



## WELFARE REFORM COMMITTEE

### AGENDA

**20th Meeting, 2015 (Session 4)**

**Tuesday 10 November 2015**

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Future Delivery of Social Security in Scotland:** The Committee will take evidence from—

Roz Hampson, Advice Officer, Maternity Action;

John McAllion, Executive Committee, Scottish Pensioner's Forum;

Fraser Sutherland, Policy Officer, Citizens Advice Scotland;

Nicola Sutherland, Team Leader, Welfare Rights & Welfare Fund, Perth and Kinross Council;

Mark Willis, Welfare Rights Worker, Child Poverty Action Group in Scotland;

Derek Young, Policy Officer, Age Scotland;

and then from—

David Eiser, Research Fellow, University of Stirling;

Professor Nicola McEwen, Professor of Politics and Associate Director, Centre on Constitutional Change, The University of Edinburgh;

Professor Paul Spicker, Professor of Public Policy, (appearing in a personal capacity);

Professor Alan Trench, Institute for Public Policy Research.

2. **Future Delivery of Social Security in Scotland (in private):** The Committee will review the evidence heard earlier in the meeting.

Simon Watkins  
Clerk to the Welfare Reform Committee  
Room T1.01  
The Scottish Parliament  
Edinburgh  
Tel: 0131 348 5228  
Email: [simon.watkins@scottish.parliament.uk](mailto:simon.watkins@scottish.parliament.uk)

The papers for this meeting are as follows—

**Agenda Item 1**

Evidence Summary - Regulated Social Fund

WR/S4/15/20/1

Note by the Clerk and Written Submissions

WR/S4/15/20/2

PRIVATE PAPER

WR/S4/15/20/3 (P)



## **Welfare Reform Committee**

### **The Future Delivery of Social Security in Scotland**

#### **Regulated Social Fund**

#### **INTRODUCTION**

1. In July the Welfare Reform Committee issued a call for evidence on the Future Delivery of Social Security in Scotland. The Committee sought views on how the new welfare powers proposed in the Smith Agreement should be used. The Committee has held sessions on disability and carers benefits, on housing, top-ups, new benefits and employment support. The session on 10 November will be on the Regulated Social Fund (RSF), which is the focus of this paper. The first part of this paper summarises the views in the Committee submissions. The paper then summarises the debate around the Smith Commission and Scotland Bill. It concludes with an overview of the RSF including Scottish Government views on the way ahead after devolution.

#### **SUMMARY OF EVIDENCE**

##### **General points**

2. There was less comment in submissions on the RSF than on other aspects of welfare devolution. Local authorities were more likely to comment than third sector organisations. Aberdeen City Council considered that the RSF generally works well, with clear rules for entitlement, whereas Aberdeenshire saw devolution as an opportunity for review. Edinburgh City Council thought there was scope to combine the benefits into a single assessment. While some local authorities thought they would be best to take on delivery (eg Edinburgh City Council, Inverclyde), West Dunbartonshire wanted more information about funding before coming to a view.

##### **Links to Scottish Welfare Fund**

3. There were different opinions about the degree to which the RSF linked with the Scottish Welfare Fund. Some thought that there were strong links or overlaps which suggested delivery by local authorities (East Dunbartonshire, Dundee City Council, NHS Lanarkshire, Perth and Kinross Council, Rights Advice Scotland). However, North Ayrshire Council were of the view that there is no natural synergy between the two. COSLA said the key point was to integrate these benefits with local services “where that simplifies customer access and provides support when and where needed as the customer faces challenging circumstances”.

### **Winter Fuel Payments**

4. Where this was commented on, the main issue of concern was whether these payments should remain a universal benefit (eg Perth and Kinross Council). North Lanarkshire Council thought it should only go to the most vulnerable. However, Inverclyde Council said that moving away from a universal approach would increase administration costs. Participants at an SCVO event suggested that people should be able to opt out. The Carers' Trust Scotland would like to see eligibility extended to PIP/DLA recipients and carers below pension age. Age Scotland consider that any changes would need to be sanctioned by older people themselves.

### **Cold Weather Payments**

5. There was little comment on this benefit, and what there was was mixed. Perth and Kinross Council said it is a very effective benefit that could be delivered by DWP on behalf of the Scottish Government and Age Scotland wanted no change to eligibility criteria. East Ayrshire CPP and North Lanarkshire Council would like to see it merged with Winter Fuel Payment into a single benefit. In contrast, Rights Advice Scotland said it should be abolished, but did not say why.
6. Carers' Trust Scotland would like to see eligibility extended to PIP/DLA recipients and carers below pension age.
7. In terms of the cold weather trigger for the payments, East Ayrshire CPP would like this measured on a more local basis, Shetland would like it to include windchill and Perth and Kinross think that it should be triggered after fewer cold weather days.

### **Funeral Grant**

8. The inadequacy of the funeral payments to meet funeral costs was the most commonly mentioned issue raised in submissions about the RSF.
9. Those recommending an increase in the grant paid included Argyll and Bute Council, Dundee City Council, Citizens Advice Scotland, Rights Advice Scotland, Scottish Borders Council, Marie Curie Cancer Care, North Lanarkshire Council). On the other hand, some participants at an SCVO event thought that that we should avoid the need for this grant - through better insurance, credit unions, savings advice and lower cost funerals
10. Citizen's Advice Scotland gave the most detailed comments on this area. They recommend that there should be a fixed payment rather than a grant, the qualifying criteria needs to be clearer, that the rising costs of funerals need to be addressed, and there needs to be a more narrow definition of next of kin for the purposes of calculating available income. They recommend the 'nearest relative test' in Human Tissue (Scotland) Act 2006.

### **Sure Start Maternity Grant**

11. This part of the RSF attracted the least comment. OPFS noted that the level of grant had not increased since 2002. They would like to see a cash grant continue rather than 'in-kind' provision and eligibility extended to all mothers and for more than just the first child. Perth and Kinross would also like to see the 'first child only' rule relaxed, suggesting changing it to 'first child for five years.'

12. Dundee City Council thought it could be linked with Health and Social Care Partnership and the Scottish Welfare Fund Provision.

## **SMITH COMMISSION AND SCOTLAND BILL**

### **Introduction**

13. This section of the paper summarises the Smith Commission's made in relation to the RSF and how the recommendations have been translated into the Scotland Bill.

### **Smith Commission** (27 November 2014)

14. The Smith Commission proposed that the Regulated Social Fund should be devolved, that is: "Benefits which currently comprise the Regulated Social Fund: Cold Weather Payment, Funeral Payment, Sure Start Maternity Grant and Winter Fuel Payment." (para 49(2)). It also recommended that devolution of welfare foods should be discussed.

### **The Scotland Bill** (28 May 2015)

15. Clause 20 of the Scotland Bill, as introduced, amends the current exceptions to the reservation on social security to provide the Scottish Parliament with legislative competence over the subject matter of the Regulated Social Fund made no changes regarding powers over the RSF.

### **Scottish Government Alternative Clauses - (letter to Devolution Committee 7 June 2015)**

16. The Scottish Government proposed an amendment to clause 20 which would provide for assistance in kind as well as in cash

"Under the terms of clause 20 of the Scotland Bill, the support which might be provided in respect of maternity, funeral and heating expenses is limited to financial assistance. The Scottish Government believes this places limitations on the Scottish Parliament's proposed 'complete autonomy,' which are significant and unwelcome. The Scottish Government's alternative clause therefore allows for provision of assistance in a form other than cash."

### **Amendments to Scotland Bill**

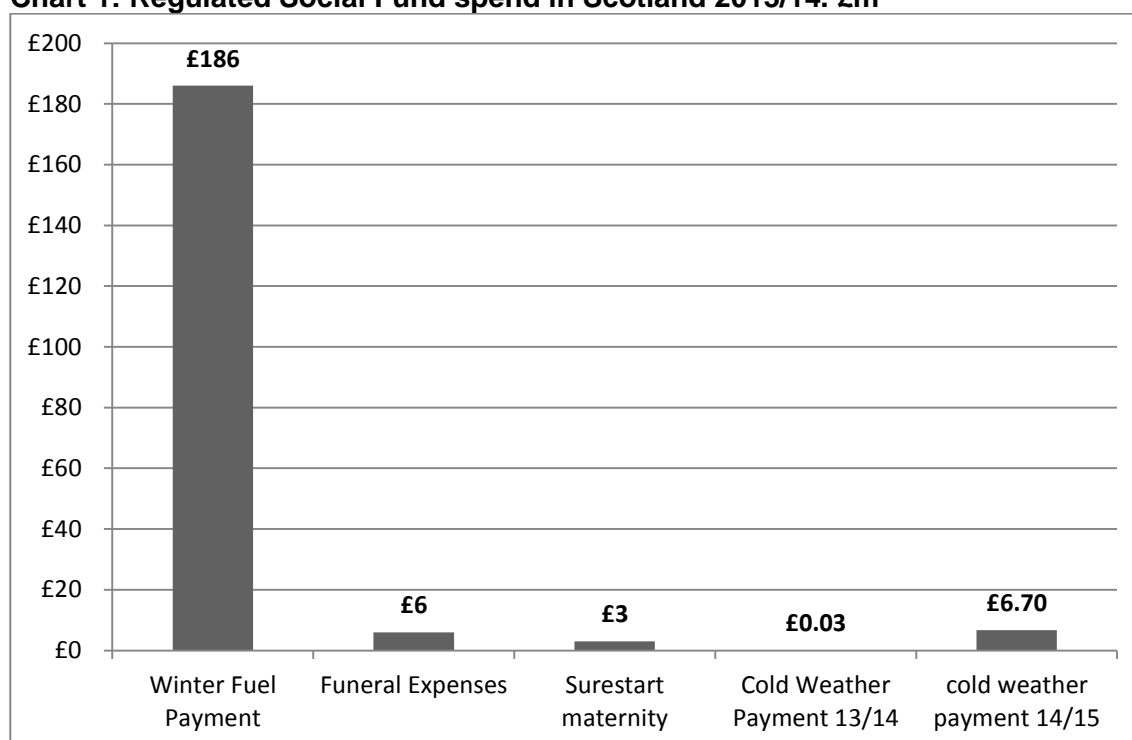
17. There were no amendments during Committee stage, when the welfare elements of the bill were discussed on 30 June.
18. As at 3<sup>rd</sup> November, the UK Government has lodged the following amendments that are relevant to the regulated social fund:
- That social fund payments can be made in kind as well as in cash (amendment 75). This reflects the Scottish Government's 'alternative clauses' and an opposition amendment from Committee stage that was not called.
  - Devolution of welfare foods (amendments 79 to 83). The Smith Commission had recommended that this be discussed and the Scottish Government had recommended devolution of welfare foods in its 'alternative clauses.'

## BENEFITS TO BE DEVOLVED

### Introduction

19. This section of the paper provides an overview of the four elements of the RSF. It also provides a summary of the Scottish Government's engagement with stakeholders.
20. Chart 1 below compares spend on the different elements being devolved, showing that almost all spend is on the Winter Fuel Payment. It also shows the variation in spend in Cold Weather Payment across two years.

**Chart 1: Regulated Social Fund spend in Scotland 2013/14. £m**



*sources: DWP Cold Weather Payment statistics [2013/14](#) and [2014/15](#), [DWP Expenditure by Region](#), [Scottish Government Social Security in Scotland](#)*

*Cold Weather Payment figures are given for two years to illustrate how the spend varies with the weather.*

There were around 1 million awards made of Winter Fuel Payment in Scotland in both 2013/14 and 2014/15. Caseload data is not published at a Scottish level for Surestart Maternity or Funeral Expenses. The number of Cold Weather Payments made varies considerably each year as it is dependent on the weather. In 2014/15 there were 268,000 awards made in Scotland compared to 1,100 the previous year.

### Winter Fuel Payment

21. The Winter Fuel Payment is by far the largest area of expenditure in the RSF, with £186m spent on this in Scotland in 2013/14. Unlike the other RSF benefits, it is not means tested. Winter Fuel Payments are tax-free payments to help pay for heating bills for individuals born on or before 5 July 1952 (current State Pension Age for

women). There were around 1million recipients in Scotland in 2013/14 (SG social security in Scotland). The rules are designed to ensure that:

- in a household where the eldest person is between pension credit age and 79, the total amount received by the household is £200, and
- in a household where the eldest person is 80 or over, the total amount received by the household is £300

22. [Creating a fairer Scotland - Social Security](#) summarises the Scottish Government's engagement to date on the further devolution of social security. It sets out the views it has heard on welfare provision, including the regulated social fund. In relation to Winter Fuel Payments the main issue highlighted by stakeholders was that these payments are not targeted in any way and there is no guarantee that eligible households will use the income to reduce fuel bills.

23. In response, the Scottish Government stated:

“Tackling fuel poverty is already a priority for the Scottish Government. With the devolution of Cold Weather Payments and Winter Fuel Payments, we are considering the eligibility criteria, converting the payments into a fuel bill rebate or using the funding to provide warmer more affordable homes for people. We are asking for views on how effective the Cold Weather Payments and Winter Fuel Payments are in tackling fuel poverty and what, if any, changes might be welcomed.”

