The model of the Human Rights Act 1998, by contrast, is that the Convention rights limit the powers of public authorities, highlight incompatibilities with domestic law and help interpret primary legislation (even before this, Scottish courts could use ECHR provisions and related jurisprudence to resolve ambiguities in domestic law). By virtue of the Scotland Act 1998, the Convention rights also explicitly limit the legal powers of Scottish Ministers and the Scottish Parliament. It is not clear from the terms of the Bill that the principles are intended to have anything like the same effect. There is no indication that they will be justiciable before courts or tribunals, and so enforceable by the person concerned. No provision of the Bill connects the principles either to the types of assistance themselves or the processes of determination, review or appeal. It would seem reasonable to ask the Government if they intend the principles to be justiciable in any form, and if so to make this much clearer in the Bill; but if not, why not, especially since this marks a different approach from other human rights protections in domestic law.

Q3. Do you agree with the idea of the charter? Please explain the reason for your answer. Is there anything specific you would like to see in this charter?

We are content with the proposal for a Charter and welcome it to the extent that it would make the expectations of the system and of claimants and recipients more publicly accessible. We welcome the proposal that this will be consulted upon, though we suggest that it should be genuinely collaborative exercise which meets the ambition of co-production. The language should also be, so far as possible, dementia-friendly: we recommend consulting both the Scottish Accessible Information Forum (SAIF) and the Dementia Engagement and Empowerment Project (DEEP).⁹

However, as noted above, we are concerned that if the Charter is the main means for giving the social security principles practical effect, then this may be a somewhat insubstantial form of ensuring accountability for the system as a whole.

Q4. Do you have any comments on the rules [on applications, decisions, challenges, overpayments and offences]?

With so much of the content about individual entitlements being left to regulations, a large proportion of the Bill's provisions relate to processes.

We are concerned that the provisions relating to decisions and challenges seem largely to replicate the mandatory reconsideration provisions within current legislation, which have been roundly criticised as very rarely leading to reversal of initial decisions, and effectively causing built-in delays in submitting cases for appeal. It later transpired that the DWP was operating a target of at least 80% refusals at mandatory reconsideration stage as one of its key performance indicators, which suggest a willingness or even a desire to refuse in at least some cases where applicants may have a good case on the merits. The only changes apparent in the Bill from the current framework are to rename this process as mandatory redetermination and to apply a time limit for this process to occur within, after which an appeal is triggered automatically. We hope that the Committee would seek assurances that the operation of this stage of process would not replicate the current situation.

We are also concerned that the overpayment provisions do not make any distinction about recovery of overpayments where the error has been caused by the agency (or, in legal terms, the Scottish Ministers) rather than by the claimant or recipient. One of the chief criticisms of the DWP in recent times has been the harsh and iniquitous way in which overpayments have been dealt with as exclusively an issue for the recipient, notably around annual adjustments to tax credits. Although section 37 alludes to the ability of the Scottish Ministers not to seek recovery of liabilities, and requires them to take account of the recipient's financial circumstances, this still does not affect the legal presumption that official error should be treated the same as claimant error. It seems to us that it does not accord with the principles of dignity or respect to assume that recovery should be sought from recipients even when they have complied with all requests, provided accurate and timely information, and relied on the decision communicated to them. It may be that the Scottish Government's intention is that recipients should not, in many or most cases, be pursued for repayments in cases of agency error. However, we would prefer that the Scottish Government would have to meet a legal test to overcome a presumption not to recover in cases where there was no fault by the claimant.

We also note that the offence provisions provide for the possibility of custodial sentences and/or fines. Over several years, the Scottish Government has proposed moving away from short-term imprisonment towards community-based punishments. This seems sensible approach but does not seem to be reflected in the Bill. Although the Scottish Government is not responsible for administering the sanctions regime which relate to benefits which will remain reserved, including Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA), it has devolved

responsibility for the criminal justice system, including sentencing. The Scottish Government can therefore also ensure that sentencing practices for cases of fraud in claiming either reserved or devolved benefits reflect the social security principles and their wider agenda on penalties. Genuine cases of fraud can and should be pursued, but processes can and should also take account of research that supports the idea that inaccuracies in applications are often unintentional and attributable to factors such as applicants having a lack of full information, difficulties understanding official information, or disorganisation.

Q5. What are your thoughts on the schedules in the bill in regard to the eleven benefits?

We refer the Committee to our longer submission on the Government's earlier proposals, especially given that the Bill itself contains minimal details.

