



Submission to the Social Justice and Social Security Committee Call for Views on the Scottish Employment Injuries Advisory Council Bill September 2023

1. Introduction

Close the Gap is Scotland's policy advocacy organisation working on women's labour market participation. For more than two decades, we have been working with policymakers, employers and employees to influence and enable action that will address the causes of women's labour market inequality.

Approaches to health and safety at work are largely gender-blind, with women's specific experiences of employment injuries and illnesses routinely invisible. The current Industrial Injuries Disablement Benefit system is not fit for purpose, and does not deliver for women in Scotland or the UK. Women are currently underrepresented among those accessing Industrial Injuries Disablement Benefit, and this is partly driven by the outdated prescribed injuries list which is heavily biased towards male-dominated industries and men's injuries and illnesses, which creates a barrier to women accessing the benefit. There is also a lack of gender-sensitive, sex-disaggregated data on women's occupational injury and disease. Women's experiences of occupational health and disease is an under-researched area, and relatedly women's experiences of injury and disease are routinely ignored in PPE and equipment design. Women's reports of ill-health are also routinely dismissed as not being connected to their employment. The current approach to Industrial Injuries Disablement Benefit takes the male worker as standard, which created a system which has neglected women's requirements.¹

The Scottish Employment Injuries Advisory Council Bill is therefore a timely intervention. It presents an important opportunity to create a new Employment Injuries Assistance system which recognises women's experiences, integrate this into

¹ European Agency for Safety and Health at Work (2014) *Mainstreaming gender into occupational safety and health practice*

a modernised prescribed list, and dismantle the barriers that women face in accessing the benefit. A key priority for change should therefore be research into women's experiences of industrial injury and the development of new mechanisms and definitions which reflect the diversity of the workforce. The proposed new body has the potential to make women's experiences more visible, and reduce the inequalities they face in the workplace, and in accessing social security. Close the Gap therefore welcomes the opportunity to respond to the Committee's call for views on the Bill. It will be important for the Committee to consider the gendered dimensions of the Bill to understand the potential benefits to women in Scotland's workplaces. To that end, we would also be happy to provide oral evidence to the Committee to support this.

2. Answers to specific questions

Q1. The Bill would create a separate body for Scotland to advise on industrial injuries benefits.

a) Do you agree with the creation of this body?

Close the Gap strongly agrees with the creation of a Scottish advisory council for employment injuries. The current system of Employment Injuries Assistance (EIA) does not deliver for women and therefore the establishment of an independent Scottish Employment Injuries Advisory Council (SEIAC) presents a unique opportunity to create a system that recognises women's occupational injuries and illnesses, and address the systemic gendered inequalities within the current system of EIA.

The UK Industrial Injuries Advisory Council (IIAC) currently scrutinises proposed industrial injuries legislation, drafts papers where legislative changes are proposed, and makes recommendations to update the prescribed list of occupational diseases.² Once delivery of EIA is transferred from the Department of Work and Pensions (DWP) to Social Security Scotland, the IIAC will no longer be able to provide independent advice and scrutiny to Scottish Ministers.³ If a replacement body is not created for Scotland, there will be no public body to scrutinise new EIA legislation, conduct research into EIA matters, or provide advice and recommendations to Scottish Ministers. Without a new body, it is highly likely that the EIA system will be

² Industrial Injuries Advisory Council, *About us*, available at:

<https://www.gov.uk/government/organisations/industrial-injuries-advisory-council/about>

³ Scottish Government (2023) *Disability and Carers Benefits Expert Advisory Group – Employment Injury Assistance: advice*, available at: <https://www.gov.scot/publications/disability-and-carers-benefits-expert-advisory-group-employment-injury-assistance-advice/>

implemented without reform, replicating existing gendered inequalities such as the vast under-representation of women among successful claimants, and the continued lack of recognition of occupational diseases commonly found in female-dominated sectors.

Current data shows that women comprise just 16% of those claiming Industrial Injuries Disablement Benefit (IIDB)⁴, and the most recent data shows that women make up just 5% of new prescribed disease claim applications⁵ for the benefit. Given that women account for around half (49%) of those employed in Scotland⁶, the data highlights how chronically underrepresented women are both as claimants and as recipients of IIDB⁷. This stark inequality is driven by a number of factors including the prescribed list of occupational diseases being significantly outdated and heavily centred on male-dominated occupations and injuries and diseases associated with male bodies. This considerably disadvantages women and sustains the gendered inequalities that are baked into the EIA system. Modernising the list of prescribed diseases will also enable Covid-19, and especially Long Covid, to be considered in the context of EIA. It is difficult to overstate the impact of Covid-19 on the labour market, and the effect of Long Covid on workers, the vast majority of whom are women, many of whom are no longer able to work because of the severity of their symptoms. However, Long Covid is not currently recognised as an occupational illness despite its devastating impact on many women's ability to work. Recognising Long Covid as an occupational illness in the prescribed list of diseases would widen eligibility for women. This is discussed in more detail in our answer to question 3.

