



Royal College
of Nursing
Scotland

**RCN Scotland's response to the Scottish Government
consultation on the**

Delivery of Employment Injury Assistance

12 June 2024

Introduction

The Royal College of Nursing (RCN) is the world's largest nursing union and professional body. It is the leading national and international authority in representing the nursing profession. We represent over half a million nurses, student nurses, midwives, nursing associates and nursing support workers in the UK and internationally.

The RCN has over 49,500 members in Scotland. We campaign on issues of concern to nursing staff and patients, influence health policy development and implementation, and promote excellence in nursing practice.

Background

Since April 2020, the Scottish Government has been responsible for the Industrial Injuries Scheme in Scotland. This Scheme, which provides financial support to those who have become disabled or have developed a long-term health condition as a result of their employment, is currently delivered by the Department for Work and Pensions (DWP) under an agency agreement. That agreement, which currently runs to the end of March 2026, ensures people continue to receive the payments they are entitled to without any disruption.

The Scottish Government has committed to replacing the UK Government's Industrial Injuries Scheme with a new benefit called Employment Injury Assistance to be delivered by Social Security Scotland. Their view is that it would not be possible to quickly deliver a new and modernised benefit and outlines the options and next steps toward meaningful reform and delivery in the long-term.

Timelines

Two timelines for reform are presented in the consultation document. They are as follows:

Option 1 timeline: The following timeline sets out the steps involved if the Scottish Government were to proceed to deliver Employment Injury Assistance on a 'like-for-like' basis to the current Scheme.

2 months after end of consultation:

- Focus on exploring how Employment Injury Assistance could be delivered in this Parliament.

June 2024- early 2026:

- Policy and operational work on developing systems and processes required for delivery of Employment Injury Assistance
- Regulations drafted and laid.

Late 2025/ early 2026:

- Employment Injury Assistance launches on a like-for-like basis with the Industrial Injuries Scheme.
- Establishment of stakeholder advisory group.

Option 2 timeline: This timeline below sets out proposed next steps in the development of Employment Injury Assistance in line with the Scottish Government's preference to prioritise long-term reform of the current Industrial Injuries Scheme. While, this timeline is dependent on the extent and complexity of the changes people would like to see made to the Scheme, work would commence immediately following this consultation.

1 month after end of consultation:

- Establishment of Employment Injury Assistance stakeholder advisory group.
- Advisory Group to include experts, and organisations with experience of supporting people access the Industrial Injuries Scheme.

3 months after end of consultation:

- First meetings of stakeholder advisory group, with input from people with experience of the Industrial Injuries Scheme.

9 months after end of consultation:

- First reports and advice issued by stakeholder advisory group.

12 months after end of consultation:

- Publication of high-level options for Employment Injury Assistance.
- Ongoing engagement with stakeholders and people with lived experience.

Consultation questions and RCN Scotland responses

Q1 - Do you agree or disagree that the Industrial Injuries Scheme is not fit for purpose and should be reformed?

RCN Scotland response:

RCN Scotland agrees that the Industrial Injuries Scheme needs to be reformed. We support our members with Industrial Injuries Disablement Benefit applications and colleagues working on this report long waiting times, largely due to there not being enough medical assessors, and also inconsistent waiting times and decision making. We have high levels of success with mandatory reconsiderations when applications are unsuccessful – this suggests the decision making the first-time round was flawed and inconsistent.

RCN Scotland agrees that the Scheme should be modernised as it hasn't kept pace with jobs and workplaces. For example, the COVID pandemic, and the prevalence of long Covid, has tragically highlighted the need for the industrial injuries benefits system to evolve to reflect modern workplace hazards.

Many nursing staff are living with the effects of long COVID and the RCN is calling for long COVID to be recognised as a disability in law and that those impacted by long COVID are compensated where that is required. People that have derived covid from work, and remain impacted from that, should be compensated without requiring to go through a personal injuries claim.

We've currently got between 20-30 long covid cases we're looking to pursue through personal injuries claims and expect this to rise. Due to the ending of COVID-19 special leave provisions and lack of financial support, many suffering the impact of long COVID are now facing unemployment.

Women's health and safety have also been neglected and only 16% of people claiming IIDB are women, an issue that needs to be addressed.

The current process for approving new diseases for IIDB is extremely slow. For example, the UK Industrial Injuries Advisory Council (IIAC) recommended in November 2022 that certain long-term complications following COVID infection be prescribed as an occupational disease for health and social care workers. This report has now been with the UK DWP for over 15 months. In November 2023 the RCN, along with the BMA, wrote to the DWP to insist long COVID is classed as an occupational disease for health care workers.

Ahead of the reform of the Scheme, an independent, expert body should be established to provide oversight. RCN Scotland was disappointed that the proposed Members Bill which would have created a Scottish Employment Injuries Advisory Council (SEIAC) did not progress in the Scottish Parliament. We reflect further on this point in answer to Question 3.

Q2 - Of the two options which do you think the Scottish Government should proceed with?

- 1) prioritise like-for-like benefit delivered with full case transfer and benefit reform to follow in the longer-term**
- 2) prioritise reform to deliver an updated benefit and a modernised approach delivery**

RCN Scotland response:

RCN Scotland recognises that under a policy of ‘safe and secure transfer’, benefits have been introduced in Scotland with minimal change compared to their DWP equivalent. While we agree with the need to protect those in receipt of benefit under the scheme, the difference is that IIDB is outdated and needs modernised. The Scottish Government must show ambition in its approach.

RCN Scotland agrees that Option 2, which would prioritise reform to deliver an updated benefit, would appear to be the only option given the challenges of a full case transfer under such an outdated system. RCN Scotland accepts that the number of new claims under the current scheme is low, but each and every one of them has a profound impact on claimants and their families and as the consultation notes, the numbers under the scheme are likely to rise.

RCN Scotland is disappointed that we are yet to see any prioritisation of modernising this outdated system from the Scottish Government and that meaningful work is yet to begin on a benefit which was devolved several years ago.

As outlined above, RCN Scotland would expect to be a member of the proposed stakeholder group, but any group must be given the status of an independent oversight body rather than just a consultatory or co-design group.

Q3 - Please tell us if there is anything relating to the timelines set out above that you wish to provide feedback on. Please specify which timeline you are providing feedback for.

RCN Scotland response:

The timeline ends with a ‘high-level options’ paper, which RCN Scotland notes is really only just the starting point for a reformed benefit. We would expect the Scottish Government to set out a timeline for implementation of a reformed scheme at the earliest possible opportunity. And as was proposed in terms of a SEIAC, an independent body must be established to provide oversight for this implementation.

A strength of the present UK arrangement is the separate functions of the Social Security

Advisory Council (SSAC) and the Industrial Injuries Advisory Council (IIAC). Two independent bodies are needed for the devolved benefit: the Scottish Commission on Social Security (SCoSS) to advise the Scottish Government on all social security matters; and an independent SEIAC to act as independent expert body advising on work-related injury and disease.

A dedicated Advisory Council would have the expertise and focus to look at these issues in-depth and ensure Scotland's EIA system best serves the people of Scotland. The Scottish Commission on Social Security has a much wider remit and we would be concerned that it wouldn't have the capacity or specialist expertise to give these issues the attention they deserve on an ongoing basis.



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