24. The Scottish Government has stated that they do not intend to means test the Winter Fuel Payment. The BBC reported that:

“A Scottish Government spokesperson later clarified the plans, saying: "There is absolutely no question of means-testing eligibility for the winter fuel allowance - or of removing entitlement from anyone who currently receives it ([BBC news online 13 October 2015](#)).”

## **Cold Weather Payments**

25. Cold Weather Payments are made individuals on certain benefits. A sum of £25 is paid for each week of cold weather (7 days of average daily temperature zero or below at the local weather station).

26. Payments are made to older people receiving Pension Credit and people on certain income related benefits who also receive elements within those benefits that are related to disability, pension age or having children under 5.

27. Over half (54%) of those eligible are in receipt of Pension Credit (205,000 out of 380,000 eligible in Scotland in 2014/15)  
(DWP, [Cold Weather Payments statistics 2014 to 2015](#))

28. In the Scottish Government's engagement work on social security, stakeholders' views included:



- In many remote areas (especially islands), wind and other weather conditions can mean extended heating periods even though temperatures haven't reached zero.
- Paying the benefit in retrospect also means that people in rural areas who incur fuel costs on delivery cannot plan ahead.

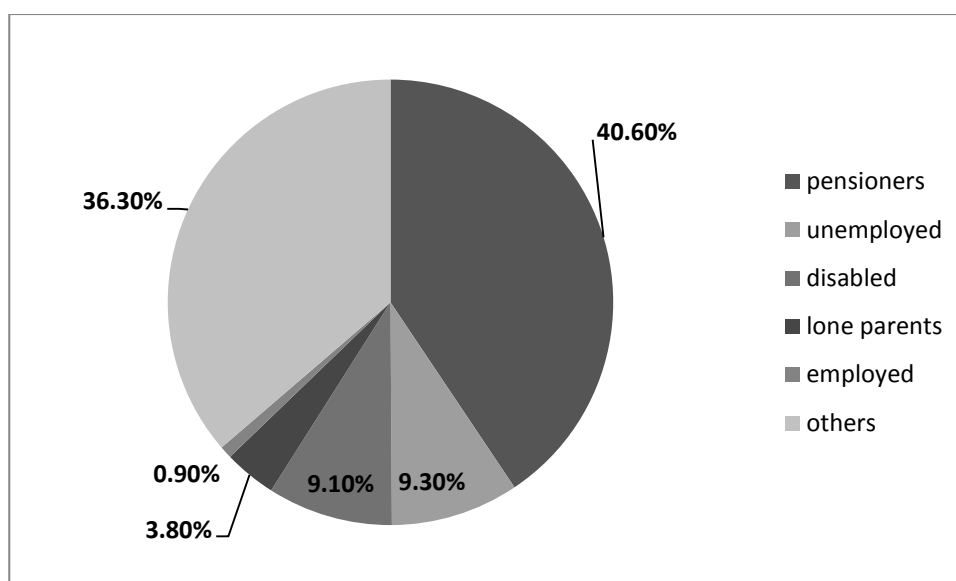
29. See above under Winter Fuel Payments for Government response.

## Funeral Payments

30. Funeral Payments are for individuals on low incomes who need help to pay for a funeral they are arranging. In Great Britain as a whole, there were around 12.6m awards made in 2013/14 with an average value of £1,347. Total expenditure was £45m, of which an estimated £6m was spent in Scotland.

31. The chart below shows that, across Great Britain as a whole, pensioners make up less than half of claimants:

**Chart 2: Funeral Payments by Claimant Group (GB)**



32. Funeral payments have been criticised as failing to meet the costs of a basic funeral. Citizen's Advice Scotland have highlighted how funeral costs have increased in recent years (see [CAS, 2014](#))

33. In the Scottish Government's engagement work on social security, stakeholders' views included

- Wide spread lack of awareness of the payments.
- That the level of the payment does not meet the cost of a funeral, resulting in debt for bereaved families and bad debt for funeral directors, in turn pushing prices up further.

- Complexity in how the payment is made up, what you can apply for and difficulty in predicting what you might be awarded.
- A perceived unfairness in the rules on who can receive a payment, particularly since relationships in modern families are more fluid.
- Relatively low success rates (around 52% of applications result in awards) mean a lot of wasted effort on the part of applicants and processing staff.
- Delays in processing cause anxiety at a very difficult time.
- That costs of burial or cremation vary significantly depending on which Local Authority you live in

34. In response, the Scottish Government stated:

“We recognise the growing challenge and impacts of funeral poverty. Funeral Payments cannot provide the whole answer to funeral planning by individuals and activity to create downwards pressure on costs must also play a part.”

### **Surestart Maternity Grant**

35. Sure Start Maternity Grants are a one-off payment of £500 to help toward the costs of having a first child for individuals who are in receipt of certain benefits.

Expenditure in Scotland for 2013/14 was an estimated £3m (Scottish Government, Social Security in Scotland).

36. In the Scottish Government’s engagement work on social security, stakeholders’ views were summarised as follows:

- In general, the Sure Start Maternity Grant is recognised by stakeholders as an important source of support. The recent narrowing of entitlement so that a grant is not made where there is another child under 16 in the household has not been well received and is seen as unfair, as people are not in a position to plan ahead and keep equipment for that long.
- Limiting grants to one child is considered to disadvantage larger families (more likely to be ethnic minorities), people who have re-partnered, people with chaotic lifestyles and teenage mothers who still have siblings at home.
- The window for application is short, given the stresses on new mothers during pregnancy and early years. This is particularly the case where mothers qualify due to receipt of tax credits which are based on previous year's income.

37. In response, the Scottish Government stated: “Maternal and infant health and early years policy in Scotland is well developed and it will be important to make sure that the new grant is well embedded with existing support.”

### **Related measures: Welfare Foods**

38. The Welfare Foods Scheme was established in 1940 as a wartime measure but was subsequently targeted at children in low-income families. Regulations are made under section 13 of the Social Security Act 1988. Schemes must be targeted at

pregnant women, mothers, and children “with a view to helping and encouraging them to have access to, and to incorporate in their diets, food of a prescribed description.”

39. Scottish Ministers must be consulted on changes, and can introduce regulations which specify the type of foods included.
40. The current provision comprises ‘Healthy Start’ vouchers and the nursery milk scheme. Healthy Start vouchers are available to pregnant women and those with children under 4. They are worth £3.10 a week and help with the cost of milk, fruit and vegetables. Vitamin supplements are also available (gov.uk online).
41. The Nursery milk scheme provides Children under 5 to receive free of charge 189 ml (1/3 pint) of milk for each day they attend approved day care facilities for 2 hours or more.

Camilla Kidner  
SPICe  
4<sup>th</sup> November 2015

**Welfare Reform Committee**

**20<sup>th</sup> Meeting, 2015 (Session 4), Tuesday 10 November 2015**

**Future Delivery of Social Security in Scotland**

1. This week the Committee will undertake two evidence panels. The first panel will discuss issues around the regulated social fund. The second panel will discuss the wider practical issues around devolution. For example, intergovernmental relations, benefit integration, resourcing and financial impacts. It will also be an opportunity to raise any final issues before the end of oral evidence.
- I. Annexe A to this paper contains the written submissions from the witnesses who will appear before you today (not all witnesses have provided written evidence). The Annexe includes:

Panel 1:

- i. Age Scotland (additional submission)
- ii. CPAG
- iii. CAS
- iv. Maternity Action
- v. Perth & Kinross Council

Panel 2:

- vi. Prof Paul Spicker, personal capacity
- vii. David Eiser, research fellow Sterling University

- II. Annexe B contains hyperlinks to all evidence submissions received to date.

Heather Lyall  
Assistant Clerk  
Welfare Reform Committee  
05 November 2015

**Annexe A****WELFARE REFORM COMMITTEE****THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND****ADDITIONAL WRITTEN SUBMISSION FROM AGE SCOTLAND****Introduction**

Age Scotland welcomes the opportunity to give oral evidence, building on our earlier written submission. This note accentuates our previous evidence and is focused largely on payments within the Regulated Social Fund.

We have no comments to make to the Committee on Sure Start Maternity Grants, which lie outwith our areas of interest and expertise.

**Funeral payments**

People are reluctant to consider or discuss death except when confronted directly by either the reality or the pressing prospect of it. Almost everyone wants their loved ones to be given a “fitting send-off” but people generally underestimate how expensive it will be, and perceive the typical costs of funerals to be lower than they actually are. Marking or honouring the loss of a loved one properly is a natural instinct, and an important method of coping and dealing with the psychology of grief. This sits uneasily with financial constraints which would make someone feel that they are behaving parsimoniously. People also feel pressurised by their perception of other people’s expectations of appropriateness, or even the deceased person’s own wishes for their funeral.

The Scottish Government have acknowledged that the system of arranging funerals and cremations is ripe for reform, which prompted them to introduce the Burial and Cremation (Scotland) Bill. The existing legislation is outdated, somewhat confusing, and inadequate. The proposed reforms are laudable and have been considered at length,<sup>1</sup> yet they cannot overcome all of the difficulties which people experience when a loved one dies, especially the financial aspects. A Funeral Poverty Working Group has been established and is due to report shortly.

*The cost of funerals and cremations*

The *typical* non-discretionary costs of arranging a funeral are now £3,693, and are expected to rise to almost £4,500 by 2019.<sup>2</sup> These include fees for the funeral director; for the celebrant conducting the funeral; for the doctor completing cremation forms; and the burial or cremation charges, which include costs of internment and the burial lair. N.B. in England and Wales, certifying death is considered part of a doctor’s normal duties for the NHS, but investigating and certifying suitability for cremation is not, and so charges apply.<sup>3</sup> In Scotland, fees for medical cremation certification (£170) were abolished earlier this year.

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<sup>1</sup> See Scottish Law Commission report and Burial and Cremation Review Group (citation)

<sup>2</sup> SunLife “Cost of Dying” report 2015: see [www.sunlifedirect.co.uk/press-office/cost-of-dying-2015/](http://www.sunlifedirect.co.uk/press-office/cost-of-dying-2015/)

<sup>3</sup> See [www.bma.org.uk/support-at-work/pay-fees-allowances/fees/fee-finder/fee-finder-why-gps-charge-fees](http://www.bma.org.uk/support-at-work/pay-fees-allowances/fees/fee-finder/fee-finder-why-gps-charge-fees)

Discretionary but typical additional costs include death and funeral notices; flowers; printing orders of ceremony; funeral cars; organist's fees; catering and venue hire for a wake; and any memorial such as a headstone – these often run to around £2,000. Typical fees for professional services in winding up the deceased's estate run to over £2,400, making an overall cost of dying of £8,126, with a burial costing on average £800 more than a cremation.

These costs have risen drastically in recent years. Citizens' Advice Scotland revealed that burial charges have increased by an average of 10% in a single year across Scotland in 2015 and cremation charged by 5%.<sup>4</sup> There is also an enormous disparity between different local authorities, with a burial in East Dunbartonshire costing four times as much as one in the Western Isles. Personal finance journalist Ruth Jackson noted in 2013, "[t]he basic cost of a funeral has risen by 61% over the past eight years – vastly outpacing inflation, which has risen by 24.4% over the same period."<sup>5</sup> She also called this "blatant profiteering ... as councils look to increase profits following budget cuts", although it should be noted that councils are not unique and fees have increased across the board.

Age Scotland has called for the introduction of a **standard charge for burial and cremation**, which would go a good way towards levelling out the disparity in costs. The Burial and Cremation (Scotland) Bill offers an opportunity to provide for this; it would also allow for a form of government intervention to control cost increases.

#### *Paying for funeral and cremation costs*

The person who instructs the holding of a funeral becomes in effect the funeral director's client, and thereby the person who bears the financial burden, at least upfront. They will often be the deceased's nearest relative (though not always, and this issue is addressed within the Bill). However, they will not necessarily be the executor of the deceased's estate; where the deceased dies intestate the executor's identity will not even be known until confirmation takes place several months afterwards. Therefore, these costs will either not practically be chargeable against the deceased's estate or not until many months or even years later.

The most common form of financial assistance is where the deceased him/herself made financial arrangements in advance to cover some or all of the anticipated costs. However, many people do not do so, and others do so only for it to be discovered later that the provision made is inadequate. This usually takes one of two forms: a pre-paid funeral plan, which may be purchased either as a lump-sum or in instalments, or an insurance policy.

It should be noted that Age Scotland are joint owners, along with Age UK Enterprises, of a charity called Age Scotland Enterprises (ASE). ASE is a trading social enterprise which offers and arranges a number of financial products, including funeral plans, and is regulated by the Financial Conduct Authority. Any profits they make are invested back into Age Scotland's and Age UK's charitable activities. ASE also used to offer insurance for funeral costs but ceased to do so some years ago.

<sup>4</sup> *The Cost of Saying Goodbye: burial and cremation charges in Scotland 2015*, Citizens Advice Scotland. See <http://j.mp/TCOSG2015>.

<sup>5</sup> "Death – the final rip-off", *MoneyWise* magazine, 16 May 2013. See [www.moneywise.co.uk/scams-rip-offs/rip-offs/death-the-final-rip](http://www.moneywise.co.uk/scams-rip-offs/rip-offs/death-the-final-rip).