The inequalities caused by the bias of prescribed list of diseases are exacerbated by gender-blind approaches to health and safety which makes women's occupational diseases and injuries largely invisible. This is compounded by the routine under-diagnosis, recognition and treatment of injuries and illnesses commonly associated with female-dominated occupations which has been most recently highlighted in Scottish Government's Women's Health Plan.⁸ This is also discussed further in our answer to question 3.

⁴ Close the Gap (2021) *Close the Gap Response to Scottish Employment Injuries Council Bill consultation*, available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-response-to-the-Scottish-Employment-Injuries-Advisory-Council-Bill---January-2021.pdf>

⁵ New claims calculated from the Department of Work and Pensions Stat-Xplore website, for new claims made in the 12 months up to December 2022.

⁶ Scottish Government (2022) *Scotland's Labour Market: People, Places and Regions – Protected Characteristics. Statistics from the Annual Population Survey 2021*, available at: <https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-protected-characteristics-statistics-annual-population-survey-2021/documents/>

⁸ Scottish Government (2021) *Women's health plan: A plan for 2021-2024*, available at: <https://www.gov.scot/publications/womens-health-plan/documents/> and European Agency for Safety and

Creating a new body to advise on industrial illnesses presents a critical opportunity to update the prescribed illness list to both reflect occupational hazards in the modern workplace, recognise Covid-19 as an occupational illness, and acknowledge diseases commonly found in female-dominated occupations. This will improve women's access to the EIA system, providing greater financial security for those who have been injured or became ill as a result of their work, and also better highlight the risks associated with in female-dominated workplaces.

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

The Bill sets out a range of functions that SEIAC will have to carry out its remit. Close the Gap believes that the core functions set out will support the improvement and delivery of EIA, provided that a gendered approach is taken in discharging its functions. It is imperative that SEIAC apply a gendered lens in its legislative scrutiny process, as this is key for ensuring that women's occupational illnesses and diseases and the barriers women face in accessing EIA are considered. The research function is particularly important given the significant evidence gaps on women's health and safety. This is a particular strength of the proposed SEIAC as the UK IAAC does not have the power to commission research. By being able to commission its own research, the proposed SEIAC is not limited to reviewing existing texts that ignore women's experiences of occupational injuries and illness,⁹ and can take action to address the gaps and under-research in this area. This, in itself, is a significant step forward in addressing the injustice many women experienced when engaging with the current system.

Q2. The Policy Memorandum explains that the Advisory Council is to be established in advance of the Scottish Government legislating for Employment Injuries 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?

IIDB was devolved to Scottish Government under the Scotland Act 2016, however, the delivery of the benefit still sits with DWP under an agency agreement. The policy memorandum notes that it has been reported that the DWP has indicated that IIDB must be delivered by Scottish Ministers by March 2026. The Bill to introduce the

Health at Work (2013) *New risks and trends in the safety and health of women at work*, available at: <https://osha.europa.eu/sites/default/files/new-risks-safety-health-women-work.pdf>

⁹ Close the Gap (2021) *Close the Gap Response to Scottish Employment Injuries Council Bill consultation*, available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-response-to-the-Scottish-Employment-Injuries-Advisory-Council-Bill---January-2021.pdf>

council is therefore timely and means that it will be able to support the roll out of an improved EIA system in Scotland.

If established, SEIAC will be able to use its research function to evaluate how IIDB is performing in Scotland and identify key areas for reform. There is a particular benefit in SEIAC being able to gather evidence and data on women's employment injuries and diseases to ensure this is integrated into the design and delivery of the EIA system in Scotland. IIDB is gender-blind in its design and delivery, and takes the male worker as standard and neglects women's requirement.¹⁰ As a result, there is a distinct lack of gender-sensitive, sex-disaggregated data on women's occupational injury and disease; women's experiences of occupational health and disease are under-researched; women's experiences of injury and disease are routinely ignored in current Personal Protective Equipment design; and women's reports of ill-health are routinely dismissed as not being related to their employment.^{11,12} There is therefore an urgent need for SEIAC to develop research in these areas, and support the reform of EIA so that the gendered inequalities women face are not replicated.

