

**Social Justice and Social Security Committee**  
**Scottish Employment Injuries Advisory Council Bill**  
**11 September 2023**

1. The NASUWT welcomes the Social Justice and Social Security Committee's call for views on the Scottish Employment Injuries Advisory Council Bill.
2. The NASUWT is the largest UK-wide teachers' union representing teachers and school leaders in all sectors of education.

**SPECIFIC COMMENTS**

**The Bill would create a separate body for Scotland to advise on industrial injuries benefits. Do you agree with the creation of this body?**

3. It is recognised that a number of social security powers, including industrial injuries benefits, were devolved from the UK Government to the Scottish Government through the Scotland Act 2016. It is expected that the Scottish Government will legislate for employment injury assistance to support people who have suffered an injury or a disease as a result of their employment – this would then replace Industrial Injuries Disablement Benefit (IIDB) in Scotland.

4. The Union is supportive of the proposed Scottish Employment Injuries Advisory Council Bill and considers it necessary. Powers in relation to industrial injuries advisory bodies were not transferred and, as a result, the Scottish Government cannot seek advice from the UK Industrial Injuries Advisory Council (IIAC).
5. The existing IIAC process was designed for a different era, with a very prescriptive list of diseases/illnesses that clearly link to industry. The NASUWT believes the IIAC is now outdated: developed for a world dominated by heavy industry and the largely male workforce within it.
6. Injuries that could affect our teacher members, such as carpal tunnel syndrome, are only counted when caused by specific activities that would not relate to teaching. All claims are assessed in person at IIDB centres, which are not conveniently placed for applicants, and it is a slow process to get assessed and the benefit approved.
7. The Union also has existing concerns that the IIAC process for approving new diseases for IIDB is extremely slow: the last time something was successfully added, it took five years from discussion at IIAC to approval by the Minister and finally the legislation laid before Parliament. The incredibly slow process means that it takes far too long for new diseases and conditions to be considered, leading to severe delays for people disabled by work-related injuries/illnesses to get the help they need. Any Scottish IIAC approach must ensure that the assessment process is expedited.
8. In fact, the devolution of IIDB provides an opportunity to develop a new benefit system, and a body to oversee it, which is fit for the 21st century.
9. The proposed Bill would secure an independent, statutory council with new powers to research the harms in 21st century workplaces and put workers at the heart of the new benefit. The COVID pandemic has shown that employees can become seriously ill as a result of their work, leading to long-term absence, and yet have no suitable access to support from the state. COVID itself was a greater threat to Black members of our

population, while Long COVID has had a disproportionate impact on many teachers and, given the profile of the teaching workforce, a greater impact on women.

10. The Scottish Government must not shy away from the chance to deliver an independent, statutory Advisory Council which will meet the needs of workers. Workers know their workplaces and the risk to their health best; their skills and knowledge must be built into the Advisory Council by statute.

**Does the Bill require any further powers or functions to be effective?**

11. Given how it specifies that the Scottish Government cannot seek the support of the IAC in defining the agreed illnesses that will receive this benefit, it is essential that the proposed Scottish Employment Injuries Advisory Council Bill is instituted quickly. Having an Advisory Council in place ahead of the benefit will be essential to fully understand and define the industrial diseases to be awarded benefit. It also provides the time for the Advisory Council to explore and seek to avoid entrenching the inherent inequalities within the existing UK IIDB scheme.

12. A new industrial injury scheme for Scotland must be able to be designed by those with expert knowledge of industrial injury in Scotland and must include representatives from trade unions and workers with lived experience, independent of government.

13. The NASUWT would anticipate that within its first year, the Council should be required to prepare advice on making Long COVID an industrial disease in Scotland.

14. Furthermore, the Council should have embedded within its terms a mandate to close the gender gap in the outdated benefit, ensuring that women's health and safety cannot continue to be ignored. Just 7% of claims for industrial injuries benefit are made by women: it was a benefit designed for men's work and systematically ignores the illness and disease women experience at work such as asbestos-related ovarian

cancer, Long COVID, musculoskeletal disorders and breast cancers caused by shift work. Women must be equally represented on a council that has a driving mission to close the gender gap in this benefit – and new research powers will be essential to support this aim.