This connection informs our evidence on paying for funeral costs but we also feel it is important to disclose to the Committee in the interests of transparency.

Funeral plans are exempted from regulation by the Financial Conduct Authority.<sup>6</sup> Instead, there is a voluntary code of self-regulation administered by an industry body, the Funeral Planning Authority Ltd,<sup>7</sup> to which a number of providers have signed up. Advice on funeral plans is available from the Money Advice Service.<sup>8</sup>

As with any insurance policy, these involve a calculation of risk versus cover, but some of the implications may not be readily appreciated by prospective or actual policyholders. Policies will either last for a specified term or be a whole-of-life policy (sometimes marketed as an “over-50 plan”). The former means that if the insured party dies after the term ends, or any grace period, then they will receive nothing. The latter means the insured party may end up paying for several decades. In both instances, if a payment is missed, the cover could be cancelled by the insurer and the individual left exposed; if the insured person cancels the cover there will often be (typically high) penalty charges.<sup>9</sup>

Policies will almost certainly pay out a defined amount of money (the insured sum). This will typically not rise in line with inflation, meaning its effective value decreases over time. If the insured sum is protected against inflation, the insured person will probably pay higher premiums during the life of the policy; however, even then it may not keep pace with the rate of increase of funeral costs we have seen in recent years (see above). The effect would be that relatives may still face a hefty bill for the balance. These limitations are different to the reassurances typically given or implied in the marketing of such policies, which imply that they will “take care of matters when you’ve gone.”

#### *Funeral poverty and state support for funeral costs*

There are more economical options following death, but neither of them are palatable to most people. Local authorities have the ultimate responsibility to bury the dead as a public health measure,<sup>10</sup> and it would be an interesting comparison to know how much local authorities spend on so-called “paupers’ funerals”. Similarly, a body donated to medical research will be disposed of by the university or research institution themselves, but even in this circumstance there will typically be a desire to mark the deceased’s departure ceremonially.

We welcome any possibility of state financial support for funeral costs, especially for those in most need. However, the specified limit for some fees which funeral payments cover is £700. We understand that this has not changed for 12 years, in which time its effective value has fallen by almost a third against inflation, and by considerably more against average funeral costs (£700 amounts to just 19% of the average non-discretionary cost).

<sup>6</sup> Chapter XIV of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544). See [www.legislation.gov.uk/uksi/2001/544/part/II/chapter/XIV/made](http://www.legislation.gov.uk/uksi/2001/544/part/II/chapter/XIV/made).

<sup>7</sup> See [www.funeralplanningauthority.co.uk](http://www.funeralplanningauthority.co.uk).

<sup>8</sup> See [www.moneyadviceservice.org.uk/en/articles/funeral-plans](http://www.moneyadviceservice.org.uk/en/articles/funeral-plans)

<sup>9</sup> See, for example, [www.moneyadviceservice.org.uk/en/articles/whole-of-life-policies](http://www.moneyadviceservice.org.uk/en/articles/whole-of-life-policies)

<sup>10</sup> Public Health (Control of Disease) Act 1984, Part III. See [www.legislation.gov.uk/ukpga/1984/22/part/III](http://www.legislation.gov.uk/ukpga/1984/22/part/III).

Given the mindset of those arranging funerals, it seems unlikely that clients would ask or realistically be able to obtain a basic funeral for that cost or indeed anything like it. We understand that funeral directors tend to offer mid-range funeral options first during discussions with clients rather than less expensive ones, but clients will not necessarily appreciate this. It also seems highly unlikely that clients, having taken on the responsibility of arranging a funeral, would or could seek to cancel one if they subsequently became aware of the cost and its unaffordability. This would leave a considerable financial balance due to be paid by the client. The upshot, even for those who receive funeral payments, may be that they fall into debt to the tune of several thousands of pounds. We understand that 38% of successful claimants for funeral payments are in receipt of Pension Credit. For people who are living on the State Pension and Pension Credit as their only forms of income, this will likely generate a substantial debt in relation to their income, which would take several years to pay off, if at all. It is also worth noting that there is a considerable rate of underclaiming of Pension Credit by those older people who would be entitled to it.

As the claim form notes, the DWP does not make a decision on an award of funeral payment until it has received the “final funeral bill”, so in many instances the funeral director will expect or require their client to pay the full cost before the client knows whether or to what extent the claim will be successful. This essentially means that clients/claimants are expected to take on a level of financial risk and uncertainty, even where the funeral director knows that a claim for funeral payment has been made. The client is essentially required to do this because of the uncertainty of the process and the pressure of time – funerals are almost always held within seven or at most ten days of the death unless there is a legal process which delays matters (e.g. if a post-mortem examination is being carried out following a death which requires investigation).

As noted above, the Funeral Poverty Working Group is considering the nature and extent of financial need in relation to funerals and related expenditures. We understand that they are considering those for whom the cost impact of funerals has an adverse impact on their quality of life, the accrual of debt (often placed on credit cards) as a result of funeral costs, especially where this compounds existing personal debts, the accrual of debts to funeral directors and the methods of recovery which they employ. We look forward to their report and encourage the Committee to consider it to inform any recommendations they make.

Funeral payments also operate as a loan rather than a grant if the deceased’s estate is able to repay the cost, and these serve as a priority claim on the estate, but of course these are recoverable potentially much later, and the cost of recovery might be disproportionate to any recompense gained. If recovery were dispensed with, this would make the process simpler and easier.

Funeral payments are also not available for memorial services and/or permanent memorials where a person has gone missing, is presumed and then declared legally dead.<sup>11</sup>

### *Related issues*

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<sup>11</sup> In terms of the Presumption of Death (Scotland) Act 1977: see [www.legislation.gov.uk/ukpga/1977/27/contents](http://www.legislation.gov.uk/ukpga/1977/27/contents).



We have numerous concerns with the SF200 claim form for funeral payments.<sup>12</sup> In the form, the DWP makes a number of inquiries about the financial means not only of the deceased and the claimant, but of a wide range of other people who may be related to or connected to the deceased. The philosophy which underpins the application process seems to be that the State is as reluctant as possible to make a funeral payment, and therefore seeks to cast the net as wide as possible to encompass others who might be expected to pay for funeral costs instead. Some of the language adopted seems to us to be deeply unsympathetic, patronising and even quite antagonistic, which is hardly satisfactory for someone who is likely to be emotionally affected by bereavement.

The claimant is expected to provide evidence about their own financial means, those of the deceased, and those of numerous other people who were relatives of the deceased, some of whom may be completely unknown to the claimant. For example, the claimant is asked if they could obtain money from a charity or from their own relatives in the first instance. The claimant may be unaware of the existence of other relatives of the deceased, let alone able to give information about their finances. Similarly, information about the deceased person's savings or bank accounts may not be readily available. The claimant is then asked to certify that the information given is accurate and complete, subject to the risk of penalties in the event that it is not. Even although the undertaking is "as far as I know and believe" and the penalty is said to be if the claimant "knowingly" provides inaccurate, misleading or incomplete information, the threat of sanctions alone may be enough to dissuade legitimate claimants from applying. This position may have intensified because of the recent intensification in the application of conditionalities and sanctions to other DWP benefits such as Jobseekers' Allowance and Employment Support Allowance.

### **Cold Weather Payments**

Age Scotland believes that the system of Cold Weather Payments (CWPs) is broadly successful and popular. Heating costs increase when ambient temperatures fall. The criteria applied are directly related to prolonged low temperatures and are clear and fair. We strongly support the availability of cash payments rather than discounts from energy bills, because cash payments are particularly suited to rural areas or residences where different methods are used to heat homes (e.g. coal, bottled gas, oil or peat), and Scotland has more "off-grid" residences per head than elsewhere in the UK.

Scotland benefits disproportionately from CWPs within the UK because Scotland is typically colder, and more people in Scotland per head of population tend to be affected when a cold snap occurs. This makes it important to consider the basis on which the Scottish allocation of UK funds is determined. In the past couple of years, expenditure on CWPs in Scotland has been extremely small because we have enjoyed milder winters. To get a true and fair picture of the typical expenditure on CWPs, it would be necessary to take an average of spend in Scotland across several years which encompasses both colder and milder winters. It is probably not straightforward to take account of likely future incidence of cold periods, though there are scientific models which predict that these may be more likely in future as a result of climate change.

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<sup>12</sup> See [www.gov.uk/government/publications/funeral-payment-claim-form](http://www.gov.uk/government/publications/funeral-payment-claim-form).

## Winter Fuel Payments

We make no apology for claiming that state financial support for older people's general heating costs is justified. There is considerable evidence that older people are more affected by colder weather in winter and thus have a greater need for heating and home energy, with attendant higher costs. Older people's bodies retain heat less well, and are more likely to be in their own home during the day. Warmth may be even more important for people who live with particular chronic health conditions, which are more prevalent among older people.

Indeed, the need for such support has increased since Winter Fuel Payments (WFPs) were introduced in 1997. Between 2002 and 2012, average earnings remained almost static in real terms, but heating costs doubled.<sup>13</sup> Pensioners are almost all on fixed incomes and heating costs are swallowing up an increasing proportion of their household budgets. There is greater demand for energy advice as people increasingly look for ways to cope with the squeeze.

Fuel poverty remains a considerable challenge, with two in five households in Scotland experiencing fuel poverty, and one in five experiencing extreme fuel poverty. There is no likelihood that the Scottish Government's target of eradicating fuel poverty by 2016 – enshrined in legislation – will be met. The Scottish Fuel Poverty Forum has shown that rates of fuel poverty have actually been increasing in recent years. Rates of fuel poverty are higher among older people, with the highest levels seen among households with one older person living alone (two-thirds of them). Older people are also the least likely to complain if their heating system is not keeping them warm.<sup>14</sup>

Scottish housing stock is also comparatively older and less energy efficient. Many households in areas of high socio-economic inequalities rely on electricity as their only source of power and pay for this through the costly form of pre-payment meters.

As a universal benefit, take-up rates of WFPs are high, and the sums are paid automatically to around 96% of those who are eligible, with the remainder able to claim. Universal benefits like WFPs are often better than means-tested ones for a variety of reasons: people tend not to claim benefits if they do not know about them, if they perceive that a benefit does not apply to them or a claim would be unsuccessful; or if they do not wish to disclose their financial details to a public authority. Over a third of those entitled to Pension Credit do not claim, for example.

However, we are also aware that there has been some criticism of the universal nature of WFPs, which provide between £100 and £300 to every recipient. These are the third-highest social security spend in Scotland which is proposed to be devolved, amounting to £186 million this year. Not all older people are financially needy and we would not be surprised if the Scottish Government was contemplating how to deliver greater effect for this level of investment. Undoubtedly some of the costs would be alleviated if homes were more energy efficient. Using some resources to upgrade heating systems or improve home insulation would also have a positive effect on household finances and wellbeing: this would also incidentally reduce heat leakage and thereby contribute towards achieving Scotland's climate

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<sup>13</sup> Energy Advice 2014/15, Citizens Advice Scotland: [www.cas.org.uk/system/files/publications/cas\\_energy\\_advice\\_stats.pdf](http://www.cas.org.uk/system/files/publications/cas_energy_advice_stats.pdf)

<sup>14</sup> Scottish House Conditions Survey (2013): see [www.gov.scot/Resource/0046/00465627.pdf](http://www.gov.scot/Resource/0046/00465627.pdf).

change targets. Age Scotland and Age UK advise older people to take steps to improve their home energy efficiency, as well as to claim social security benefits to which they are entitled.

However, any proposal to shift some resources from WFPs to energy efficiency measures, or to address other needs, would in our view have to be sanctioned by older people themselves, among whom WFPs have proved popular and successful. Though a new boiler or insulation would be beneficial to older people, it would only serve as a direct replacement for WFPs if (a) every potential recipient of WFP would have ready access to those efficiency measures, and also if (b) the savings made were equivalent or superior to the current effect of the cash payments. Our expectation is that older people would be looking for assurances of these types, especially those who are most vulnerable. National schemes such as the Warm Deal and the Green Deal have shown that take-up rates are not always as high as would be hoped.

One other point about administration is worth making. The vast majority of WFP recipients qualify because of their receipt of other benefits, which are for the most part not being devolved. The DWP and the Pension Service therefore remain in control of the recipient data. The Scottish Government would not necessarily have ready access to it unless an arrangement is made to that effect between the Scottish and UK Governments and implemented effectively and efficiently, which is not always the case with government data management projects. This framework also marks a cautionary note about the DWP acting as a delivery agent for benefits for which the Scottish Government is due to acquire responsibility. In terms of the Smith Commission agreement, the Scottish Government would have to reimburse the UK Government for any additional administration costs which a policy change in Scotland would necessitate. Many of the UK benefit recipient datasets do not currently indicate whether or not the recipient lives in Scotland or not (for the State Pension and Pension Credit, for example, no eligibility factor turns on that fact). Requiring the UK institutions to amend their datasets and data processes to include this and to allow payments of different amounts, or upon different criteria, to WFP recipients in Scotland would be a considerable administrative task and one which could make any proposed change financially unviable. This could point to several solutions, including having a Scottish social security agency in the medium term, but any such agency would still require ongoing access to the recipient data.

