

Social Security Advocacy Service Standards

Response to Consultation

**The Scottish Government's response to the consultation
on social security advocacy service standards undertaken
between 11 July 2019 and 7 October 2019.**

January 2020



Scottish Government
Riaghaltas na h-Alba
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1. Introduction

Section 10 of the Social Security (Scotland) Act 2018 requires Scottish Ministers to ensure that independent advocacy services are available to support disabled people who, because of their disability, need an advocacy worker's help to make a claim to Social Security Scotland. This is a key part of delivering our system based on dignity, fairness and respect. The Act does not define disability and it would be for individuals to self-identify as such.

Section 11 of the Act also requires Scottish Ministers to set service standards. These standards will need to be complied with by services as part of any agreement for the provision of advocacy services entered into by Scottish Ministers.

The advocacy service standards are being set to ensure that advocacy support is provided to a consistently high quality across Scotland.

Advocacy gives people the help they may need to:

- Speak up and make their own choices
- Say if they are not happy with a decision about benefits
- Know their rights about benefits and get their rights
- Ask questions and get information.

About the Consultation Process

The Scottish Government sought views on the draft service standards between 11 July and 7 October 2019. The objective of the consultation was to gather views from individuals and organisations to ensure that the standards will deliver a high quality, inclusive and consistently delivered service.

The responses to the consultation will shape the way we continue to develop our approach to social security advocacy in Scotland.

The Scottish Government has published an analysis of responses to the consultation and the report is available here: <http://www.gov.scot/ISBN/9781839605031>

77 responses were received in total with 41 being from individuals and 36 from organisations.

When discussing the prevalence of certain views, we have used the following terms to indicate the proportion of consultation responses that raised a particular point:

- “Few”: 5-9%
- “Some”: 10-19%
- “Many”: 20-49%
- “Most” or “majority”: 50-74%
- “Large majority” or “broad agreement”: 75 -89%
- “Consensus”: 90% or more

This document sets out what action we now intend to take in response to the views expressed.

2. – The draft standards

The consultation document sought views on draft service standards. These are structured around six over-arching principles, with the behaviours or requirements which the advocacy worker or service would be expected to meet and demonstrate set out under each principle.

Principle 1 - Definition of advocacy

This set out who was entitled to advocacy support, the role of the advocacy worker and how they would perform that role.

Respondent Feedback

The majority of respondents agreed with our definition of advocacy. Some respondents were concerned that the word ‘independent’ was absent and that the definition should refer to ‘independent advocacy’ and ‘independent advocacy workers.’ There was also some concern about references to disabled and disability, as young people and those with hearing or sight impairment may not always self-define that they are disabled. It was suggested that condition should be used alongside disabled to ensure that individuals recognise that they have a right to advocacy support.

Some responses also suggested that the advocacy service standards and the service itself should take a human rights based approach and that references to “rights” should be added to the standards wherever relevant.

Scottish Government Response

Sections 6 and 10 of the Act both refer to the right to independent advocacy, and there is a specific service standard which defines independence. We have not added independence again within the definition of advocacy or to references to advocacy workers as this would be repetitive. Instead, to address these concerns and to make clear that the advocacy being provided is “independent” we have brought this out in the introduction to the standards. This sets out the legal background to the requirement to provide independent advocacy support and that any references to advocacy support and advocacy workers are to mean independent as defined by the Act.

In regards to the definition of disabled and the addition of “condition”, we have considered this but have not made this change. The Act refers specifically to “disability” and we consider adding “condition” could cause increased uncertainty over what is meant rather than clarifying this. The use of condition could also extend the requirement to provide advocacy support to include additional health issues that may impact on the lives of individuals but not in such a way that the individual requires the support of an advocacy worker to help them claim Scottish social security assistance. However, in order to provide some clarity we have added text to the introduction to the standards to outline that Deaf people, those with sensory disabilities and impairments and mental health conditions might be expected to identify as having a disability. It is important to recognise that this is not an attempt to define disability within the context of the legislation.

We have added “rights” as appropriate throughout the standards to address the suggestion to further emphasise the human rights based approach embedded within the Scottish social security system.

Principle 2 - Independence

The consultation document sought views on a definition of independence and how this could be best demonstrated.

Respondent Feedback

Most of the respondents agreed with the principle of independence. A few respondents stated this was important to prevent any conflict of interests.

Respondents’ feedback was that it is too broad to say that advocacy services would not be provided directly by Scottish Ministers but would be provided by other organisations. It was considered that this could allow advocacy support to be provided by organisations which provide other services and not solely advocacy, which could result in a conflict of interest. Organisations considered that the accepted use of independence within the advocacy sector should be used instead. This means that organisations solely provide advocacy support and are structurally and financially separate.

Respondents also felt that there was a need to bring out “confidentiality” more in this standard.

Scottish Government Response

The definition used within the standards is that specified by the Act (section 10(4)(b)), i.e. that advocacy services are independent if they are provided by a person other than the Scottish Ministers. Following campaigning from stakeholders, the advocacy provisions were introduced at Stage 2 consideration of the Social Security (Scotland) Bill and the definition of independence set out at the time.

While we recognise concerns over the definition we do not intend to apply it in a narrow way. We consider that welfare rights and advice organisations, for example, could provide advocacy support as long as systems and processes are put in place to ensure a separation of services and conflicts of interest avoided. The standards set this out and require that the advocacy worker should only provide advocacy support.

In response to the concerns about confidentiality we have followed the recommendation and brought this out more wherever appropriate across the redrafted standards.