Furthermore, establishing SEIAC prior to the introduction of a new EIA benefit will allow the body to scrutinise its development and implementation. Within the policy memorandum, it states SEIAC will be able to "*rigorously consider, and seek, new information to ensure EIA evolves and improves on the IIDB scheme*".¹³ SEIAC can therefore seek to create timely interventions, such as modernising the prescribed disease list, to prevent the same systemic issues being recreated in Scotland. This makes the current timing of the Bill important for ensuring the new system is effective and fully considers the gendered dimensions of EIA. DWP has indicated that IIDB must be delivered by Scottish Ministers by early 2026¹⁴ which means that introduction of the Bill is timely, as the creation of SEIAC can support and accelerate the implementation of an EIA system which works for women in Scotland.

¹⁰ European Agency for Safety and Health at Work (2014) *Mainstreaming gender into occupational safety and health practice*

¹¹ Close the Gap (2021) *Close the Gap Response to Scottish Employment Injuries Council Bill consultation*, available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-response-to-the-Scottish-Employment-Injuries-Advisory-Council-Bill---January-2021.pdf>

¹² GMB Women (2021) *Proposed Scottish Employment Injuries Advisory Council Bill*, available at: <http://www.markgriffinmsp.org.uk/files/gmbesco~1.pdf>

¹³ <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/scottish-employment-injuries-advisory-council-bill/policy-memorandum-accessible.pdf>

¹⁴ Campbell, G. (2023) *New delay in transfer of welfare benefits role to Scotland*, BBC News, available at: <https://www.bbc.co.uk/news/uk-scotland-scotland-politics-64549044>

Q3. 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?

Close the Gap believes there are a number of benefits to the creation of a specific advisory council for employment injuries and illness in Scotland. As noted, women comprise a very small minority (16%) of IIDB recipients, and just 5% of new prescribed claims.¹⁵ Given that women are around half (49%) of those employed in Scotland,¹⁶ these figures illustrate how significantly underrepresented they are as claimants and recipients and highlight the inequalities within the current system for women.

Failure to recognise the workplace hazards women face is a systemic problem. As TUC highlights there is a traditional emphasis in health and safety on risks associated with male-dominated sectors, and “*less attention has been given to the health and safety needs of women*”.¹⁷ This has led to most of the research and developments relating to health and safety regulations, policy and risk management being based on male-dominated sectors. At the same time, occupational injuries and illnesses associated with female-dominated work such as musculoskeletal disorders, dermatitis and work-related stress have been ignored, under-diagnosed, under-researched and as a result, under-compensated by the IIDB system.¹⁸ Given these systemic inequalities within delivery of the IIDB system, the creation of SEIAC presents a unique opportunity to tackle these gendered inequalities. Close the Gap believes that the new Bill has a number of clear benefits, which have the potential to advance women’s labour market equality more broadly.

A dedicated public body for employment injuries assistance for Scotland

Given that the scrutiny and advisory powers of the current UK IAC will not be available to Scottish Ministers once delivery of EIA has been transferred, having a replacement body will be crucial to ensure the gendered inequalities are not replicated in Scotland. By giving SEIAC scrutiny and research powers, it can

¹⁵ New claims calculated from the Department of Work and Pensions Stat-Xplore website, for new claims made in the 12 months up to December 2022.

¹⁶ Scottish Government (2022) *Scotland’s Labour Market: People, Places and Regions – Protected Characteristics. Statistics from the Annual Population Survey 2021*, available at: <https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-protected-characteristics-statistics-annual-population-survey-2021/documents/>

¹⁷ Trade Union Congress (2017) *Gender in occupational safety and health: A TUC guide for trade union activists (with gender checklist)*, available at: <https://www.tuc.org.uk/sites/default/files/GenderHS2017.pdf>

¹⁸ Ibid.

commission research to address gendered data gaps that are contributing to the inequalities in the EIA system, provide advice to Scottish Government, and reform the system to ensure it works more effectively for women. Although Scottish Commission on Social Security already has powers to scrutinise Scottish social security regulations and provide reports to Scottish Government, a benefit of establishing SEIAC is that it will have dedicated resource and expertise to deliver on its remit around employment injuries and illnesses in Scotland, without having to manage wider competing priorities.