### **Carers' Allowance**

Since we submitted our written evidence to the Committee, the First Minister announced at her party's annual conference a new policy proposal in relation to Carers' Allowance, which would bring the rate to the equivalent of Jobseekers' Allowance. This was also subsequent to the Committee's hearing evidence on the welfare provisions of the Scotland Bill relating to carers. Although the evidence session on 10 November relates directly to the regulated Social Fund, we hope it will be possible for the Committee to consider the possible impact of this proposal within its report. We draw attention to the section of our written submission on Carers' Allowance, and note that no announcement has been made in relation to the carers' premium (or additional sum) which supplements Pension Credit, and which is claimed by many older carers.

## **WELFARE REFORM COMMITTEE**

### **THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND**

#### **WRITTEN SUBMISSION FROM CHILD POVERTY ACTION GROUP (CPAG) SCOTLAND**

CPAG in Scotland has extensive expertise on the UK social security system and its existing interaction with devolved sources of financial support and wider policy to prevent child poverty. We have played a lead role in informing the development of recently devolved areas of 'welfare' such as the Scottish Welfare Fund and are the leading national provider of independent second tier welfare benefits training, information and case work support for advisers and other frontline workers.

Along with other members of the Scottish Campaign on Welfare Reform (SCoWR) CPAG has called for a social security system based on five key principles:

1. Benefits should be set at a level where no one is left in poverty and all have sufficient income to lead a dignified life.
2. Respect for human rights and dignity must be the cornerstone of a new approach to social security
3. The social security system should be simplified – by for example increasing the proportion of non-means tested benefits and rolling back punitive and costly conditionality and sanctions
4. Investment should be made in the support needed to enable everyone to participate fully in society
5. Welfare benefits should work for Scotland – areas of reserved social security must take account of the different legislative housing, childcare, education, social care and training landscape in Scotland.

We believe the further social security powers for Scotland should be devolved and used in line with these principles

#### **Using Devolved Powers to Better Deliver Benefits in Scotland**

##### **Overarching approach**

1. CPAG believes that the powers contained within the Scotland Bill potentially provide real opportunities to reduce child poverty and socio-economic inequality in Scotland. It is worth noting, however, that the bulk of social security powers will remain reserved – as will other levers for tackling poverty, including the national minimum wage and wider economic and fiscal powers.
2. Despite the relatively narrow scope of expected powers, the Scottish Parliament and Scottish Government have an important opportunity to ensure that devolved aspects of the social security system are fairer and more adequate in Scotland. In particular, CPAG believe the Scottish Parliament must prioritise the need to reduce poverty (and in particular child poverty) minimise administrative error and delay, promote dignity and respect and ensure equality, consistency and fairness for claimants.

### Reducing child poverty

3. More than one in five (210,000) of Scotland's children are officially recognised as living in poverty<sup>15</sup>, a level significantly higher than in many other European countries<sup>16</sup>. Child poverty is projected to rise steeply in Scotland<sup>17</sup>. This will have a catastrophic impact on the health, wellbeing and life chances of Scotland's children. It will also be costly in financial terms, with research suggesting that child poverty already costs the UK economy £29 billion per year (£1,098 per household) in public services, lost revenue and underutilised skills<sup>18</sup>. Much of the projected increase in poverty will be a result of changes to the social security system including reduced entitlement and the freeze in the value of family benefits<sup>19</sup>. Devolution of the power to top-up the value of benefits, increase the value of housing benefit and create a new system of disability benefits provide the opportunity to take a different approach and to reduce levels of child poverty in Scotland.

### Minimising delay and error

4. Cases collected by CPAG's early warning system (EWS) highlight extremely high levels of delay and administrative error within the social security system. Around 40% of the EWS cases (which are collected to illustrate the impact of welfare reform on families in Scotland) relate to error and delay rather than substantive changes to entitlement. This suggests that improving the administration of benefits could have a significant positive effect on

A client's DLA renewal form was sent to the wrong address, meaning that he could not fill it out and return it. His DLA was stopped as a result. He had to claim PIP but there was a long delay waiting for an assessment during which time the client was without a disability benefit and had his ESA reduced because he was no

low income families. Research suggests that increased demand for food banks is strongly linked to problems with the administration of social security<sup>20</sup>. Common difficulties include poor information sharing between and within agencies, lost correspondence and under/over payment. In order to counter administrative error and protect claimants the Scottish Parliament must ensure that:

- **New benefits are structured simply to minimise complexity.** Complex entitlement rules and conditions should be avoided and systems of

<sup>15</sup> Latest 2013/14 Poverty and Income Inequality in Scotland figures, Table A1: Relative Poverty in Scottish Households 1994/5 to 2013/14, [www.gov.scot/Publications/2015/06/7453/10](http://www.gov.scot/Publications/2015/06/7453/10)

<sup>16</sup> International comparisons are for 2011 on a before housing costs basis under which 15% of Scotland's children live in poverty. Poverty in Scotland 2014 see Chapter 5 Figures 5.3, p90 and 5.6, p94

<sup>17</sup> The most recent modelling (January 2014) by the Institute for Fiscal Studies suggests that up to 100 000 children will be pushed into poverty by 2020 with the proportion of children living in poverty in Scotland forecast to increase to 26.2% by 2020, after housing costs are taken into account see <http://www.ifs.org.uk/publications/7054> Appendix Table B2

<sup>18</sup> <http://www.cpag.org.uk/content/child-poverty-costs-uk-29-billion-year>

<sup>19</sup> <http://www.ifs.org.uk/publications/7054>

<sup>20</sup> <http://www.trusselltrust.org/resources/documents/press/foodbank-report.pdf>

delivery should be as simple, transparent and easy to navigate as possible.

- **There is a high quality of engagement with claimants.** This should include clear, accessible communication with clients in a range of formats and support to ensure claimants are accessing their full entitlement.
- **There is a seamless service and intuitive journey for clients.** Where possible, passporting to other benefits (such as blue badges for people claiming enhanced rate mobility PIP) and premiums should be automatic and the onus should be on the government to ensure claimants have access to all relevant benefits whether devolved or reserved.
- **The Scottish benefits system is designed around the needs of the most vulnerable,** including people with mental health problems and literacy problems.

### **Promoting dignity and respect**

5. This must include tackling stigma and negative attitudes towards people claiming benefits and ensuring that those delivering benefits see their role as one of supporting and assisting individuals rather than gatekeeping and protecting public resources. Promoting dignity and respect must also include taking steps to ensure all claimants have access to the resources they need to achieve an acceptable standard of living.

### **Ensuring equality, consistency and fairness**

6. New powers should promote consistency, equality and fairness. Devolution needs to be accompanied by clear proposals for the delivery infrastructure required to ensure minimum standards of service across Scotland. This should include ensuring there is minimum national entitlement to benefits (rather than rates set at local level) and national accountability, oversight, and the right to an independent appeal. Failure to ensure national minimum entitlement and oversight risks the erosion of national standards of delivery, a lack of transparency and an increasingly confusing landscape for claimants.

### **a) Personal Independence Payments, Disability Living Allowance, Attendance Allowance and Carer's Allowance**

7. CPAG strongly believe that responsibility for disability and carers benefits should be held at Scottish national level and that it should not be devolved to local authorities. The risks associated with localisation of benefits are well documented for example in relation to England's local welfare assistance scheme. Previously administered at UK level, devolution of this discretionary scheme to local level has resulted in confusion, erosion of entitlement and a lack of transparency and oversight. Concerns have also been raised by the Social Security Advisory Committee in their 2015 review of localisation and social security<sup>21</sup>.

*"Our evidence has suggested that shifting the balance away from national policies and national minimum standards brings with it a greater risk not just*

<sup>21</sup> <https://www.gov.uk/government/publications/ssac-occasional-paper-14-localisation-and-social-security>



*of unacceptable variation in practice but of inequality in standards and outcomes. While it can be argued that varying inputs and delivery methods at the local level can reflect different local needs and circumstances, some of our stakeholders maintained that this should not undermine a fundamental commitment to the achievement of similar or equivalent outcomes based on common citizenship.”*

8. It is also essential that disability benefits remain as financial benefits to which claimants have statutory entitlement. They should not for example be pooled with social care services or self-directed support. Such an approach would deprive many disabled people of choice and control over how their money is spent and how it can best be used to overcome the particular barriers they face. Localisation could also result in disability benefits being used to subsidise local social care budgets, removing a key source of direct income intended to help cover the day to day costs of disability, from disabled people.

### **Short to medium term measures**

9. CPAG believe that in order to promote certainty for claimants and ensure that system changes do not negatively affect disabled people's access to vital support the Scottish Government should in the short term seek to *improve* rather than *replace* PIP. Introducing a third benefit for working age disabled people (in addition to DLA and PIP) is likely to add complexity, confusion and risk of administrative error and delay that ought to be avoided. Instead, the Scottish Government should make the following achievable but highly significant changes to the way PIP is structured and delivered.

### **In assessing eligibility for PIP, the Scottish Government should;**

- Dramatically **reduce the use of face-to-face assessment**. Such assessments should only be used where a fair decision cannot otherwise be made or where the individual has stated a preference for a face to face assessment.
- Ensure that all assessments are **performed by an appropriately qualified specialist**. Assessors should have specialist knowledge of the individual's condition or disability and should be trained in the principles of independent living.
- Ensure that face to face assessments are **conducted in the claimant's home wherever possible** (subject to the preference of the claimant). Where the individual has to travel to an assessment any expenses should be covered in advance and the assessor should have responsibility to ensure that the claimant has a safe and accessible means of getting to the assessment

A client from Glasgow was asked to attend a PIP medical in Kilmarnock at 9am. He asked for one in Glasgow because his anxiety meant it was unlikely he would be able to attend. ATOS refused unless a cancellation became available in Glasgow even though it would have been appropriate to arrange a home visit.  
#2316

venue.

- **Eliminate the use of repeat assessments for individuals with chronic and/or degenerative physical or mental conditions** where there is little or

no chance of a significant, sustained improvement in the individual's condition or ability to live independently.

- Where repeat assessments may be necessary (for instance, where it is likely that the claimant's condition will improve or decline significantly), **such assessments should not be carried out at unreasonably short intervals.** A minimum interval between reviews should be introduced, the length of which should be established by the Scottish Government after in-depth consultation with stakeholders.
- Immediate consideration should also be given, in consultation with stakeholders, to who should have a duty to provide evidence (GPs, OTs), how should that evidence be collected and who should be responsible for covering

Client looking for medical evidence for ESA appeal. The medical council in South Lanarkshire have told GPs not to provide letters for patients for benefit purposes. #M52

any related costs.

- Immediate consideration should also be given, in consultation with stakeholders, to whether evidence from other assessments (such as social work assessments and work capability assessments) should be taken into account for the purpose of a PIP decision.

#### **In improving decision and review the Scottish Government should:**

- **Abolish mandatory reconsideration.** Mandatory reconsideration was introduced in 2013 and means that claimants must ask for a DLA/PIP decision to be revised internally by the DWP before they can exercise their right to appeal to a tribunal. Cases collected through CPAG's early warning system suggest that mandatory reconsideration has created a major obstacle to independent oversight, with problems including lack of information for claimants about the process, long delays and claimants being discouraged from exercising their right to appeal. CPAG believe that, as was the case under the former appeals system, decision makers should have the *opportunity* to change their decision before an appeal is heard, but the onus should not be on the claimant to request an internal review before they can exercise their right to appeal.

#### **In order to ensure fair access to disability benefits the Scottish Government should:**

- **Adjust the past presence test.** In order to claim PIP, individuals must pass the 'past presence' test, which requires that they have been present in Great Britain for at least 104 weeks, or periods adding up to 104 weeks, out of the previous 156 weeks<sup>22</sup>. This is much more restrictive than the test which was previously used in relation to DLA and AA. That test only required a person to

<sup>22</sup> For more information see:

<http://www.cpag.org.uk/sites/default/files/EWS%20briefing%20EU%20migrants%20%28May%202015%29.pdf>



have been present in GB for 26 weeks out of the last 52. The new, more restrictive, test is causing major difficulties for disabled people and posing particular problems for families – including British citizens returning from abroad - with young disabled children.

CPAG therefore believe that the new test should be abolished by the Scottish Government in relation to disability benefits and the 26/52 week reinstated.

- A crown servant who has been working in India has returned to the UK with his severely disabled child, but will have to wait until he has been in the UK for 2 years before he will be entitled to DLA for the child.

**provision for entitlement to PIP where a claimant has exceptional circumstances** even though they do not score enough points under the PIP framework. This would allow awards to be made where, for instance, the decision maker believes an award is necessary to facilitate independent living or protect an individual's wellbeing. The current points system, while providing a degree of transparency, does not give adequate scope to allow the specific circumstances of each individual to be taken into account. In relation to the higher rate mobility component of PIP, for example, claimants will not qualify for it if they are able to walk more than 20 metres. This is too rigid and does not allow the decision maker to consider the impact that other restrictions on the applicant's mobility might have on her/his ability to live independently.