Principle 3 - Person centred

The third standard focuses on person centred – making sure the support is about the service user and what the service user wants.

Respondent Feedback

The majority of respondents agreed with this principle, however a number of additional comments were received. There was concern about the requirement for *formal* agreement to be received before the advocacy worker would work on the service user's behalf because this assumes that all service users will be able to give formal agreement and this may not be the case. While they may be expected to be able to indicate that they are content for an advocacy worker to work on their behalf, formal agreement imposes a higher requirement.

There were some suggestions for revised drafting around the use of the term outcomes as this may not be clear to service users and also that actions should be agreed with the service user.

A small number of respondents stated that having multiple service standards for advocacy support is counter-productive to a person centred approach

Scottish Government Response

In response to the concern expressed the word "formal" has been removed from the standard. We would encourage formal agreement to be obtained but this recognises that there may be circumstances where this is not possible.

We have also revised the standard around outcomes to build in agreement and what the service user will want to achieve.

We have also added in "rights" as appropriate, taking into account the responses earlier in the consultation about including a human-rights based approach to the provision of advocacy support.

Principle 4 - Accessible

The consultation sought views on the principle and standards for "accessible". These focussed on respect and meeting service users' communication and access needs.

Respondent Feedback

There was a consensus amongst respondents who agreed with the principle of accessible. A key theme of responses was around meeting in rural settings and travel to these. There was also a suggestion that the standards needed to refer to timings of meetings as well as locations.

The need for risk assessments around meeting locations was also identified

There were some suggestions around the wording of this standard such as including references to "reasonable adjustments" and requiring accessibility to be tailored to the circumstances of individuals. There was also a suggestion that some of the references within this standard better sat elsewhere.

Scottish Government Response

It is the Scottish Government's intention that advocacy support is provided at a time and location which meets the needs of the service user. Appropriate timing of appointments to suit service users was intended so this element has been amended to make this clearer.

The Scottish Government recognises that advocacy support is required locally across Scotland, in rural and urban areas. The need for either service users or advocacy workers to travel is recognised and is built into the procurement exercise for the provision of social security advocacy support. However, we do not consider that this is an issue for the service standards. The existing standard which requires advocacy workers to "meet... at a place which suits you" recognises the need to be flexible on location.

The need for risk assessments to ensure meeting locations are safe for both the advocacy worker and service user was always recognised. The need for a safe location has been brought out more clearly in the standard in response to comments received.

We agreed that there were behaviours within this standard that better sat elsewhere and have made these changes where appropriate.

Principle 5 - Trained

This standard is related to the training and experience advocacy workers should have and a requirement to continue to develop their skills and knowledge.

Respondent Feedback

There was broad agreement from respondents when asked about the principle of trained. A few respondents did not agree (6% of those who answered) with this principle and a few respondents stated the word 'expertise' should be used alongside 'trained' or rather than 'trained'.

Some responses sought clarification on training such as how it would be provided and what it means, and flagged the need for standardised training. There was also a suggestion that advocacy workers should be trained in the benefit system as a whole.

Scottish Government Response

Earlier versions of the draft standards had contained the use of "experienced" but stakeholders considered that "trained" was more appropriate. However, we have not defined training as there is no single advocacy qualification. We do not want to exclude workers who have provided high quality advocacy support for a number of years but who may not hold a specific advocacy qualification.

As identified in the standards, advocacy support is not the provision of advice. While advocacy workers need to know how the Scottish social security operates in order to be able to provide appropriate advocacy support we do not consider there is a need to ensure they are trained in the detail of the social security system, such as

eligibility for benefits. The standards have however been amended to require advocacy workers to have detailed knowledge of using the Scottish social security system.

The provision of social security and advocacy training is included in the Invitation to Tender for the provision of advocacy support. This will ensure consistency of both quality and level of training. However, we consider that how the training is provided is not a matter for the standards themselves but more for the wider approach to service provision and have not amended the draft in this regard.

We have made some minor changes to this standard and included “rights” where there are references to “needs”.

Principle 6 - Quality assured

The final standard relates to “quality assurance”, focussed on ensuring a high quality service is delivered, that service users are able to provide feedback and complaints and that these are responded to appropriately.

Respondent Feedback

The large majority of respondents supported the principle of quality assured. A key theme was that a robust quality assurance procedure needed to be in place to ensure a consistent and reliable services. It was suggested that rather than simply having procedures for feedback, services should proactively seek this. The need for a straightforward complaints procedure was identified, including a clear and transparent escalation route.

A small number of respondents provided feedback stating they were not clear how and when the principles set out in the draft standards will be monitored and evaluated.

Scottish Government Response

To address the point that services should be more proactive in seeking feedback, the standards have been amended to include a reference to services having systems in place to actively seek feedback

The monitoring and evaluation of the delivery of the standards will be addressed under the contracting process and service providers will be fully aware of requirements on them to support this.

Next Steps

The feedback received through this consultation has informed and refined the Scottish Government's draft social security advocacy standards.

The revised standards will be published and will be set by reference being made to them in regulations which are subject to scrutiny by the Social Security Committee. The standards will have effect once the regulations have been approved by the Scottish Parliament and have come into force.

In parallel, the Scottish Government is seeking tenders for the provision of social security advocacy support. The contract will be awarded for the period of two years with the option of extending for two additional one year periods. The invitation to tender was issued on 18 December 2019. Bids will be evaluated and contract award is expected in Spring 2020, subject to the standards being approved by Parliament.

The use of and delivery against the standards will be evaluated and reviewed prior to any re-tendering exercise to ensure that they provide the consistent and high-quality service intended.



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