Winter heating assistance

Section 13 of and Schedule 3 to the Bill establish WHA as an equivalent of current winter fuel payments. As with all provisions in Chapter 2 of the Bill, this specifies that assistance may or may not be in the form of money. There are some possibilities here around, for example, securing discounts from energy suppliers. However, this would have to take account of the significant number of domestic properties in Scotland which are off-grid. Also there is a general point that most recipients of winter fuel payments do use these sums on heating costs and that cash payments are the best way to meet the principle of dignity and respect.

Paragraph 3 of Schedule 3 to the Bill also provides that financial circumstances of the recipient or someone in their household may affect their eligibility. We remain of the view, as expressed in our earlier submission, that means-testing winter fuel support will likely mean that many of those who most need support would miss out, and that applying a means-test would involve significant administrative costs on the agency. This is the only universal benefit which is being devolved to the Scottish Government: of the 1.4 million who receive one or more of the benefits being devolved, by far the largest group receiving any single benefit are the 1.1 million recipients of winter fuel payment.

Disability assistance (and especially mobility support)

Section 14 of and Schedule 4 to the Bill establishes disability assistance, which may replicate or replace current Disability Living Allowance, Personal Independent Payment and Attendance Allowance. We have previously noted that the distinction between AA and other forms of disability support means that people who develop disabilities later in life qualify for lesser support because of the absence of any mobility component for AA, and that this seems potentially discriminatory. We also believe that the Scottish Government may potentially be in breach of the public sector equality duty if this form of discriminatory treatment is considered but not

resolved. We expect that it will be possible to resolve this in a way that means age ceases to be a relevant factor in the determination of entitlement, though this will depend upon regulations.

Funeral expense assistance

Section 17 of and Schedule 7 to the Bill deal with funeral expense assistance. This should be read alongside the recent publication of the Funeral Costs plan by the Scottish Government. We welcome commitments already made in the plan.

The UK Government recently consulted on a variety of proposed reforms to funeral payments, including: making contributions from friends, relatives and charities non-deductible; extending the claim period from 3 to 6 months; and excluding from consideration relatives who are residents in care homes. It is not clear if these proposals, if pursued, would take effect before the Scottish Government and Parliament acquires responsibility for them. We would at least like to see these replicated in the Scottish Government's version, although this is not an exhaustive list and the benefit could be further improved. The most important reform would be to ensure that the benefit meets the actual costs of arranging and holding a modest but respectful funeral, and not still leave those in real hardship facing thousands of pounds of debt.

We would also like to see some improvements in the process, including the ability to submit evidence electronically, and for forms to be age-friendly in nature without intrusive questions.

Non-cash payments

We are concerned that the Bill provides that each form of assistance may be by means other than cash payments, and does not require non-cash assistance to be preceded by a clear preference to that effect expressed by the recipient. It therefore allows Ministers, and the agency acting on their behalf, to provide non-cash support to eligible people against their wishes. **If the Scottish Government's policy is not to pursue this, we must ask why the Bill as drafted allows for it.** Especially since the details of specific forms of assistance are to be set by regulation, this would allow future Governments with different policies to make such changes with far less public scrutiny than through a legislative process.

Non-cash forms of support may be more suitable for some aspects of the Scottish Welfare Fund which provide for emergency and short-term assistance, but it is much harder to see their relevance in terms of longer-term assistance, and equally hard to square with the principle of dignity and respect. Our specific concerns about non-cash forms of support were set out at greater length in our submission to the Scottish Government, where we cited the considerable problems with Azure payment cards for refugees and asylum seekers. We also disagree that this wording is necessary to

allow for a Motability-type scheme, which is adequately covered by the “Meeting liabilities” provisions in the respective Schedules to the Bill.

Q6. What are your views on the proposal for short-term assistance?

We welcome the idea of short-term assistance, though of course details in the Bill are minimal. One issue worth considering, which isn’t addressed in the detail of the Bill, relates to the distinction between Disability Living Allowance (DLA) and Personal Independence Payment (PIP) on the one hand, and Attendance Allowance (AA) on the other, and the fact that the two former benefits may contain a mobility component but the latter does not.

We have heard via our helpline from many older people who had been in receipt of DLA, including the mobility component. Where they receive this before the age of 65, they can retain those entitlements beyond the age of 65. However, claimants aged 65 and over cannot obtain DLA on a fresh application and instead must apply for AA, which has no mobility component. Retaining DLA and the mobility component therefore becomes important for their income and consequently their quality of life.