**In order to ensure claimants have access to all passported benefits the Scottish Government should:**

- **Identify all relevant passported benefits** and ensure that working agreements and information sharing arrangements are in place with the UK government. Though claiming a passported benefit can be fraught with difficulty under the current system, it is facilitated by the fact that the DWP administers most disability benefits including DLA, PIP, ESA and most relevant additions and premiums. Establishing good information sharing procedures will be essential in order to ensure that there is no detriment to claimants in receipt of Scottish disability benefits who should be entitled to additional or increased reserved benefits as a result.
- Where possible, the system by which passported benefits and premiums are accessed should be automated. This might mean, for example, that blue badges are issued automatically when an award for enhanced rate mobility PIP is made without the individual having to make a separate application.
- Where an automatic claim is not possible it should be the Scottish government (rather than the claimant) who has responsibility to inform the DWP of any changes to their entitlement for disability benefits. If the UK government will not accept such an arrangement, the Scottish Government should do as much as possible to help and assist the clients to inform the

A disabled client has been unable to renew his blue badge as his DLA award has been extended pending his PIP assessment. The couple are unable to go out as they cannot be sure of being able to park in a suitable spot. #Mii43

DWP of changes in their entitlement.

### Medium to long term measures

10. Given the complexity of some of the concerns surrounding PIP and any replacement benefit introduced in the longer term, CPAG believe the Scottish Government take a consider approach and consult with stakeholder (including disabled people and carers) in the medium term to address the following issues:

- How to ensure disability benefits more accurately reflect the costs associated with disability. Ensuring the real costs of disability are covered will not only reduce poverty, it will also enhances the health and wellbeing of disabled people and enable families and their children to be more active participants in society. Given the complexity of identifying disability related costs, CPAG believe the issue should be addressed by an independent commission.
- How to improve assessment criteria and points system to reflect the needs of those who are disadvantaged by current system. There has been concern that people with mental health problems and long term fluctuating conditions such as epilepsy may be disadvantaged by the current points system.
- How the points system and evidence rules can ensure that people are not discriminated against as a result of lack of medical evidence. This might be a particular problem for those who have rare conditions or disabilities that do not require ongoing medical treatment or intervention (such as

The client who is at risk from anaphylactic shock from cold does not meet PIP descriptors #1674

cerebral palsy).

### Carers benefits

11. CPAG welcome the Scottish Government's intention to increase rates of carers benefit in recognition of the valuable role they play in Scottish society.

12. CPAG believes the Scottish Government should also make top-up payments to *disabled* carers. Under universal credit a person cannot qualify for both a carer element and a limited capability for work element of UC. This puts disabled carers at an unjustifiable disadvantage and should be remedied by the Scottish Government using newly devolved powers.

### Developing a new carers benefit for Scotland

13. The current drafting of the Scotland Bill means that the Scottish Parliament would only have the competence to create benefits for carers who are neither in gainful employment or full time education<sup>23</sup>. CPAG have already highlighted our concern about this clause of the Bill, the restrictive drafting of which will remove the

<sup>23</sup> Clause 19 of the Scotland Bill 2015/16

Scottish government's discretion to create a benefit which is available to people who are attempting to juggle their caring responsibilities with work or study<sup>24</sup>.

14. If the scope of the Scotland Bill is widened to include people in work and study, CPAG believe the Scottish Government should consult on the possible options, one of which might be the creation of a two tier benefit for carers. The first 'tier' of the benefit might be universal – paid to all those caring full time, regardless of hours worked, level of education or earnings. A second 'tier' of the benefit might then be payable only those on the lowest earnings. This would be an earnings-replacement benefit and might have similar entitlement rules as currently exist in relation to carers' allowance. Such an arrangement would represent an important recognition of the value of the role carried out by all carers and the additional costs they face, whilst also helping to ensure that carers not in employment have sufficient resources to continue fulfilling that vital role. Such a proposal would clearly need to be carefully costed and implications for reserved benefits and work incentives, examined in more detail.

#### **b) Universal Credit (housing element and administrative arrangements arrangements) and Discretionary Housing Payments**

15. CPAG believes steps should be taken to mitigate the concern that paying universal credit to one person within a households might exacerbate existing power imbalances within the household.

16. Though CPAG believes households should have free choice as to who receives the UC payment, where neither partner states a preference, the default position should be that UC is paid to the main *carer* within the household. This is likely to increase the proportion of women exercising control over family finances. This is positive given research showing that women are more likely to spend family income on the needs of the household rather than themselves<sup>25</sup>.

17. Identifying the main carer in any household is clearly very difficult. However, a useful indication might be the partner who is in receipt of child benefit. Where a child's parents live together child benefit is generally (though not always) paid to the child's mother.

18. Child benefit is administered by HMRC and establishing a workable, reliable system of communication might prove difficult and expensive. However, targeting UC at carers is also likely to strengthen the position of women in many households and, in households where there is a power imbalance, create a barrier (though clearly not an insurmountable one) to prevent an abusive partner having unrestricted access to the family's resources.

19. Claimants should also have choice as to the frequency of UC payments. This will help families on low incomes to budget and manage scarce resources in the way that works best for them. One aspect of this arrangement which might prove problematic, however, is the fact that the Scottish Government will not have control over the initial waiting period for the first payment of UC. This means a claimant in

<sup>24</sup> See CPAG in Scotland's evidence to the Further Powers Committee [http://www.cpag.org.uk/sites/default/files/CPAG%20%20evidence%20further%20powers%20committee%20\\_0.pdf](http://www.cpag.org.uk/sites/default/files/CPAG%20%20evidence%20further%20powers%20committee%20_0.pdf)

<sup>25</sup> The Gendering of Income within Households, <http://www.radstats.org.uk/no075/pahl.htm>

Scotland might have to wait over a month for a UC payment intended to cover only two weeks living expenses. The Scottish Government should consider making discretionary payments available to such households using powers devolved under clause 23 of the Scotland Bill 2015/16 (discretionary social fund).

20. Households should also have choice over whether housing costs are paid directly to the landlord or not. The choice to receive the housing element will be particularly important for tenants in the private sector who may not wish to disclose to their landlord that they are in receipt of benefit for fear of discrimination. Paying housing costs into a tenant's bank account (rather than directly to the landlord) also gives him/her the opportunity to withhold rent from his/her landlord if they are failing to meet essential conditions of the tenancy agreement<sup>26</sup>.

## Housing costs

21. Changes to the way in which the housing element of universal credit is calculated could make a huge difference to the affordability of housing in Scotland and reduce levels of child poverty, as measured after housing costs to reflect the actual disposable income of families. In order to achieve this, the Scottish Government should take the following steps:

- **Ensuring the housing element of UC is adequate to cover private sector rents**

Changes to the way LHA is calculated (including uprating maximum eligible rent in line with CPI and limiting tenants aged under 35 to a shared accommodation rate) have meant that the private sector has become increasingly unaffordable for many tenants. Over time, this will result in an increasing number of tenants living in unsuitable, low quality housing which is likely to undermine their safety, stability and ability to maintain a settled way of life. The Scottish Government should examine how it can ensure that the housing element of UC reflects real rents in the private sector.

- **Addressing the needs of private sector tenants with shared care of children**

31. The amount of LHA a person is entitled to in the private sector relates to the number of bedrooms they are entitled to under LHA rules rather than the number of bedrooms they need. This has a similar effect to the application of the bedroom tax in the social rented sector and means parents with shared care of children may not receive enough LHA to sustain a tenancy big enough for them to keep a room free for their child (or children).

- **Getting rid of the 'bedroom tax'**

## Discretionary Housing Payment

22. Subject to amendment of Scotland Bill CPAG would like to see the requirement that a claimant is in receipt of housing benefit or the housing element of UC in order to qualify for DHPs removed. Our reasoning for this is laid out in details in para y of our recent response to the Further Powers Committee.

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<sup>26</sup>

[http://scotland.shelter.org.uk/get\\_advice/advice\\_topics/paying\\_for\\_a\\_home/paying\\_rent/withholding\\_rent](http://scotland.shelter.org.uk/get_advice/advice_topics/paying_for_a_home/paying_rent/withholding_rent)

23. It is also essential that the Scottish Government conduct review of DHP spending and that it produces projections of future demand. Demand for DHPs is likely to rise in coming years given the current restrictions on LHA, the benefit cap and other factors.

### c) The Work Programme and Work Choice

24. Devolution of employment programmes such as the Work Programme and Work Choice will allow for initiatives to be developed that are more suited to the local labour market, local skills and local employers. This could help to minimise the imposition of arbitrary and inappropriate job-seeking tasks that can undermine claimants' efforts to move into work and increase the individual's chance of being sanctioned. Cases received through CPAG's early warning system illustrate how a lack of consideration for individual circumstances can reduce rather than increase the chances that an individual will find employment.

A lone parent who is receiving ESA in the WRAG feels she is being pressured by Ingeus to stop claiming ESA and start work as a self-employed hairdresser, something she hasn't done for 17 years. Client has numerous health problems and does not feel well enough to work. The pressure from Ingeus would appear to making her health worse. #4141

A client wants to become self-employed but is currently on the Work Programme and therefore not entitled to New Enterprise Allowance. It is not possible to voluntarily leave the Work Programme, he will need the agreement of his personal adviser, but thinks he has been told he cannot come off the Work Programme. #4628

A young jobseeker has found himself a place with the Glasgow City Council Commonwealth Jobs Fund which will allow him to come off JSA onto a 1 year apprenticeship leading a to a job opportunity. The Jobcentre told him that he must stay on the Work Programme for 2 years and that he cannot leave before then, whereas the legislation says that the Work Programme is designed to help someone for *up to* 2 years so he should not be prevented from taking up this opportunity. #4624

25. It is important to note that while the draft clauses devolve delivery of employment programmes, their policy and operation would still be restricted by UK Government policy in relation to conditionality, including what conditions must be met by job seekers and when sanctions are applicable and. It is therefore essential that work programme providers are aware of the need to do all they can to help claimants fulfil

A 19 year old woman failed to attend an appointment with Jobcentre Plus because she had been told to do unpaid work experience at the Commonwealth Games on the same day. Despite providing signed and date stamped evidence of this from her work programme provider she was sanctioned for 13 weeks (because this was her second sanction)

their conditions in order to avoid being sanctioned.

#### d) The Regulated Social Fund, new benefits, top-ups

##### Funeral Payments

26. CPAG believe that the rate of Funeral Payments is currently too low and should be reviewed and increased to reflect the real costs of a funeral. Cases suggest that

The client has been unable to find a coffin for less than £700 as the deceased was larger than average. #1453

in many cases the £700 made available to cover costs relating to the funeral itself (such as funeral director's fees, the coffin and flowers) is insufficient.

27. The process of accessing funeral payments should also be simplified. The form which applicants are currently required to fill out is 26 pages long, which creates a barrier to those with limited literacy or indeed limited time. Claims for funeral payment must also be made within 3 months of the death. This should be extended to ensure those who were unaware of the scheme or unable to apply can access

The client was refused a funeral expenses payment for his mother's funeral because she had a partner that she was living with when she died, however the partner had no income and no recourse to public funds and has since disappeared. #2830

funds retrospectively and clear any debts related to the funeral.

##### Maternity Grants

28. The Scotland Bill 2015/16 will also give the Scottish Parliament the power to provide financial assistance for the purpose of meeting maternity expenses. CPAG believe the following changes to sure start maternity grants would make a significant difference to low income families.

- **An increase in the value of maternity grants:** New powers could be used to increase the rate at which Sure Start Maternity Grants are paid, thereby boosting family finances at a time (immediately after the birth of a child) when low income families are at risk of experiencing poverty. SSMG have been set at £500 since 2002 and CPAG believe this should be increased to reflect the cost of living and growing expense involved in raising a child.
- **Restoration of entitlement** to maternity grants for second and subsequent children. Since April 2011, SSMG have only been paid to families when they

The grandmother has kinship care for her daughter's 4 & 7 year olds and will take on care of her daughter's baby when it is born. The grandmother will not be entitled to SSMG for the baby because there are other children under 16 living in the house, even though she did not get a SSMG when they were born. #5411

have their first baby (except in very limited circumstances). This leaves many



families with no additional support to cover the additional costs of a new child and is particularly problematic for women who have a gap of more than two years between their children, and may not have 'hand me downs' to pass on to a new baby.

- **Link their delivery with health services** in order to maximise uptake: The point at which a pregnant woman becomes eligible for a payment should be reviewed so as to occur at a point that makes accessing the benefit as easy as possible. For instance, it might be time to coincide with the issue of the maternity certificate (Mat B1), rather than 11 weeks before the baby is due. *Payment* might still be delayed until closer to the birth and could be automatically cancelled if the pregnancy is unsuccessful. It would, however, be essential to ensure that contact with health services was a means of facilitating access to the Maternity Grants, rather than becoming a condition of access
- **The delivery of maternity grants should be automated** as far as possible so as to maximise uptake. This could either be through IT systems which generate payments automatically or through the development of working procedures which minimise the need for action on the part of the mother (such

Due to complicated personal circumstances, clients SSMG form was signed 3 days before the time limit for applying. The form was handed into the local job centre plus within the 3 month time limit, however, the officer refused to accept the form and provided an envelope for it to be sent to Wolverhampton where it was received after the time limit had expired. The form clearly states that it can be handed into the local JCP. #4645

as the midwife being responsible for posting the SSMG application form).

