

## Stage 1 Debate: Social Security (Scotland) Bill 19<sup>th</sup> December – SAMH Briefing

### Introduction

SAMH welcomes the opportunity to brief on the Stage 1 Debate: Social Security (Scotland) Bill. The devolution of aspects of the social security system to Scotland provides a unique opportunity to create a fairer system for people who rely on the social security system. It is essential that a Scottish system does not replicate the deficiencies of the current UK welfare system.

SAMH strongly supports the general principles of the Bill and the positive approach that the Scottish Government has taken, particularly in establishing the Experience Panels. We were grateful for the opportunity to give evidence to the Social Security Committee<sup>1</sup> and welcome the inclusion of some of our concerns in the Committee's report.<sup>2</sup> This briefing focuses on five areas where we believe change is particularly required to ensure the new system works for people with mental health problems.

### SAMH wants to see:

- Applications for Disability Assistance from people whose primary condition relates to mental health to be conducted by assessors who are experienced in mental health
- The reversal of recent UK Government changes to PIP regulations<sup>3</sup> which make it harder for people with mental health problems to qualify for the higher rate of PIP
- An additional principle setting out the social security system's role in promoting mental health and wellbeing
- Consultation on the development of the charter, and wider development of the social security system, to include a proportionate number of people accessing benefits due to their mental health
- Tribunals to include a panel member with lived experience of the social security system

### Assessors' experience in mental health

The Bill provides no detail on proposals for assessing applicants' eligibility for disability benefits. Our research has highlighted significant problems with the manner in which face to face assessments for PIP (as well as ESA Work Capability Assessments) work for people with mental health problems.<sup>4,5</sup> These include a lack of understanding of the impact of mental health problems by assessors; face to face assessments' inability to accurately assess the impact of fluctuating conditions; and stigmatising attitudes and behaviours by some assessors. The lack of mental health experience amongst assessors has been a consistent concern. Mind, SAMH's sister

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<sup>1</sup> SAMH, [Evidence to Social Security Committee](#), 2017

<sup>2</sup> Social Security Committee [Stage 1 Report on the Social Security \(Scotland\) Bill](#), 2017

<sup>3</sup> DWP [Changes to Personal Independence Payment Regulations](#) February 2017

<sup>4</sup> SAMH [Personal Independence Payment – What's the problem?](#) 2016

<sup>5</sup> SAMH [Fit For Purpose](#) 2015

charity in England, surveyed 800 people with mental health problems on their experience of PIP. Only 8% felt that their assessor understood the impact their mental health problem had on them.<sup>6</sup>

Earlier this year, a SAMH service user told us:

“The process itself [of applying and being assessed for PIP] personally has had a massive effect for the worse on my health when I’m trying to get better and I am trying to work towards getting back into society, their attitude and the worry and the stress and the poverty compounds all of that.”

Where possible assessments should be paper based, but where face to face assessments do have to take place they should be at a location accessible to the applicant and undertaken by an assessor with professional experience in mental health, if this is the primary reason for their application.

### **Reversal of PIP cuts**

Earlier this year, the UK Government overturned a November 2016 Upper Tribunal ruling<sup>7</sup> that people who find it hard to leave the house because of anxiety, panic attacks, and other mental health problems should be able to receive the enhanced mobility component for PIP.<sup>8</sup> These stigmatising and unjust changes will stop at least 160,000 disabled people with mental health problems across the UK getting the financial support they deserve.<sup>9</sup>

The Social Security Advisory Committee (SSAC), which advises the government on welfare, urged the Government to delay introducing the changes and consult further with health care professionals and others.<sup>10</sup> The SSAC were clear that there is a risk of unintended consequences resulting from the change to the mobility descriptors, and that removing consideration of psychological distress from assessing someone’s ability to ‘*follow a familiar journey without another person, an assistance dog, or an orientation aid*’, could be impractical as psychological distress is a symptom of many conditions.<sup>11</sup>

We understand that the main purpose of the Social Security (Scotland) Bill is to create a legislative framework, but we believe that Scotland should seize the first possible opportunity to reverse this unfair cut, and therefore we propose an amendment to the Bill to achieve this.