Modernising and updating the list of prescribed diseases

A core benefit of establishing SEIAC is that it will create an opportunity to modernise the list of prescribed diseases that determines eligibility for EIA in Scotland. Updating the list will improve women's access to EIA and is essential to address the gendered inequalities present in the system. Scottish Government itself has also acknowledged that the current employment injuries scheme does not recognise the occupational injuries and illnesses women face.¹⁹ Originally created in 1948, the list has a distinct industrial bias towards diseases found within 'traditional' and heavy industry, such as mining, shipbuilding and construction. As such, the relevance of the industrial illnesses in relation to modern work-related illnesses is limited, particularly for women who are underrepresented in these industries. Occupational segregation, whereby men and women are concentrated in different sectors and at different levels of seniority, is a key cause of women's underrepresentation among current IIDB claims. Eligibility conditions are predominately based on male-dominated jobs and sectors, such as construction, which is heavily male-dominated (83%),²⁰ and is a key factor in men comprising the majority of successful IIDB claimants. Under the current IIDB system, the prescribed list ignores the occupational risks and harms associated with low-paid, female-dominated occupations such as cleaning and care. Research from the European Agency for Safety and Health at Work highlights that there is a tendency for health and safety to be ignored in low-paid jobs, such as cleaning, which increases the risk of occupational injury or illness.²¹ Given women are significantly overrepresented in these low-paid occupations, this puts them at heightened risk of being injured or becoming ill due to workplace hazards. Moreover, the IIDB scheme also fails to recognise diseases and injuries commonly experienced

¹⁹ Close the Gap (2021) *Close the Gap Response to Scottish Employment Injuries Council Bill consultation*, available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-response-to-the-Scottish-Employment-Injuries-Advisory-Council-Bill---January-2021.pdf>

²⁰ NOMIS Official Census and Labour Market Statistics (2023) *workforce jobs by industry (SIC 2007) and sex – unadjusted, 2023*

²¹ European Agency for Safety and Health at Work (2013) *New risks and trends in the safety and health of women at work*, available at: <https://osha.europa.eu/sites/default/files/new-risks-safety-health-women-work.pdf>

by women, including musculoskeletal injuries cause by lifting, breast cancer caused by shift work, and asbestos related ovarian cancer.²² Failure to recognise these illnesses and injuries means women have no path to recourse for compensation for becoming ill due to their workplace, further exacerbating gendered socio-economic inequalities.

In addition, women and men often also experience different demands, exposure and effects from the same workplaces and conducting the same jobs and tasks.²³ For example, research has shown musculoskeletal disorders are the most common workplace health conditions, however, men and women do not have the same experiences with musculoskeletal disorders. Where men are more likely to suffer from lower back pain, women are more likely to experience pain in their upper limbs, shoulders and neck.²⁴ Within its report on gender in occupational safety, TUC highlights research from North America which shows that the occupational origin of women's musculoskeletal disorders tends not to be believed, whilst men's musculoskeletal disorders compensation has been accepted almost twice as often as those from women.²⁵ It is therefore evident that women's occupational illnesses and injuries are less frequently recognised than men's, impacting the success of the employment injuries claims and limiting their options for financial support.

The barriers women face in accessing benefits in the current system is also a reflection of the difficulty in demonstrating occupational causations in conditions, such as stress and MSDs, prevalent in female-dominated occupations.²⁶ There is a continued trend of women's workplace injuries and illnesses being dismissed as simple wear-and-tear or ageing, rather than recognising occupational causation. In addition, women still bear the dual burden of carrying out household work and caring responsibilities, exposing them to the similar hazards at home as they face at work, further increasing the likelihood of injury. However, there are currently no mechanisms within the current IIDB scheme to recognise this. Women's unpaid work burden, their propensity for working multiple jobs and to have interrupted work histories due to caring commitments may also complicate the process of establishing eligibility for EIA.

²² Hazards (2015) *Double trouble on relative risk for occupational diseases*, available at: <https://www.hazards.org/compensation/mean.test.htm>

²³ Trade Union Congress (2017) *Gender in occupational safety and health: A TUC guide for trade union activists (with gender checklist)*, available at: <https://www.tuc.org.uk/sites/default/files/GenderHS2017.pdf>

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

The creation of SEIAC therefore presents a unique opportunity to address the failings of the current system in its lack of recognition of the challenges women face in accessing support. It could commission research into injuries and illnesses commonly found in female-dominated sectors and industries to provide an evidence base for it to be included in the prescribed list and tackle the gender-blind nature of the current IIDB scheme. Doing so will likely help reduce the barriers women's face in accessing support following a workplace injury or illness.

