

Social Security (Amendment) (Scotland) Bill

Submission by Audit Scotland – 01 March 2024

Introduction

1. We are pleased to provide this written submission to inform the Committee's scrutiny of the Social Security (Amendment) (Scotland) Bill. Our comments relate to the provisions of Part 6 of the Bill – Information for Audit – as introduced. We have prepared this submission in response to a request from the Committee.
2. The Auditor General for Scotland is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance.
3. Audit Scotland is a statutory body established under the Public Finance and Accountability (Scotland) Act 2000. It is Scotland's national public sector audit agency which provides the Auditor General and the Accounts Commission (who secure the audit of local government) with the services they need to carry out their duties.
4. Our submission draws upon relevant audit work, including our previous audits of the Scottish Government's social security programme and our annual audits of Social Security Scotland (also referred to as 'the agency' below). Links to all relevant reports are included as an appendix below. We have also drawn on our professional understanding of the purpose and effect of the provisions set out in the Bill and supporting materials prepared by the Scottish Government. During our audits, we have made a number of recommendations to Social Security Scotland about the need to develop its approach to estimating error and fraud, and these are reflected in the comments below.

Estimating error and fraud

5. The social security system is complex and relies on accurate information about the circumstances of individuals and how these change through time. The system can be difficult to navigate as each benefit has its own individual regulations and assessment criteria. Mistakes can be made that lead to errors in the amounts paid to individuals, both underpayments and overpayments.
6. There is an inherent risk of error and fraud in any social security system that is driven by individual claims. In our view, it is vital that that Social Security Scotland develops a strong understanding of the different benefit streams it administers and the associated risks of error and fraud within them. It is the agency's responsibility to assess the levels of error and fraud in the benefits in its accounts. To do this it needs to have adequate arrangements in place to assess, monitor and report on fraud and error levels in the benefits that it pays out.
7. Monitoring the levels of error and fraud in the benefits system supports Social Security Scotland to make good decisions on what actions it should take to ensure the appropriate and effective use of the public money it is accountable for. A key aspect of this is the measurement and estimation of the extent and causes of error and fraud.

This information will be key to ensuring that error and fraud is managed effectively, and any action is targeted appropriately. This helps ensure that people are receiving the financial support they are entitled to, enables learning to help improve processes and protects the public purse.

8. Having clear and effective arrangements in this area is increasingly important as the range and scale of benefits the agency is responsible for administering grows. The value of assistance expenditure has been increasing substantially, and Social Security Scotland is using an increasing range of delivery methods as more benefits are devolved and existing cases transferred from the Department of Work and Pensions. The risks of error and fraud are also increasing as the agency becomes responsible for more benefits that are paid on a regular basis and depend on much more complex determinations of eligibility than those it initially administered (such as Carers Allowance Supplement and Best Start Grants).
9. It is also important that Social Security Scotland reports publicly on its assessment of the levels and causes of error and fraud, and its effectiveness in ensuring that people get what they are entitled to and in preventing fraud. Monitoring and publishing these estimates are an important element of the agency's public performance reporting, supporting its accountability to the Scottish Parliament and public.

Progressing arrangements

10. Audit Scotland has been reporting on these issues in our audits of the Scottish Government and Social Security Scotland since 2019. For several years, we reported that there had been limited progress on developing arrangements in this area - with initial work being truncated during the Covid-19 pandemic. More recently we reported in October 2023 that the agency has made good progress in understanding and estimating official error. These are errors that arise because of mistakes made by the Agency. Yet progress on estimating client induced error and fraud has remained limited.
11. The Scottish Government and Social Security Scotland has engaged with other UK jurisdictions on potential approaches in this area. This has included initial work with the Cabinet Office Counter Fraud Centre of Expertise to explore approaches and methodologies and engagement with the Department of Work and Pensions and the Northern Ireland Statistics and Research Agency. While a potential methodology for estimating client induced error and fraud has now been identified, we understand that existing legislation does not enable estimates to be compiled. This is because any such estimates rely on using statistical methods to determine the extent of error and fraud in a sample of individual cases and extrapolating these to the population as a whole.
12. We understand that Social Security Scotland's existing investigatory powers do not extend to these purposes. The current Bill therefore seeks to establish powers to effectively mandate client participation and provision of information for these purposes. It would also enable any errors that were identified to be corrected and further investigations into potential fraud to be carried out by Social Security Scotland.
13. In principle we expect that such an approach will be effective in supporting the preparation of estimates of overall levels of error and fraud in benefit payments, and to provide information on different classes of error and fraud. As set out above we consider that such information would be an important tool in the effective management of the system and accountability for the use of public funds. Ultimately, decisions taken

