

Social Justice & Social Security Committee
The Scottish Parliament
Edinburgh
EH99 1SP

By email only: SJSS.committee@Parliament.Scot

Date: 26 March 2024

Dear Convener,

Social Security (Amendment) (Scotland) Bill – Delegated Powers Memorandum

As part of your evidence session on 7 March relating to the above mentioned Bill, Michael Clancy gave evidence on behalf of the Law Society's Administrative Justice committee. You'll remember that he noted that I could send the Committee more detailed information on the Delegated Powers Provision. Having discussed, we would add briefly as follows:

With regard to the powers relating to the new Care Experience Assistance, the powers should be exercised after consultation with the care sector, and specifically those organisations that support children and young people in care (see para 28).

With regard to the powers in section 6 concerning Information for Audit, we would hope that these provisions will be subject to amendment in light of the concerns that the Society and others have raised about the conflation of audit and fraud in the Bill. In the event that they do not change we would suggest that the exercise of these powers should be by way of the affirmative procedure rather than the negative procedure, as currently proposed (see para 56). Whilst the powers in paras 51-54 may well be technical and administrative in nature their impact will be associated with the potential suspension or withdrawal of assistance from vulnerable people. The affirmative procedure will ensure that any ensuing regulations will require Parliamentary scrutiny before they are enacted.

I hope this is helpful in your considerations.

Yours sincerely,
John Mulholland
Convener, Administrative Justice Committee
Law Society of Scotland