Addressing the lack of research around women's experiences with occupational injuries and diseases

There is a significant lack of research into women's experiences of occupational injuries and diseases. The World Health Organisation has previously called for an increased focus on research around women's occupational health, stating occupational health researchers have *"failed to include women in their studies, have adjusted for sex rather than examining its role in their data set, and have often not considered gender- and sex-specific factors when designing studies and analysing data"*.²⁷ The lack of research around women's occupational health and the gender-blind approach taken with the IIDB system means women's needs and risks are not being considered or addressed. This leaves women vulnerable to workplace injuries and illnesses that could be avoided, for example through properly fitting PPE, and without a path for financial compensation should they become injured or ill due to their employment.

The Bill sets out that SEIAC will have the ability to commission research, which provides a crucial opportunity to commission relevant and much-needed research into women's occupational risks and hazards. This is particularly important given the lack of gender-sensitive, sex-disaggregated data on occupational injuries and illnesses. Additionally, the current UK IAC does not hold powers to commission research and can only review existing texts which ignore women's experiences and gender-specific occupational risks, which further entrenches gender inequality in the IIDB system. Therefore, the Bill would enable SEIAC to review and commission research from a gender equality perspective, which would benefit women directly. Adopting a gendered lens to new EIA research will enable SEIAC to create a better understanding of why there is such a stark difference in the rate of approval for IIDB claims between women and men for the same type of work-related injuries and

²⁷ World Health Organisation (2006) *Gender Equality, Work and Health: A Review of the Evidence*, available at: https://apps.who.int/iris/bitstream/handle/10665/43311/9241593539_eng.pdf?sequence=1&isAllowed=y

illness, as well as identify which female-dominated occupations and types of work are currently not covered within the IIDB scheme.²⁸

There is a particular dearth of intersectional research which provides evidence on the experiences of different groups of women such as older women, disabled women, and racially minoritised women. It is therefore important any research conducted considers the intersecting inequalities women face in accessing the EIA and in their experiences of occupational injuries and illnesses. Previous research has identified a range of risks associated with female-dominated occupations, such as cleaning, care, clerical work and hairdressing.²⁹ As younger women and racially minoritised women have higher rates of employment within these industries, they are at greater risk of occupational illness or injury. There is also greater risk for occupational injury and diseases in low-paid and insecure work, where there tends to be poorer health and safety conditions.³⁰ Again, this places younger women, racially minoritised women and disabled women at a higher risk of occupational injuries and diseases, as they are more likely to be working in these types of jobs.

Expanding the evidence base on women's occupational health and safety also provides an important opportunity to consider the impact of violence against women (VAW), such as sexual harassment, in relation to EIA. VAW affects all aspects of women's lives, and the workplace is no exception. In its report on gender equality in occupational health, the World Health Organisation called for VAW to be recognised as work related.³¹ Women face significant risks to their health and safety if there are perpetrators of VAW in their workplace, especially if they are being harassed or stalked, or if perpetrators know where they work. Within current employment injuries research, VAW is not recognised as an issue, and it is also not recognised in advice or benefit criteria. Sexual harassment is endemic in Scotland's workplaces and is normalised to the point of invisibility. Women are far more likely to be sexually harassed and experience sexist bullying in the workplace, which can have long-term impacts on their mental health, their safety, and future career progression.³² Research from the TUC found that harassment and bullying is the second most common health and safety concern, and over half of the women surveyed had

²⁸ Ibid.

²⁹ European Agency for Safety and Health at Work (2013) *New risks and trends in the safety and health of women at work*, available at: <https://osha.europa.eu/sites/default/files/new-risks-safety-health-women-work.pdf>

³⁰ European Agency for Safety and Health at Work (2013) *New risks and trends in the safety and health of women at work*, available at: <https://osha.europa.eu/sites/default/files/new-risks-safety-health-women-work.pdf>

³¹ Ibid.

³² Trade Union Congress (2018) *Violence against women in the workplace – time for employers to wake up*, available at: <https://www.tuc.org.uk/blogs/violence-against-women-workplace-time-employers-wake>

experienced some form of sexual harassment at work.³³ The current IIDB system does not recognise sexual harassment or sexist bullying as an occupational risk, which prevents women from seeking compensation.