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<sup>6</sup> MIND [Written evidence from Mind \(PIP0016\) to Work and Pensions Committee inquiry on Personal Independence Payment](#) 2017

<sup>7</sup> DWP [Changes to Personal Independence Payment Regulations](#) February 2017

<sup>8</sup> DWP [Changes to Personal Independence Payment regulations](#) February 2017

<sup>9</sup> Disability Benefits Consortium [Over 30 charity chief executives call on Minister to rethink damaging PIP changes](#) March 2017

<sup>10</sup> SSAC [Letter to Penny Mordaunt MP Minister for Disabled People, Health and Work - The Social Security \(Personal Independence Payment\) \(Amendment\) Regulations 2017](#) March 2017

<sup>11</sup> SSAC [Letter to Penny Mordaunt MP Minister for Disabled People, Health and Work - The Social Security \(Personal Independence Payment\) \(Amendment\) Regulations 2017](#) March 2017

## **Additional principle on promoting mental health and wellbeing**

SAMH welcomes the principles set out in the Bill, particularly the inclusion of social security as a human right. SAMH calls for an additional principle setting out the social security system's role in promoting mental health and wellbeing.

This principle would provide a safeguard to prevent damaging practices from the UK system from being perpetuated in the new Scottish system. We applaud the Scottish Government's intention to create a far more positive and just social security system. We believe that the inclusion of a principle of promoting mental wellbeing would help to make that intention a reality.

SAMH service users have told us that the assessments, culture and sanctions used in the UK welfare system all have an impact on their mental health. A wellbeing principle would demonstrate real commitment to creating an entirely new culture in which people using the system could be confident that their health would not suffer as a result of applying for assistance to which they may be entitled.

## **Proportionate inclusion of people with mental health problems in development work**

SAMH welcomes the list of prescribed groups, set out in Part 1 Section 3 of the bill, to be consulted in preparing the first Charter. We would like to see an amendment ensuring that the sample of people consulted is representative by primary health condition.

This is particularly important in regards to mental health and disability assistance. The current proportion of people in receipt of PIP who have a mental or behavioural problem is 37.98%.<sup>12</sup> This is the largest group of PIP recipients by a considerable margin.

We know that PIP is not working for people with mental health problems. It is essential that the views of people with mental health problems heard during the development of the Charter and the new Scottish benefits. This would ensure that evidence and experience of the particular factors specific to mental health and benefits, such as the impact of fluctuating conditions, inform the development of the Charter.

We have recently learned that 39% of Experience Panel members have a mental health problem: broadly proportionate to the percentage of PIP recipients with mental health problems.<sup>13</sup> The amendment we seek would build on that good work.

## **Tribunal members with lived experience**

In Mental Health Tribunals, which take decisions relating to the Mental Health (Care and Treatment) (Scotland) Act, every sitting includes a general member. The general member is someone with lived experience of a mental health disorder, a carer or someone with qualifications in social care that include a mental health specialism (such as a mental health social worker).<sup>14</sup> The role of the general member is invaluable, providing a lived experience perspective to the tribunal. We would like to see a similar provision in future social security tribunals, with every tribunal including someone with lived experience of the social security system personally or professionally.

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<sup>12</sup> [Stat-Xplore](#) [accessed December 2017]

<sup>13</sup> Scottish Government [Social Security Experience Panels: About Your Benefits and You – Quantitative Research Findings](#) 2017

<sup>14</sup> [Mental Health Tribunal For Scotland: Panel Members](#) [accessed August 2017]

Lived experience representation at the tribunal will help embed principles outlined in part 1 of the bill into the Scottish social security system, particularly the principle that respect for the dignity of individuals is to be at the heart of the Scottish social security system.

Research undertaken by SAMH with people currently receiving PIP has found distrust with the current appeals process and incidents of unacceptable and stigmatising behaviour.<sup>15</sup> The experience was reported as onerous, and stressful even where the final result was positive. One SAMH service user described her experience as:

*“I never got enough points [when assessed for PIP] so I had to go to a tribunal. Sitting with the head doctors and all those scary folk. I had a CAB woman there but she couldn't say anything – I had to say it all myself. It was terrible”*

The presence on the decision making panel of someone with lived experience of the social security system is a sensible step to improve the tribunal experience for applicants.

### **Further information**

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<sup>15</sup> SAMH [Personal Independence Payment – What's the problem?](#) 2016