**The Policy Memorandum explains that the Advisory Council is to be established in advance of the Scottish Government legislating for Employment Injury Assistance. The Scottish Government has yet to consult on the benefit and the need for an Advisory Council. What are your views on the timing of the Bill?**

15. As set out above, the NASUWT supports the early adoption of the Bill and the swift establishment of an Advisory Council. There are clear benefits for a council to have independent oversight of the benefits being transferred to the Scottish Government. The proposed Advisory Council should play a key role in the scrutiny of the legislation underpinning the design of the new system which will ensure the transition of IIDB results in a modern, fit-for-purpose benefit rather than one which continues to entrench disadvantage and inequality. It will also support openness and transparency of process.

16. We must also move swiftly because many teachers and other key workers with Long COVID are currently going without the support they need. The NASUWT has been consistently campaigning for an education and health and safety policy to support teachers who are suffering from Long COVID. The Union has also been demanding financial compensation for teachers who have contracted COVID as a direct result of their work. We must move swiftly to recognise Long COVID as an industrial disease and further ensure that workers and trade unionists have a substantial voice in the enactment of the new benefit and that this is clearly embedded from the start.

**The Scottish Commission on Social Security already has powers to scrutinise Scottish social security regulations and to provide reports to the Scottish Government when asked to do so. What are the benefits or**

**drawbacks of creating a new Advisory Council and how would this body operate alongside the Commission?**

17. The Scottish Commission on Social Security has powers to scrutinise Scottish social security regulations and to provide reports to the Scottish Government when asked to do so. An Advisory Council, by comparison, would provide advice to contribute to the formation of policy by investigating and reviewing emerging employment hazards which result in disease or injury. This role is considerably more technical and will need specific knowledge and expertise in industrial disease and injury.

18. As outlined above, the NASUWT is seeking to ensure representatives from unions and workers form a key part of the Council. An intersectional approach must also be adopted, whereby keyworkers, trade unionists, women, Black workers and those with Long COVID who currently have no permanent, independent role have their voices heard.

**The Financial Memorandum sets out the anticipated start up and running costs for the Advisory Council. Will the Bill have any significant resource implications for the Scottish Government, the public sector, business, and individuals?**

19. It is important that the Advisory Council has sufficient resources to function appropriately. Over time, the Scottish Government may be able to see an indirect financial benefit; for example, through research commissioned by the Advisory Council. Such research could advise upon and support preventative measures to reduce occupational ill health and disease, in addition to supporting a more equitable social security benefit.

**What is your view on whether the size and balance of Advisory Council's membership is correct to deliver the Bill's purpose? If you think there should be changes to the membership set out in the Bill, please tell us why and what changes need to be made.**

20. It is essential that the Advisory Council includes representatives from trade unions, employers and medical and legal professionals, as well as those with lived experience. Trade unions must be specifically cited within the Bill as a formal and permanent requirement. Workers must be represented as equally as employers.

**Do you have any other comments about the Bill?**

21. NASUWT National Officers and Executive have commended the Proposed Scottish Employment Injuries Advisory Council Bill which would recognise COVID-19 is an industrial disease. Indeed, it is clear that there is broad support for the Bill from the STUC, trade unions and others within civil society.

22. Scotland deserves a system where those with experience of being exposed to the risk of suffering an injury or contracting a disease in the course of employment, as well as their representatives, are required to be included in the decision-making processes. The proposed Scottish Employment Injuries Advisory Council Bill would ensure an independent council with permanent and independent trade union representation.

23. The Council would have powers to research workplace injury and diseases and recommend to the Scottish Government that it pays specific welfare benefits to those injured as a result of workplace incidents. Teachers who have suffered life-altering diseases or injuries at work deserve to be compensated. In particular, those experiencing Long COVID can no longer be ignored: in fact, the NASUWT considers that within the first year, the Council should be mandated to prepare advice on making Long COVID an industrial disease in Scotland.

24. The NASUWT would be happy to meet with the Committee to discuss all of these issues in more detail.

For further information, please contact:

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