- **Awards should be financial rather than in kind.** CPAG believe that sure start maternity grants should continue to be awarded in cash rather than in kind so as to reduce any stigma and to ensure that all families get full benefit from the grant. CPAG is aware that the Scottish Government has given some consideration to the idea of replacing maternity grants with 'new baby kits' containing items such as nappies and clothes. Such an approach would prevent families from exercising choice and using the award to budget and prioritise their spending. Items such as baby clothes and bottles may also be of limited value to a parent who has a niece or nephew of a similar age or who has access to 'hand me downs' from friends or relatives.

### **Cold weather payments**

29. CPAG believe that cold weather payments should be extended to tackle fuel poverty in Scotland. The link with periods of cold weather (7 consecutive days at sub-zero temperatures) should be removed and payments should be made every year to those at greatest risk of fuel poverty (such as older and disabled people) and those at greatest risk of ill-health as a result of insufficient heating (such as families with young children).

## Top Up Powers

### Triple lock on children's benefit

30. Cuts to the way benefits are uprated and the recent freeze on the value of family benefits has resulted in children's benefits losing considerable value. This is one of the main drivers for the projected increase in child poverty forecast by the IFS<sup>27</sup>.

31. The impact of freezing benefits can be usefully illustrated by looking at child benefit, which was frozen for the first three years of the last UK Parliament and then uprated by 1 per cent for the remaining two years. During that five-year period, child benefit **lost 15 per cent** of its value. This means that a family with two children has lost £900 over the course of the Parliament. By 2020, child benefit will have lost almost 28 per cent of its value compared to RPI<sup>28</sup>.

32. For this reason, CPAG believe the Scottish Government should use new powers to top up children's benefits (including child benefit and the child element of universal credit) so that their value increases at the very least in line with inflation. However in order to maintain and restore the value of family benefits the Scottish Parliament should go further and use 'top up' powers to ensure children benefits receive the same 'triple lock' protection (that is uprating of benefits in line with earnings, prices or 2.5 per cent, whichever is greater) that has been so effective in preventing and reducing pensioner poverty. Making such a commitment would have a significant impact on rates of child poverty in Scotland and set it apart from the rest of the UK. Indeed a parliamentary question in January 2013 revealed that the UK government

The client has 2 children, both at high school and they both get breakfast club and school lunches through the school. The person is on all the right benefits for her circumstances and is currently looking for new accommodation to reduce costs, but is concerned about how she is going to cope in summer holidays with paying for the additional food. There is only one foodbank in her area that is open once a week. #4625

estimated that the three years of 1% uprating alone would put 200,000 more children into poverty by 2016<sup>29</sup>.

## Increasing / Restoring entitlements

33. The Scottish Government should also consider using top-up powers to:

- Maintain entitlement to the child element of universal credit in respect of third and subsequent children. Under the Welfare Reform and Work Bill, which is

<sup>27</sup> <http://www.ifs.org.uk/publications/7054>

<sup>28</sup> See CPAG's second reading briefing on the Welfare Reform and Work Bill <http://www.cpag.org.uk/sites/default/files/CPAG%20Briefing%20-%20Welfare%20Reform%20and%20Work%20Bill%20Commons%202nd%20Reading%2020-07-15.pdf>

<sup>29</sup> For more information see <http://www.cpag.org.uk/sites/default/files/CPAG%20Briefing%20-%20Welfare%20Reform%20and%20Work%20Bill%20Commons%202nd%20Reading%2020-07-15.pdf>



currently being considered by the UK Parliament, universal credit will not be paid in respect of third and subsequent children within a family. Currently, a third (34 per cent) of children living in poverty in the UK live in families with three or more children<sup>30</sup>. The policy therefore threatens to undermine the financial security of thousands of vulnerable families already experiencing, or at heightened risk of, poverty.

- Increase entitlement to child benefit for second and subsequent children. Currently, only the first child in a family receives the full amount of child benefit (currently £20.70 per week) while payments in respect of subsequent children are paid at a reduced rate of £13.70 per week.

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<sup>30</sup> Households Below Average Income: an analysis of the income distribution 1993/94 –2013/14, supporting

data Table 4.3db

## **WELFARE REFORM COMMITTEE**

### **THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND**

#### **WRITTEN SUBMISSION FROM CITIZEN'S ADVICE SCOTLAND**

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Adviceguide provides information on rights and helps people solve their problems.

In 2014-15 the Citizens Advice Service network helped over 322,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £123 million and the Scottish zone of our self-help website Adviceguide received approximately 5.4 million unique page views.

#### **Summary**

Citizens Advice Scotland welcomes the opportunity to respond to the Welfare Reform Committee on the future delivery of social security in Scotland. The devolution of these powers represents an opportunity for the Scottish Government to design policies that deal with the problems that currently exist in these benefits and to design a system that is best suited for Scotland.

CAS is currently undertaking two pieces of research on future devolved benefits which we hope will feed into their design. This includes a survey of over 500 benefit claimants on their financial and digital capability and the impact that Universal Credit will have on them. The survey will provide crucial evidence on how the Scottish Government can best use its devolved powers on payment of Universal Credit. The second piece of research will examine the principles for a disability benefit in Scotland, with 16 bureaux currently undertaking local focus groups with clients. The findings and data from both pieces of research will be provided to the Scottish Government in late September and we would be happy to share this with the Committee.

Based on bureau cases and early findings from our research, we recommend that:

- The Scottish Government removes the under-occupancy charge for all Universal Credit claimants in Scotland when it acquires the power to do so
- The housing element of Universal Credit is paid to social landlords as a 'default' option, as Housing Benefit currently is.
- The Scottish Government use its devolved powers to pay Universal Credit to claimants more frequently than every four weeks (our current survey asks claimants what frequency they would prefer)
- Work Programme Providers in Scotland are given discretionary powers over referrals over what is deemed to be non-compliance of the claimant commitment (and which could lead to a sanction).
- CAS would support a move to a fixed payment amount from a funeral grant system to increase certainty for claimants in the amount of support they will receive and what this covers.

**How should the new welfare powers proposed by the Smith Agreement be used to improve or change:**

**a) Personal Independence Payments, Disability Living Allowance, Attendance Allowance and Carer's Allowance**

The Smith Agreement proposed devolving full powers over benefits for carers, disabled people and those that are ill to the Scottish Parliament. This includes existing benefits, but importantly also enables a distinct Scottish system of disability benefits to be created. Citizens Advice Scotland believe that this is an opportunity to begin with a blank sheet of paper and design a new system that is fair, responsive and equal, taking into account some of the problems CAB clients face with the current system.

Personal Independence Payment (PIP) was introduced in Scotland in June 2013 for all new claims for people aged 16-64, to eventually replace Disability Living Allowance (DLA). Since January 2014, the process of reassessing certain existing DLA claimants began in some areas of Scotland, however the majority of existing claimants will not be invited to claim PIP until after October 2015 and the process will not be complete until October 2017.

CAS has called for the rollout of PIP to be halted in Scotland, given the imminent devolution of disability benefits, the stress and upheaval for DLA claimants who will be forced to undergo a reassessment for a benefit that may be replaced by a new Scottish system shortly afterwards, with the additional administrative costs this will incur<sup>31</sup>. However, the Department for Work and Pensions (DWP) have announced that the rollout of PIP will continue as originally planned.

A central assumption behind the introduction of PIP was that it would reduce forecast working age DLA expenditure by 20 per cent<sup>32</sup>. These savings are expected to be achieved primarily through the new eligibility criteria for PIP, which should result in a caseload reduction (disabled people losing the benefit entirely) and a reduction in some entitlements (disabled people being moved from higher to lower benefit rates).

According to Scottish Government analysis, an estimated 55% of existing DLA claimants will lose some or all of their disability benefits by 2018, and including new and reassessed claims around 66,000 fewer individuals in Scotland will be in receipt of DLA or PIP by 2018. Whilst some individuals may benefit from an increased award under PIP, the overall impact on sick and disabled people of the changes will be adverse.

Moreover, benefit reassessments are inherently problematic and stressful for claimants. Since its introduction, PIP has rapidly increased as an issue for citizens

<sup>31</sup> Voice from the Frontline: Halt the roll-out of PIP in Scotland – Citizens Advice Scotland, March 2015 <http://www.cas.org.uk/publications/voices-frontline-halt-roll-out-pip-scotland>

<sup>32</sup> Budget 2010 policy costings – HM Treasury [http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/junebudget\\_costings.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/junebudget_costings.pdf)

advice bureaux in Scotland, with the number of new issues for clients rising by 93% in 2014/15 compared with the previous year. In March 2015, PIP surpassed Employment and Support Allowance (ESA) as the most common new issue that CAB clients seek advice on.<sup>33</sup>

The most significant issue for clients has been considerable delays in the assessment process. One of the key changes in the move from DLA to PIP is the introduction of a face-to-face assessment with an independent healthcare professional. Bureau clients have experienced considerable delays in arranging this face-to-face assessment.

According to official DWP figures the median clearance time for new PIP claims peaked at 30 weeks in June and July 2014. CAS has previously reported on the severe impact of lengthy delays on claimants, with their health suffering as a result of having to wait up to a year for an assessment in some cases.<sup>34</sup>

- A North of Scotland CAB reports of a client who applied for PIP in August 2013. He received a face-to-face assessment in May 2014, and finally got a decision in July 2014, 47 weeks after first applying.
- A South of Scotland CAB reports of a client who made a claim for PIP in May 2014 and had still not received an appointment for his assessment by December 2014. When the CAB called Atos, it was told that the client could expect a letter in January 2015 but Atos could give no indication of when the assessment might take place.

This has since reduced to a median of 11 weeks for cases by April 2015<sup>35</sup>, although this masks a number of claimants who had to wait considerably longer, with 9% of claims taking longer than 16 weeks in January 2015<sup>36</sup>. The delays appear to have been caused by a number of factors, but in large part due to an underestimation of how long face-to-face assessments would take to complete. CAS believes lessons

<sup>33</sup> Between January and March 2015 there were 4,964 new issues related to the Daily Living element of PIP and 4,077 to the Mobility element, a total of 9,028, compared with 8,701 new ESA issues. As a number of clients require advice on both PIP components, this does not necessarily mean there were more individuals advised – the figure reflects CAB workload.

<sup>34</sup> Voices from the Frontline: Personal Independence Payments: The impact of delays – Citizens Advice Scotland, October 2014  
[http://www.cas.org.uk/system/files/publications/Personal%20Independence%20Payment%20delays%20Voices%20from%20the%20Frontline%20September%202014\\_0.pdf](http://www.cas.org.uk/system/files/publications/Personal%20Independence%20Payment%20delays%20Voices%20from%20the%20Frontline%20September%202014_0.pdf) and

Voices from the Frontline: Halt the roll-out of PIP in Scotland – Citizens Advice Scotland, March 2015  
<http://www.cas.org.uk/system/files/publications/Voices%20from%20the%20frontline.%20Halt%20the%20migration%20of%20PIP%20130315.pdf>

<sup>35</sup> Personal Independence Payment: Official Statistics to April 2015 – Department for Work and Pensions, June 2015  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434838/pip-stats-apr-2013-apr-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434838/pip-stats-apr-2013-apr-2015.pdf)

<sup>36</sup> Personal Independence Payment: Statistical Ad Hoc – Department for Work and Pensions, January 2015  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398595/pip-ad-hoc-statistics-new-claims.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398595/pip-ad-hoc-statistics-new-claims.pdf)

must be learnt from this process to prevent excessive delays in any future assessment process.

Bureaux have also seen other issues such as clients being required to travel long distances for an assessment, and struggling with short timescales for the return of forms.

To inform the development of a new disability benefits system in Scotland, Citizens Advice Scotland is currently undertaking a substantial programme of consultation with CAB advisers and clients who claim disability benefits. We are focussing on what the purpose of disability benefits should be; how people should apply for disability benefits; how eligibility for disability benefits should be assessed; how any assessment should be conducted; and what the Scottish Government's priorities should be in developing a new system, one which we hope will be fairer, more responsive and more equal than the existing system. Once the outcomes of the consultation are known in the early Autumn, we would be more than happy to share them with the Committee.

### **b) Universal Credit and Discretionary Housing Payments**

The Smith Agreement and Scotland Bill propose to give the Scottish Parliament the power to vary the housing cost elements of Universal Credit (UC), including varying the under-occupancy charge and local housing allowance rates, eligible rent and deductions for non-dependents. It proposes that the Scottish Government will be given the administrative power to change the frequency of UC payments, vary the existing plans for single household payments, and pay landlords direct for housing costs in Scotland. It also it proposed that the system of Discretionary Housing Payments is devolved.

These powers are welcome, and give the Scottish Parliament and Government the ability to make changes in areas which Citizens Advice Scotland and other organisations have identified as areas of concern. CAS is currently conducting a large-scale survey of over 500 benefits claimants who sought advice from a CAB to find out what their preferences for some of these new powers are, and how the changes brought by Universal Credit are likely to affect them. We would be more than happy to share the results with the Committee when the survey is complete.