The research powers outlined in the proposed Bill provide SEIAC with the opportunity to commission more relevant and up-to-date research on the hazards, injuries and diseases women commonly experience in the workplace, including sexual harassment, bullying and men's violence. Such research would provide important research to shape guidance and recommendations on how the EIA system could better support women, and tackle systemic inequalities.

Recognising Covid-19 as both an occupational illness and a gendered illness

The Bill highlights the need to recognise Covid-19, and Long Covid in particular, as an industrial disease. Since many workers have contracted Covid-19 at work and many are also struggling to return to work due the effects of Long Covid, it is critical that it is recognised as an industrial illness. By being able to commission research on the impacts of Long Covid and whether it can be added to the list of prescribed diseases, SEIAC can support the modernisation of the EIA system and ensure workers impacted by Covid have a path to vital support and compensation. This is particularly important for women, as they account for the vast majority (79%) of key workers which placed them at greater risk of being exposed to the virus at their work.³⁴ Data from the Health and Safety Executive highlights that in 2021/22, instances of Covid-19 were highest amongst those working in human health/social care.³⁵ As starkly female-dominated sectors, women have faced disproportionate risk in contracting Covid-19 at work. Indeed, data from the early days of the pandemic shows that between April and September 2020, women accounted for the vast majority of worker Covid-19 disease reports made by Scottish employers.³⁶ During this time, three quarters of employer disease reports related to female employees, with 489 of the reports being for female workers, compared to 161 for male workers.³⁷

³³ Ibid.

³⁴ Close the Gap (2020) *Disproportionate Disruption: the impact of Covid-19 on women's labour market equality*, available at: <https://www.closesthegap.org.uk/content/resources/Disproportionate-Disruption---The-impact-of-COVID-19-on-womens-labour-market-equality.pdf>

³⁵ Health and Safety Executive, *Coronavirus pandemic and work-related ill-health in Great Britain, 2021/22*, available at: <https://www.hse.gov.uk/statistics/coronavirus/index.htm>

³⁶ Health and Safety Executive, *RIDDOR Coronavirus (Covid-19) disease reports made by employers to HSE and Local Authorities*, available at: <https://www.hse.gov.uk/statistics/coronavirus/april-to-july-2020-technical-summary-of-data.htm>

³⁷ Ibid.

It is clear from the data that women have been disproportionately impacted by Covid-19 and Long Covid as a result of gendered patterns of work. Women are significantly more likely than men to develop Long Covid, which impacts their ability to work and earn.³⁸ Older women are at particular risk, with a study from King's College London finding women aged 50-60 are at the highest risk of developing Long Covid, and were twice as likely than men to suffer from Covid symptoms lasting longer than a month.³⁹ In addition, research from the UK Women's Budget Group found women account for the majority (98%) of key workers who earn poverty wages. This means that women key workers are both at greater risk of being exposed to, and contracting, Covid-19 and are also less likely to have a savings to fall back on as a financial safety net.⁴⁰ Racially minoritised women, migrant women and women in low-paid roles were also at particular risk of being exposed to the virus as key workers. Therefore, it is vital that these women can access industrial injuries benefits to prevent them from falling into further and deeper poverty, and other socio-economic inequalities becoming exacerbated. SEIAC being able to commission research to better understand the gendered nature of Covid-19 and Long Covid is therefore a crucial benefit of its creation, as it would ensure that there is financial security and recourse for women impact by the virus.

Recognising women's occupational health and safety – Personal Protective Equipment

The majority of work equipment, tools and PPE have been traditionally designed to fit the standard sizes and shapes of the male body, which often renders it unsuitable and unsafe for women to use. Evidence from the TUC highlights that found that more than half (57%) of women felt their PPE sometimes or significantly hampered their work.⁴¹ The same survey found that less than a third (29%) of women said the PPE they used was specifically designed for women, and many pregnant women did not have access to suitable PPE during their pregnancy.⁴² Not having the appropriate PPE presents a significant health and safety issue, as it increases the risk from injury or

³⁸ Close the Gap (2021) *Women are more likely to experience long Covid but, once again, the system of support doesn't meet their needs*, available at: <https://www.closesthegap.org.uk/news/blog/women-are-more-likely-to-experience-long-covid-but-once-again-the-system-of-support-doesnt/>

³⁹ Sudre, C. H., et al. (2021) Attributes and predictors of long Covid, *Nature Medicine* **27**, available at: <https://doi.org/10.1038/s41591-021-01292-y>