on this aspect of the Bill are a policy matter involving a range of considerations and we do not offer views on the merits of the Bill.

Information for audit

14. The Bill uses the phrase 'information for audit' in its provisions. Audit includes a broad range of activities involving an official examination of the quality or condition of something, in this case 'the monetary value of error and fraud in the Scottish social security system'. The powers proposed in the Bill would be available to the Scottish Ministers and would be exercisable by Social Security Scotland on their behalf.
15. The auditing supported by the provisions of the Bill can therefore be categorised broadly as 'internal auditing'. This is auditing activity carried out by the management of an organisation to help support its own internal control over the use of public funds, and for reporting on this as part of its accountability to the Scottish Parliament and public. This is distinct from the 'external auditing' undertaken by Audit Scotland and other independent auditors appointed by the Auditor General.
16. Audit Scotland has a continuing interest in the effectiveness of Social Security Scotland's arrangements in the areas described above and will continue to report publicly on this.
17. A key aspect of our responsibilities is providing formal audit opinions on the Annual Reports and Accounts of Social Security Scotland in line with section 22(1) of the Public Finance and Accountability (Scotland) Act 2000. We have qualified our audit opinion on the regularity of benefit expenditure in Social Security Scotland's accounts for several years. This is because a material proportion of this expenditure was not incurred in accordance with the relevant legislation. This relates to benefits administered by the Department of Work and Pensions (DWP) on behalf of Scottish Ministers. We consider the estimated level of overpayments attributable to fraud and error in this expenditure to be material to our opinion on the accounts. These estimates are reported by the Department of Work and Pensions as National Statistics and are based on sample checks of the benefits administered by the DWP.
18. The same regularity issue does not affect the benefits directly administered by Social Security Scotland. This is due to the different legislation which applies to these benefits which requires Social Security Scotland to make a payment where it has determined someone is eligible. Any payment in line with a determination is deemed to comply with the legislation, irrespective of whether this has been based on incorrect or fraudulent information.
19. This means that the provisions of the Bill would not directly affect the work we undertake to reach our regularity opinion. More detailed information on this is set out in the Auditor General's [report](#) on the 2018/19 audit of Social Security Scotland. Where Social Security Scotland reports estimates of error and fraud in its Annual Report we also consider and report on whether the information provided is consistent with its accounts and our understanding of the underlying evidence base. We would expect that this would include any estimates prepared using information obtained by virtue of the powers proposed.

Appendix: Links to relevant audit reports

[Social security: Implementing the devolved powers](#) - May 2019

[Social Security Scotland 2018/19 Annual Audit Report](#) - September 2019

[The 2018/19 audit of Social Security Scotland](#) - September 2019

[Social Security Scotland 2019/20 Annual Audit Report](#) - October 2020

[The 2019/20 audit of Social Security Scotland](#) - December 2020

[Social Security Scotland 2020/21 Annual Audit Report](#) - October 2021

[Social Security: Progress on implementing the devolved benefits](#) - May 2022

[Social Security Scotland 2021/22 Annual Audit Report](#) - October 2022

[Social Security Scotland 2022/23 Annual Audit Report](#) - October 2023