### **Universal Credit housing element**

The under-occupancy charge – the so-called 'Bedroom Tax' – caused significant issues for clients when it was introduced in 2013. In the first eight months of the Bedroom Tax (April – November 2013):

- Bureaux advised on 13,783 new Housing Benefit issues – an increase of 29% on the same period in 2012
- Bureaux dealt with 1,735 new issues specifically related to the Bedroom Tax
- Discretionary Housing Payment issues rose by 249% compared to the previous year
- Local authority rent arrears issues increased by 34%

- RSL rent arrears issues increased by 47%
- Access to accommodation issues increased by 16%

In particular the Bedroom Tax has an unfair impact on a number of client groups who are not able to move to a smaller property in the foreseeable future and would be likely to require permanent DHP support, including people living in significantly adapted housing, couples who are not able to share a bedroom due to medical conditions, people who require space for medical equipment or treatment and people in temporary homeless accommodation.

- A West of Scotland CAB reports of a client whose Housing Benefit has been reduced due to a charge for under-occupancy. She was given tenancy of her present home on medical grounds because of her debilitating conditions. At the time she was entitled to full Housing Benefit, however, she has now been asked to pay a contribution towards the weekly rent which the client cannot afford. Her husband is her carer, as she is disabled, unable to work and receives middle rate care DLA. The house is adapted for her needs and the possibility of being allocated a suitable one bedroom property is very small.
- A North of Scotland CAB reports of a client affected by the 'bedroom tax' who requires the extra bedroom for kidney dialysis. The client has a kidney condition that requires dialysis three to four times a day, with each session lasting around 90 minutes. The client uses her spare bedroom for dialysis which must be kept sterile and which contains specialist equipment. At the time of seeking advice, the client's Discretionary Housing Payments had just run out and she was applying for a new payment.

As at May 2015, 72,026 people in Scotland are affected by the Bedroom Tax, losing on average £12.08 per week.<sup>37</sup> Following the Scottish Government's welcome mitigation funding, these claimants can get Discretionary Housing Payments (DHP) to cover their full losses, which has been largely successful in reducing the impact on vulnerable people.

However, as DHPs must be regularly re-applied for and are not designed to provide long-term support, a more robust solution would be to remove the under-occupancy charge for all Universal Credit claimants in Scotland. **CAS recommends the Scottish Government does this when it acquires the power to do so.**

### Direct payment of housing costs

Unlike Housing Benefit, which is paid to a claimant's landlord if they live in social housing, under Universal Credit a housing element is paid directly to claimants as part of their monthly payment. Early evidence from social landlords in Inverness has shown that this has led to an increase in rent arrears amongst Universal Credit claimants, with Highland Council reporting that all their known tenants on Universal Credit were in rent arrears, with an average of £669 owed per tenant<sup>38</sup>.

<sup>37</sup> Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

<sup>38</sup> Universal Credit Roll Out The Highland Experience – Highland Council presentation, May 2015 [http://www.sfha.co.uk/index.php?option=com\\_docman&task=doc\\_details&gid=4345&Itemid=75](http://www.sfha.co.uk/index.php?option=com_docman&task=doc_details&gid=4345&Itemid=75)

In areas where Universal Credit has been rolled out, evidence from citizens advice bureaux suggests that the move has caused rent arrears for a number of clients. In some cases, this is because a client has quickly accrued arrears at the start of their claim, such as in the five week period between their Universal Credit claim being accepted (assuming no administrative delays) and receiving their first payment. Bureaux have also advised clients where DWP administrative errors have led to them receiving no housing element included with their Universal Credit payment.

Some CAB clients, despite completing the UC application process have been left unaware that they are required to pay rent out of their benefits payment, as well as others who have struggled to cope with a combination of priority debts, bills and rent payments from their monthly lump payment.

- A North of Scotland CAB reports of a client who is having £62.93 taken off his Universal Credit for rent arrears and is also paying £40 from the money he receives. He is struggling to pay for essentials because of this.
- An East of Scotland CAB reports of a client who was told to apply for Universal Credit three months ago after previously being in receipt of JSA and Housing Benefit. He has received his first payments, but the housing element has not been included. When the adviser called the Universal Credit Support Centre it emerged that supporting information from the client's landlord had been received but not processed. The client now has two months' rent arrears.
- A North of Scotland CAB reports of a client who came in for a food bank voucher. She works 16 hours per week and was claiming Universal Credit, but closed her claim after receiving a monthly payment of £0.01 which left her without money for food or fuel. She now has rent arrears and wishes to claim Housing Benefit instead and look for alternative work rather than rely on Universal Credit.

The current system, where Housing Benefit is paid to the social landlord rather than the tenant works relatively well, and prevents many of these scenarios from occurring. CAS is concerned that direct payments to claimants, coupled with monthly payments presents a new challenge to often-stretched finances, and leaves them susceptible to accruing substantial rent arrears due to maladministration or poor communication by the DWP.

It is also important to note that many of the most vulnerable CAB clients are not yet eligible for Universal Credit due to the current 'knock out' factors<sup>39</sup> and we would expect further difficulties as the number of claimants increases. **CAS would recommend that the housing element of Universal Credit is paid to social landlords as a 'default' option, as Housing Benefit currently is.**

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<sup>39</sup> Eligibility for Universal Credit – Department for Work and Pensions  
[https://about.universalcredit.service.gov.uk/kms/Pages/Eligibility for Universal Credit.htm](https://about.universalcredit.service.gov.uk/kms/Pages/Eligibility%20for%20Universal%20Credit.htm)

## Frequency of payments to claimants

CAS has concerns around the introduction of monthly payments in arrears to Universal Credit claimants, a change from the current system of fortnightly payments under the legacy benefits of Jobseekers Allowance (JSA), Employment and Support Allowance (ESA) and Income Support; and payments at a frequency of tax credit claimants' choice (either weekly or four-weekly).

Citizens advice bureaux routinely advise clients who have difficulty budgeting on a very low income. These struggles often result in clients who are in debt, and who require support from the Scottish Welfare Fund, or even from a food bank. This is particularly the case with vulnerable clients, many of whom are currently ineligible for Universal Credit (due to the knock out factors). Some CAB clients who are already struggling with fortnightly payments will be even more severely affected by having to manage on a single monthly sum.

- An East of Scotland CAB reports of a client who came in looking for assistance with benefits. The client is an alcoholic and finds it very difficult to manage his money as his addiction takes over and he finds with fortnightly payments he runs out of money in a few days. The client says he is currently reduced to finding food in skips at the back of shops. He wanted to know if he could get paid weekly rather than fortnightly. The client also enquired regarding getting a foodbank voucher.

Early evidence suggests that clients claiming Universal Credit have had issues with running out of money before their next monthly payment is due. In some cases, this is due to the five-week period before the first payment, which the Scottish Government will have no devolved control over due to the way Universal Credit is designed. However, this can lead to hardship and borrowing from the outset, and a more frequent payment may help claimants avoid going without income for lengthy periods of time.

- An East of Scotland CAB reports of a client who was at the Jobcentre the day before seeking advice where he signed on for unemployment benefit. He was told that he would be on Universal Credit and that his first payment of around £250 would be in around five weeks' time. His application was successful as far as he knew, but he was given no indication of how to survive until then. The handling of the client's cashflow needs from sign-on until payment date were ignored by DWP, as is their policy, but he was also given a misleading Scottish Welfare Fund leaflet. Furthermore, no short term benefit award can be applied for until after Capita verification of client, which has an unknown timescale.

**CAS is currently inclined towards recommending that the Scottish Government use its devolved powers to pay Universal Credit to claimants more frequently.** However our ongoing survey of benefit claimants specifically asks clients about how frequently they budget; how they manage their money; how frequently they would prefer benefits payments to be made; and how they think they would cope with a single monthly payment. CAS will be able to provide more evidence once this is complete in early October.



## Single household payments

If a couple both claim Universal Credit, then they will receive one single household payment paid to one of them only, as opposed to each receiving individual payments. Concern has been raised that in households where the single payment is made to a man, that women will lose independent income, money is less likely to be spent on children's needs, and that it could mark the start of a return to a 'male breadwinner' household model.<sup>40</sup>

There is also concern that this system may exacerbate situations of domestic abuse or financial abuse and make it harder for claimants to leave an abusive partner.<sup>41</sup> Under current rules, where domestic or financial abuse has occurred and a couple decide to stay together an Alternative Payment Arrangement can be applied for, providing for split payments.<sup>42</sup> However, where abuse is ongoing it may not be possible for a person to safely inform the DWP to put this arrangement in place. There may also be significant problems caused if one partner struggles with a drug or alcohol addiction and is in receipt of a single household payment.

Evidence from Scottish citizens advice bureaux on the impact of the single household UC payment has been limited so far. Currently, new claims for couples are only being taken in the Inverness Jobcentre Plus area (since 30 June 2015), and only a minority of claimants will have a partner who is also eligible for Universal Credit. CAS' survey of benefit claimants asks respondents who would be in this situation whether they would prefer a single household payment or individual payments. The results of this will further inform our view on whether changes to the current system are necessary.

## Discretionary Housing Payments

Since the Scottish Government lifted the cap on the amount that could be spent on Discretionary Housing Payments (DHPs), and committed an additional £35 million to local authorities, this system has been successful in mitigating the effects of the Bedroom Tax. CAS recommends that Housing Benefit claimants who are affected by the Bedroom Tax should be able to receive a DHP mitigating their full losses until such time as it is fully replaced by Universal Credit.

Households affected by the Benefit Cap are also able to make a claim for a DHP, with some funding from the Department for Work and Pensions being allocated for this purpose. At present, the numbers affected by the Benefit Cap in Scotland are

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<sup>40</sup> The Gender Impact of Welfare Reform – Scottish Government Communities Analytical Services Division, August 2013 <http://www.gov.scot/resource/0043/00432337.pdf>

<sup>41</sup> Housing Policy and Welfare Reform – Women's Aid <http://www.womensaid.org.uk/page.asp?section=00010001001000320002&sectionTitle=Housing+Welfare>

<sup>42</sup> Personal Budgeting Support and Alternative Payment Arrangements Guidance – Department for Work and Pensions, March 2015 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418485/personal-budgeting-support-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418485/personal-budgeting-support-guidance.pdf)

relatively low, with 769 households being affected in May 2015<sup>43</sup>. However, following the UK Government's plans to reduce the Benefit Cap from £26,000 to £20,000 per year (from £18,200 to £13,400 for single people), many more households in Scotland will be affected<sup>44</sup>, and those already capped face a further reduction in their income of £6,000 per year. In light of this, CAS recommends that people affected by the Benefit Cap are considered a priority for DHP support.

At present the UK Government contributes a total of £13,331,287 to Scottish local authorities' DHP funds, and has indicated they will commit a total of £800 million across Great Britain over the next five years<sup>45</sup>. Clarification over whether this funding will be transferred to the Scottish Government following the devolution of DHPs would be welcome.

The devolution of Discretionary Housing Payments gives the Scottish Government an opportunity to revise existing guidance<sup>46</sup> for their award. However, some groups of people who may be affected by social security changes will not be eligible for support under the terms of the Scotland Bill – for instance people under 21 who will no longer be entitled to Housing Benefit, or people who incur rent arrears because of the five week waiting period for a first Universal Credit payment.<sup>47</sup>

### **c) The Work Programme and Work Choice**

The Smith Commission proposed that the Scottish Parliament will have all powers over support for unemployed people through the employment programmes currently contracted by DWP (which are presently delivered mainly, but not exclusively, through the Work Programme and Work Choice) on expiry of the current commercial arrangements.

Though CAS is concerned that the Scotland Bill currently restricts the powers devolved to employment support programmes that last at least a year or the existing

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<sup>43</sup> Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

<sup>44</sup> No estimate for Scotland is currently available, but the UK Government estimates that an additional 92,000 households across Great Britain will be affected by the lowering of the Benefit Cap. Welfare Reform and Work Bill: Impact Assessment for the Benefit Cap – Department for Work and Pensions, July 2015 <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

<sup>45</sup> Welfare Reform and Work Bill: Impact Assessment for the Benefit Cap – Department for Work and Pensions, July 2015 <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

<sup>46</sup> Discretionary Housing Payments Guidance Manual – Department for Work and Pensions, August 2015 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/453392/discretionary-housing-payments-guide-aug-15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/453392/discretionary-housing-payments-guide-aug-15.pdf)

<sup>47</sup> Universal Credit is paid monthly in arrears and seven 'waiting days' are applied before a claimant is eligible for support.

Access to Work scheme<sup>48</sup>, devolution of employment support programmes presents an opportunity to create a new system, responsive to the needs of unemployed people in Scotland, and improving on the well-documented problems within the current system.

However, with conditionality and sanctions within Universal Credit, Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA) remaining reserved, a number of challenges exist. CAB clients engaged with the current Work Programme have sought advice because they have been sanctioned, in some cases in harsh circumstances.