Of these recipients, some are now being migrated from DLA onto PIP and reassessed, and receiving initial decisions that they do not satisfy the PIP requirements and are no longer eligible. The manual operated by DWP then advises that support staff should treat all such decisions for those aged 65 and over as automatic triggers of a fresh claim for AA, though it is unclear if most, many or indeed any staff are implementing that practice. However, given that many PIP assessments are being overturned on appeal, it is possible for older people who wish to appeal to face a stark choice about what to do meantime. If they pursue a fresh claim for AA which does not have a mobility component, it is not clear that an appeal against the PIP refusal would or even could restore the *status quo ante*, including not only DLA/PIP at the standard rate but also the mobility component, notwithstanding that the recipient has sought and obtained AA in the interim. Some older people may therefore be left deciding whether to “cash out” by accepting AA during the interim period even if that means that the prospect of regaining the mobility component within DLA/PIP gets lost forever.

We have been unable to determine satisfactorily if these assumptions about the consequences of appeal decisions are correct, and therefore are advising callers in a situation of unfortunate uncertainty. People who are by nature risk averse might well be tempted to settle for AA even if we cannot reassure them that they would not potentially lose out by doing so in the event of a successful appeal. Short-term assistance could help to address this problem, though in the situation we have described it might be more of a sticking plaster than a genuine solution. This quandary only potentially arises because of the distinction made between DLA/PIP and AA and the differential treatment of mobility.

Q7. Do you agree with the proposed provisions to “top up” reserved benefits and the proposal not to include provisions on creating new benefits?

We responded to the Scottish Government’s 2016 consultation expressing regret that the issue of creating new benefits did not seem to be adequately explored. We are conscious that there are financial implications of creating any new, additional entitlement which is not reflected in the changed money flow because of the Smith Commission agreement and Fiscal Framework.

However, there is a significant and live issue around women affected by increasing State Pension age, many of whom support the Women Against State Pension Inequality (WASPI) campaign. There is a dispute around whether the Scotland Act 2016 allows or prohibits the Scottish Government and Parliament from acting to compensate women affected by these changes. We note that section 28 of the Scotland Act 2016, which amends the exemption on creating benefits, provides that “this exception does not except providing assistance by way of pensions to or in respect of individuals who qualify by reason of old age.” The argument centres on whether this provision could or would affect WASPI-affected women who would, by definition, not have attained State Pension age. It would be highly regrettable if women with understandable claims of unfairness, and of not being informed directly of changes to the timetable, and not being afforded sufficient opportunity to plan ahead, should not receive support not because of a Government decision not to do so but because of a matter of legal interpretation. We therefore ask the Committee to consider whether a reference for a ruling could be made to the UK Supreme Court.

Q8. What are your thoughts on the proposal to increase the level of Carers’ Allowance to match Jobseekers’ Allowance?

Increasing levels of support are very likely to be welcomed, especially by those who stand to benefit. We know that this proposal will be examined and commented upon extensively by others, but we would add that both many carers are older and that numbers of older carers are increasing. However, there is no proposal for a similar uplift to the Carers’ premium for Pension Credit, albeit that such an approach would be permitted under the power to top-up reserved benefits under section 24 of the Scotland Act 2016.

Q9. Do you agree that discretionary housing payments should continue largely as they are? Do you have any other views on the proposals for discretionary housing payments?

We support the use of Discretionary Housing Payments to mitigate the effects of the under-occupancy charge (UOC), at least until the UOC can be abolished at source.

We acknowledge that there seems to be an ongoing debate about whether the Universal Credit (UC) flexibilities would enable the Scottish Parliament to do so fully when these are devolved, at least as far as it interacts with the Benefit Cap. We agree that it would be far preferable to abolish UOC at source since this would avoid the need to apply for DHPs, but that it is right to use DHPs – or another equivalent form of support – for this purpose meantime.

However, there may be a way for the Scottish Government potentially to reduce its financial exposure to DHPs that relates to the interaction of Pension Credit and Universal Credit.

Mixed-age couples are ones where one partner has attained Pension Credit (PC) age and the other has not. It is not possible for a household to be eligible to receive PC and other income-related benefits such as UC, JSA and ESA. It would almost certainly always be preferable to claim Pension Credit rather than working-age income-related benefits because PC is paid at a higher rate, it avoids the sanctions regime for working-age benefits, and also Pension Credit recipients are exempt from the under-occupancy charge (popularly known in some circles as the Bedroom Tax), so their Housing Benefit/ Housing Costs Element of UC is unaffected.

