POLICY NOTE

THE SOCIAL SECURITY (ADVOCACY SERVICE STANDARDS) (SCOTLAND) AMENDMENT REGULATIONS 2021

SSI 2021/399

The above instrument was made in exercise of the powers conferred by section 11(2) and (3) of the Social Security (Scotland) Act 2018. The instrument is subject to *affirmative procedure*.

Purpose of the instrument.

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. 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.

Policy Objectives

The Social Security (Scotland) Act 2018 – Advocacy Service Standards ("the current Advocacy Service Standards"), for the purpose of section 11 of the Social Security (Scotland Act) 2018, were set by reference in the Social Security (Advocacy Service Standards) (Scotland) Regulations 2020 ("the 2020 Regulations").

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'.

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.

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.' This will increase the scope of the service, reduce any potential for confusion, and avoid potentially inconsistent outcomes.

The revised Advocacy Service Standards will be published on the Scottish Government's website on 9 November 2021. This is the date when these regulations are to come into force.

Consultation

This SSI is informed by consultation with the Social Security Advocacy Short Life Working Group.

As a result of that consultation a number of members expressed concerns that the service did not offer a provision for non-instructed advocacy, and suggested that this omission was likely to undermine the Scottish Government's commitment to a fair and inclusive service.

Membership of the Social Security Advocacy Short Life Working Group includes:
Scottish Independent Advocacy Alliance
Your Options Understood
Voiceability
Advocard
Partners in Advocacy
CAPS Independent Advocacy
Equalsay
Money Matters
The ALLIANCE
Citizen Advice Scotland
Dumfries & Galloway Advocacy Service
The Advocacy Project

Impact Assessments

There are no equality/children's/privacy, etc. impact issues. The following action is being taken as a result of previous impact assessments having been conducted on the original Social Security (Scotland) Advocacy Service Standards Regulations.

Financial Effects

The Minister for Social Security and Local Government confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Social Security Policy Directorate

30 August 2021