⁴⁰ Women's Budget Group (2020) *It is women, especially low-paid, BAME and migrant women putting their lives on the line to deliver vital care*, available at: <https://wbg.org.uk/blog/it-is-women-especially-low-paid-bame-migrant-women-putting-their-lives-on-the-line-to-deliver-vital-care/>

⁴¹ Trade Union Congress (2017) *Personal protective equipment and women. Guidance for workplace representatives on ensuring it is a safe fit*, available at: <https://www.tuc.org.uk/sites/default/files/PPEandwomenguidance.pdf>

⁴² Ibid.

diseases when conducting work tasks.⁴³ For example, having ill-fitting safety gloves can lead to problems gripping and safety harnesses, belts and body armour can cause problems from rubbing against the skin or not accommodating different body shapes.

The lack of appropriate PPE was further exposed during Covid-19. Over the course of the pandemic, specific concerns were raised by the Royal College of Nursing around access to PPE outside of hospitals for care home staff and district nurses.⁴⁴ For social care workers, in particular, there was a significant lack in focus in provision of PPE, with 80% of social care providers finding they did not have enough PPE to support older and vulnerable people using their services.⁴⁵ Given the vast majority of social care workers are women, this lack of PPE provision placed them at significant risk of being exposed to and contracting Covid-19.

Beyond safety equipment, workplace equipment such as desks, chairs and machinery have also been designed to suit the average-sized male worker and do not take into account the specific needs of women. This increases the risk of women becoming injured through the workplace from poor posture or lead to an increased risk of musculoskeletal disorders. Not having access to appropriate and well-fitting PPE and workplace equipment increases the risk of occupational injury and illness for women and puts them at unnecessary risk of being harmed. The current EIA system does not respond to women's needs in this area. SEIAC could therefore use its scrutiny or research powers to highlight this inequality and help create an EIA system which is responsive to women's needs and enables the gendered hazards associated with PPE to be addressed.

Q4. 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?

While there are initial start-up and annual running costs to consider, the longer-term benefits that would result from the creation of SEIAC should be acknowledged. A gender competent SEIAC will produce important gains for women's equality, and it will also have a positive impact on women's position in the economy. As set out above, SEIAC will be able to develop research into women's specific experiences of employment injuries, and shape a new system that meets women's needs, while also

⁴³ Ibid.

⁴⁴ Royal College of Nursing (2020) *Nurse leader calls on First Minister to intervene on protective equipment supply*, available at <https://www.rcn.org.uk/news-and-events/news/rcn-writes-to-fm-re-ppe-23-mar-2020>

⁴⁵ Holt, A. (2020) *Coronavirus: Nearly 400 care groups "face protection shortages"*, BBC News, available at <https://www.bbc.co.uk/news/health-52174520>

rectifying gendered inequalities which define the current IIDB system. In doing so, SEIAC will help secure the changes needed to address the gender gap in industrial injuries benefit, thereby securing greater financial security for women injured at work and reducing women's poverty.

It is particularly important that SEIAC is adequately resourced to deliver its work. Without this, it will be unable to perform its functions effectively, which will risk the quality of its work, and limit the scope of its transformative power, including addressing systemic gendered inequalities within the current system. Furthermore, it is also necessary for Social Security Scotland to be adequately resourced to deliver its part of EIA.

Q5. What is your view on whether the size and balance of the 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.

Overall, the size and balance of SEIAC's membership seems appropriate for delivering its objectives. The Bill sets out that appointment of members should have regard for the desirability of ensuring that the membership as a whole has relevant experience and knowledge of employment assistance policies, research on employment injuries and diseases, employment and personal injury law, medical expertise, and the effect of disability on daily life and as a result of employment injury or disease. It also sets out the need to have regard to the desirability to having representation from employers and employees, and members who have lived experience of an impairment arising from an employment injury or disease. It is important that there is balance and equal representation between these groups to prevent the views of any group being over-represented and disrupting the balance. In addition, given that women's experiences of employment injuries and illnesses are chronically underrepresented in the current system, it is imperative that there is gender balance within the lived experience representation. Where consideration of women's lived experience is not embedded into governance structures, gender inequality is sustained.⁴⁶ By ensuring women's lived experience is represented on the Council, women's occupational hazards can be recognised and addressed.