However, as of September 2018, when the UC mixed-age couples rules come into effect, it will no longer be possible for new claimants to receive Pension Credit until the younger of the couple has also attained Pension Credit age. We are unsure what the justification for this might be except to save money. It has also been noted that this could create a perverse financial incentive for couples affected to live apart rather than together for the duration of the MAC scenario, since if separated the partner who has reached PCA could receive PC and the other could receive UC if they were not living in the same household.

Many couples in financial need might be in this position, even for a short while, given the unlikelihood of both partners reaching Pension Credit age on the same day. The effect of receiving Universal Credit may be that the under-occupancy charge is applied to them. If so, under the Scottish Government's policy on mitigating the effects of the UOC, they would become an additional group which would, for the duration of their mixed-age couple status, have to make up the shortfall they experience by claiming DHPs.

However, the DHP cost effect for the Scottish Government could be alleviated by increasing the uptake of Pension Credit among eligible households before September 2018. Recipients of PC at that point will not be affected by the combination of the change in UC rules and the under-occupancy charge.

This unusual scenario contradicts the typical paradox of benefit uptake efforts, which is that success in increasing uptake costs the Government making those efforts more money, as greater proportions of entitlements are claimed. However, in this scenario, the reduced exposure to DHPs creates a cost saving for the Scottish

Government, and the burden of the greater uptake of Pension Credit would fall on the UK Government instead. Households would benefit by obtaining Pension Credit to which they were entitled, and would also be prevented from the administrative onus of seeking and obtaining DHPs. The Scottish Government would also benefit from reducing its DHP expenditure but also would be reassured that more people in Scotland were obtaining support to which they were entitled.

This further aspect is important because of the extreme disparity between benefit rates for pension age and working age means-tested entitlements. Pension Credit is worth around £100 a week more than Universal Credit; households with only one person of pension age will accordingly be significantly worse off under these changes, and this would thereby risk increasing rates of pensioner poverty.

Q10. Is there anything else you want to tell us about this Bill?

Because the Bill makes no mention of the agency, a number of aspects about the mechanisms and delivery of the new system, including transition from the existing system, are not addressed within it.

We agree that it is vital that there is a seamless and co-ordinated transition, and that clawback provisions at UK level do not operate in such a way as to defeat a policy at Scottish level to enhance provision (such as, for example, around the proposed increase in Carers' Allowance).

We also note that such a transition, and ongoing efficiency, will depend upon the extent to which the DWP and Pension Service are willing and able to share real-time access to data which they hold but which devolved assistance may depend upon or be affected by, particularly in cases where there will be concurrent entitlements to devolved and reserved entitlements. Further, consideration will have to be given to opportunities to reduce the scope for multiple assessments for devolved and reserved benefits: this will require both co-ordination in practice between UK and Scottish agencies but also a commitment to ensure individuals do not lose out because of bureaucratic difficulties.

Conclusion

We strongly welcome some aspects of the new social security system which this Bill foreshadows: notably the intended move to a principle-based system and a much more receptive tone. However, the nature of the Bill and its structure leaves many details unknown, and this therefore makes it difficult to know if outcomes for people will be better, despite the early positive indications.

¹ See Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) at www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx.

² UN Committee on Economic, Social and Cultural Rights, General Comment No. 19 (E/C.12/GC/19, 4 Feb 2008), at goo.gl/z7WehM

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- ³ based on £38bn of devolved spending in 2017–18: see the Scottish Government draft budget at www.gov.scot/Publications/2016/12/6610/0.
- ⁴ [Link to our social security submission, October 2016.](#)
- ⁵ See e.g. *Drafting Legislation* (2014), H Xanthaki, esp Chaps 7, 18
- ⁶ See j.mp/SDSAct2013
- ⁷ See “‘Obscene’ care policy failing vulnerable in Scotland”, *The Scotsman*, 6 July 2017 at goo.gl/oKHeU8.
- ⁸ “Agentification in the UK”, James et al, Chapter 6 of *Government Agencies: Practices and Lessons from 30 Countries*, Verhoest et al (ed.) (2012)
- ⁹ For example, the guide “*Writing dementia-friendly information*”: see <http://j.mp/deepDFinfo>.