

Social Justice and Social Security Committee

SSI cover note

6th Meeting, (Session 6), 30 September 2021

Title of Instrument:	<u>The Social Security (Advocacy Service Standards) (Scotland) Amendment Regulations 2021</u>
Laid Date:	30 August 2021
Reporting deadline:	8 October 2021
Type of instrument:	Affirmative

Parliamentary procedure:

The affirmative procedure means that an instrument cannot be made and come into force unless the Parliament has voted to approve it (rule 10.6.1 of standing orders).

Affirmative instruments are first looked at by the DPLR Committee before being considered by the lead committee (usually the committee which examined the Bill for the Act that the SSI is made under or whose remit is most aligned).

It is usual practice for the lead committee to take evidence from the relevant Scottish minister in advance of considering the instrument. The committee can ask the minister and any officials questions about the SSI.

During its formal consideration, a member of the Scottish Government proposes, by motion, that the lead committee recommend that the instrument or draft instrument be approved. The committee has up to 90 minutes to debate the motion.

The lead committee must report its recommendation to Parliament within 40 days of the SSI being laid. If the committee agrees the SSI should be approved, the whole of the Parliament then gets a chance to vote on it in the Chamber. If the lead committee decides the SSI should not be approved, the Parliamentary Bureau decides whether MSPs should vote on it in the Chamber.

Background

1. The current Advocacy Service Standards limit the scope of advocacy services to instructed advocacy. This is described in the current Advocacy Service Standards as: '[advocacy] where the individual is able to tell the advocacy worker what they want as well as the actions they would like taken'.
2. These regulations amend the 2020 Regulations to set revised Advocacy Service Standards, which no longer contain reference to instructed advocacy. The effect of removing reference to instructed advocacy will be to enable advocacy providers to offer non-instructed advocacy services to Social Security Scotland clients if required.
3. Non-instructed advocacy is described by the Scottish Independent Advocacy Alliance as: '[a form of advocacy where] the advocate will observe the partner and their situation, look for alternative means of communication with the partner, gather information from significant others in the partner's life, if appropriate, and ensure the partner's rights are upheld.' It is hoped that this will increase the scope of the service, reduce any potential for confusion, and avoid potentially inconsistent outcomes.

Purpose

4. These regulations amend the Social Security (Advocacy Service Standards) (Scotland) Regulations 2020 to set revised Advocacy Service Standards for the purpose of section 11 of the Social Security (Scotland) Act 2018. The revised Advocacy Service Standards will allow advocacy providers to offer non-instructed advocacy services to Social Security Scotland clients if required because reference to instructed advocacy has been removed.
5. The revised Advocacy Service Standards will be published on the Scottish Government's website on 9 November 2021. This is the date for when these regulations will come into force.
6. Further information is available in the [Policy Note](#).

Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [7 September 2021](#), and made no recommendations in relation to this instrument.

Social Justice and Social Security Committee consideration

8. The Committee agreed to write to the Minister in advance of its consideration of these Regulations to request a copy of the updated draft Advocacy Service Standards.
9. As these Standards are not due to be published until 9 November, when the regulations will come into force, a copy of the draft Advocacy Service Standards was shared with the Committee in confidence. This is included in paper 2.

For decision

10. The Committee must decide whether or not to agree the motion, and then report to Parliament accordingly, by 8 October 2021.

Note by the Clerk

27 September 2021