It is vital that SEIAC members are representative of those holding experience and expertise on employment injuries and diseases. Ensuring SEIAC membership is gender balanced is one way of doing this, therefore the new body should be subject

⁴⁶ Close the Gap (2021) *Close the Gap Response to Scottish Employment Injuries Council Bill consultation*, available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-response-to-the-Scottish-Employment-Injuries-Advisory-Council-Bill---January-2021.pdf>

to the Gender Representation on Public Boards (Scotland) Act 2018. There is strong evidence that having diverse boards result in better decision making,⁴⁷ and ensuring women have equal representation on the membership is necessary so that their voices are heard, and gendered experiences are made visible. It is also crucial that an intersectional approach is taken to recruiting members to the council. It is not enough to only have white women represented, the council must be as diverse as possible, and include racially minoritised people, disabled people, and people from different socio-economic backgrounds.

It will be critical to build gender competence in SEIAC members so that they understand the gendered dimensions of employment injuries and illnesses. This is a necessary step to ensure the specific needs of women met and that the gender inequalities which characterise the current system are not entrenched in Scotland. There is a particular need for members with medical knowledge to be gender competent and provide expertise that not only considers biological sex but also is cognisant of gender as a social construction. There is a considerable body of evidence showing that women's health is often under-researched,⁴⁸ particularly their occupational health⁴⁹, and women are being under-diagnosed and under-treated.⁵⁰ As a result, women have poorer health outcomes than men, further contributing to health inequalities. It is therefore imperative that research into workplace injuries and illnesses takes account of these contextual factors and ensure that women's specific experiences are centred.

Q6. Do you have any other comments about the Bill?

Centring equality and non-discrimination

SEIAC will be required to adhere to the Social Security Charter from its inception, to support the approach to social security as set out in the Social Security (Scotland) Act 2018.⁵¹ This includes having specific regard for the social security principles as set out in the Social Security Charter, including equality and non-discrimination.⁵² While the charter includes advancing equality and non-discrimination in its principles, it does

⁴⁷ Close the Gap (2016) *Gender Equality Pays: The economic case for addressing women's labour market equality*, available at: <https://www.closesthegap.org.uk/content/resources/Gender-Equality-Pays.pdf>

⁴⁸ *ibid*

⁴⁹ GMB (2021) *Proposed Scottish Employment Injuries Advisory Council Bill*, available at: <http://www.markgriffinmsp.org.uk/files/gmbSCO~1.pdf>

⁵⁰ Scottish Government (2021) *Women's Health Plan: A plan for 2021-2024*, available at: <https://www.gov.scot/publications/womens-health-plan/documents/>

⁵¹ Social Security (Scotland) Act 2018

⁵² Social Security Scotland (2019) *Our Charter: What you can expect from the Scottish Government and Social Security Scotland*, available at: https://www.socialsecurity.gov.scot/asset-storage/production/downloads/Our-Charter_1.pdf

not fully elaborate on what this would include, and women's equality is not mentioned specifically. There is a considerable risk where equality and non-discrimination is not centred in design, that it is invisible in implementation. In Close the Gap's experience, this is routinely the case with otherwise laudable ambitions on gender equality – where a gendered focus is not embedded, it becomes deprioritised. Close the Gap therefore believes that equality and non-discrimination should be on the face of the Bill to ensure that SEIAC prioritises. Placing equality and non-discrimination at the heart of the Bill would ensure that SEIAC prioritises equality in each of its functions.

Public sector equality duty

The policy memorandum sets out that SEIAC will be an independent advisory non-departmental public body. Close the Gap is strongly of the view that as non-departmental public body, SEIAC should be listed as public body under the Scottish specific duties of the public sector equality duty. There is precedent for new public bodies in Scotland being added as a listed body, for example, the Scottish Biometrics Commissioner, Scottish National Investment Bank, and South of Scotland Enterprise have been new addition in recent years.⁵³ The public sector equality duty is the key equality law framework for the public sector, and importantly places a duty on public bodies to not only tackle discrimination but also proactively advance equality. The Scottish specific duties require listed bodies to take a range of actions including doing equality mainstreaming, developing and reporting on equality outcomes, and doing equality impact assessment. SEIAC has the potential to address the gendered inequalities that exist in the current system, and equality mainstreaming, setting equality outcomes, and equality impact assessment are tools that can be used to achieve this. It will also ensure that the ambitions of the Bill on women's equality are realised, and not lost in implementation.

⁵³ See Equality and Human Rights Commission, *Regulations for the Specific Duties*, available at: <https://www.equalityhumanrights.com/en/public-sector-equality-duty-scotland/regulations-specific-duties-and-details-which-public>