- An East of Scotland CAB reports of a client who missed a mandatory interview with a Work Programme provider agent, due to being interviewed by the police at the time of the interview after having her windows smashed and suffering a 'campaign of harassment'. She explained this to the agent, but her benefits were sanctioned. The first she was aware that there was a problem was not receiving her payment on the day it was due.
- A West of Scotland CAB reports of a client who was referred to a Work Programme provider during his JSA claim. He is now claiming ESA and is in the assessment phase. He wants to end his involvement with the Work Programme and receive assistance from the local authority employability service because he feels they would help him more. However, he is being told by both agencies that he cannot do this. Additionally, his involvement with the Work Programme provider should technically no longer be compulsory, but he is still being advised to attend by them or face a sanction.

CAS remains concerned about how this structure will sit alongside the current discredited sanctions regime which remains reserved. At the moment, Work Programme Providers have to refer ESA and JSA claimants for a possible sanction in every case where they fail to comply with their conditions; they have no discretion and are not able to consider whether the person had good reason for failing to comply – even though they know the claimant and might be sympathetic to, or in agreement about why non-compliance took place – e.g. a sick relative; transport problems; hospital appointments. Work Programme Providers should be there to support people into work rather than monitor conditionality.

In our view, maintaining a requirement on a Scottish Government-devised employment support programme to continue to refer people for sanctions will result in a massive strain between Governments which have a different view of the sanctions and conditionality regimes put in place by the UK Government.

**CAS recommends that Work Programme Providers are given discretionary powers over referrals over what is deemed to be non-compliance of the claimant commitment.**

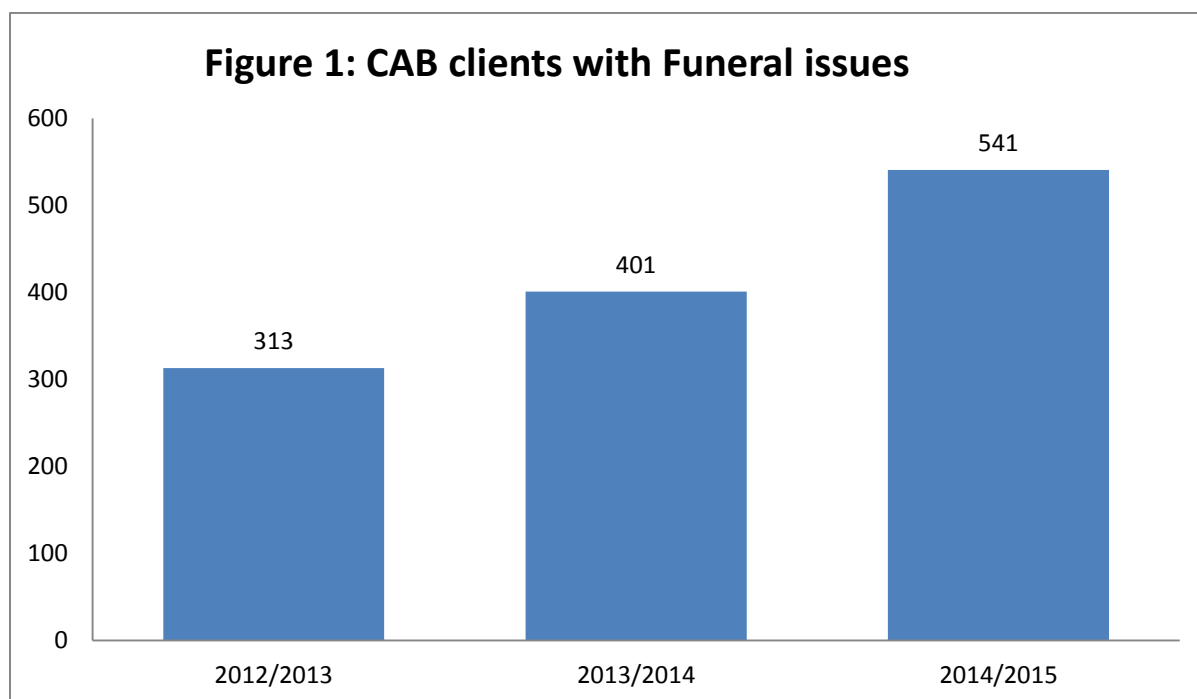
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<sup>48</sup> Written evidence to the Devolution (Further Powers) Committee: Implementing the Smith Agreement – the UK Government's Scotland Bill – Citizens Advice Scotland, August 2015 <http://www.cas.org.uk/publications/implementing-smith-agreement-%E2%80%93-uk-government%E2%80%99s-scotland-bill>

**d) The Regulated Social Fund, new benefits, top-ups and delivery of benefits overall**

**Regulated Social Fund Funeral Payments**

As a result of people struggling to pay funeral costs CAB across Scotland are helping more people than ever before who find themselves in funeral poverty (figure 1).



CAS has seen a number of cases at CAB where the current funeral payments system fails to meet the needs of those struggling to meet the costs of a funeral. Often it can be unclear to those claiming whether or not they will be successful in their claim and decisions can take a prolonged period of time. There is evidence that the unclear eligibility criteria and application process means there is a high refusal rate in applications. UK Government figures show there were 66,000 applications to the fund in 2012-2013 however only 53% were successful.<sup>49</sup>

Added to this difficulty is the need for a deposit up-front (frequently £500-£1000) to funeral directors regardless of whether the person organising the funeral will be successful in their application to the social fund. This is because of the uncertainty of whether the individual will be successful in getting an award even if it appears that they may on the face of it qualify.

**CAS therefore recommends that the criteria for any new funeral support is much more clearly defined to reduce the number of unsuccessful applications and give certainty to the majority of applicants**

<sup>49</sup> House of commons library, Social Fund Funeral Payments, 2013

Payment amounts for certain costs have also been frozen for a number of years not taking into account the quickly rising costs of funerals across the UK<sup>50</sup>. This has left even those who are successful in applying short of the money needed to pay for a respectful funeral.

A number of applicants to the funeral grants fund are often unclear as to what will be paid for and what is not covered as payment amounts can vary and are often opaque. This can mean individuals can act on the assumption that the entire funeral will be paid for by the DWP when in fact only a small payment will be made to any costs that are not core charges (e.g. transport, flowers, memorials etc).

- A South of Scotland CAB reports of a client whose sister had died leaving very little money to contribute towards the cost of a funeral. The client has taken responsibility for organising the funeral and has approached a local funeral directors to help make arrangements. The client paid £1,000 of her own money as a deposit with the total cost coming to £2,611. She is retired and receives the basic state pension and pension credit with no other income. The client states that they have organised the most basic funeral the directors could manage and kept costs to a complete minimum to help the client. They signposted the client to the CAB for help with how to cover the costs. The maximum grant available from the social funeral fund is £1,200 leaving the client well short of the costs despite being on a very low income.

**CAS would support a move to a fixed payment amount from a funeral grant system to increase certainty for claimants in the amount of support they will receive and what this covers.**

Funeral Directors also collect deposits as local authority disbursement costs (cremation or burial fees) must be paid in full upfront. CAS have shown over the last two years how these local authority charge vary substantially across Scotland and how they have increased, in some cases, by as much as 42% in one year.<sup>51</sup> If costs continue to increase at the current rate the majority of funding for a new funeral support system will quickly be eroded by fewer applications or mean less funding for each individual leaving them to make up the shortfall.

“Last year I had to arrange the funeral of my older brother who passed away suddenly as I was his closest living relative. This was a really difficult time for me as my mother had only past away the year before and I was still struggling with the grief and losing my brother made this harder. The local funeral director helped me apply for a grant [Social Fund Funeral Payment] after I told him I received Employment and Support Allowance. It was a difficult form that I didn’t understand at the time because I was upset but the girl in the undertakers took her time to help me. She said she helped people like me all the time.

“It looked like I would be successful in getting [social fund] money to help, but I still needed to find £700 for a deposit to give to the funeral company. The undertaker kept costs low so I wouldn’t be out of pocket and the [Social Fund] grant would cover

<sup>50</sup> Additional funeral expenses have been capped at £700 since 2003. University of Bath (2012)

<sup>51</sup> CAS, The Cost of Saying Goodbye, 2015

it. The undertaker told me that the funeral couldn't go ahead without the deposit but I didn't have the money. I went home upset and worried what would happen about my brother's funeral, I really didn't want him to go into an unmarked grave.

"After speaking to other family members I only managed to get together half what was needed (£350). I almost considered taking out a payday loan to get the rest of the money but my wife said that would only make things worse as she had read about what can happen when these go wrong.

"I then went to my local CAB who helped me apply to a local charity for a grant to make up the rest of the deposit as I didn't want to delay the funeral any longer. The funeral director promised to refund this if my [social fund] application was successful. The funeral went ahead and the undertakers and local priest provided a great service.

"I was really stressed until the DWP [social fund] came back saying my application had been approved as I was worried that I would need to find all the other money to give to the funeral director which I couldn't afford.

"I think any new funeral cost support should stop people needing to find big deposits that people like me and my family don't have, it's really unfair and upsetting to not have the money when all you want is a bit of respect for your brother or whoever. It needs to be less stressful to apply and find out the result."

**CAS recommends that alongside the introduction of a Scottish funeral support funding system that rising costs must be addressed by the Scottish Government as a matter of priority. One option to be considered would be to cap the amount that can be charged to those in receipt of funeral grants for the disposal of a body.**

A further complication with regard to social fund funeral payments is for the DWP to consider a wide number of family members financial circumstances even where these people are estranged before making an award. Not only does this slow down the process of confirming any award but it can mean a refusal for payment despite the fact that the individual organising the funeral, who can be the closest relative, would be eligible.

- A West of Scotland CAB reports of a client who is the next of kin and legal representative of his late father who died unmarried and had no other children. The client advises that there was no estate but only debts. The client has to borrow money to pay for the funeral for which he has accepted responsibility. The CAB is assisting to make an application to the social fund.

**CAS recommends a defined system of deciding who is the responsible next of kin who will be tested for eligibility. We would recommend using the 'nearest relative' test that is currently used in the Human Tissue (Scotland) Act 2006<sup>52</sup>.**

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<sup>52</sup> Nearest relative test is the first on this list that is living: (a) spouse/civil partner; (b) lived with partner of more than 6 months; (c) child; (d) parent; (e) brother/sister ; (f) grandparent; (g) grandchild; (h) uncle/aunt; (i) cousin; (j) niece/nephew; (k) longstanding friend

**This is the recommended test by the Burial and Cremation Review Group as to who should be responsible for disposal of a body. Any application process should allow for a deviation from this set list on reasonable grounds e.g. a child applies as spouse is incapacitated or estranged.**



## **WELFARE REFORM COMMITTEE**

### **THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND**

#### **WRITTEN SUBMISSION FROM MATERNITY ACTION**

##### **Background**

Maternity Action is the UK's leading charity committed to ending inequality and improving the health and well-being of pregnant women, partners and young children.

Maternity Action provides online information and telephone advice on maternity rights at work and in the benefits system to parents across the UK. Each month, over 11 000 parents view information sheets on our website and over 200 parents receive telephone advice. Demand for our service is steadily increasing and resources are limited. For each call we answer, we receive 42 calls which we are unable to answer due to resource constraints.

##### **The Regulated Social Fund and maternity**

The Regulated Social Fund includes the Sure Start Maternity Grant which is a £500 payment made to eligible parents around the time of the birth. To qualify for the grant families must be expecting their first child (or first multiple birth); be in receipt of a means tested benefit (including Income Support, income-based Jobseeker's Allowance or more than the family element of Child Tax Credit); have received health and welfare advice about the birth; and make a claim for the grant between 11 weeks before their baby's due date and 3 months after the birth. The grant is not available to asylum seekers or to families who have no access to public funds (for example, who are in the UK on a visitor visa) or who do not have the right to reside in the UK (for example, EEA nationals who are not workers).

In 2010, the Sure Start Maternity Grant was available to a wider group of parents. A grant was paid for each birth until April 2011. Changes to the rules giving EEA nationals the right to reside – and so to claim a qualifying means-tested benefit – are also likely to have affected the number of migrant families who qualify for the grant; these changes include the introduction of a minimum earnings requirement to be classed as a worker and limiting entitlements to means-tested benefits for jobseekers.

Proposed changes to the benefits system will further reduce the number of parents entitled to Sure Start Maternity Grant. The proposed changes to tax credits are likely to result in families receiving less Child Tax Credit or, in some cases, losing entitlement to Child Tax Credit altogether. The loss of Child Tax Credit for working families could also mean that they do not qualify for a grant.

The need for financial support during pregnancy and maternity

Pregnancy and a new baby increase the financial pressures on families. Families face increased costs for housing, food, clothes and transport in addition to specific items for the baby such as the buggy and cot.

Very high rates of pregnancy discrimination in the workplace leave working women vulnerable to losing their job during pregnancy, maternity leave or return to work. The first findings from a major research project into pregnancy discrimination by the Equality and Human Rights Commission (EHRC) and Department of Business Innovation and Skills (BIS) were released in July 2015. These found that 54 000 women each year lost their jobs as a result of pregnancy discrimination in the UK, which is 11% of pregnant women in the workplace. (Figures for Scotland will be provided in the final report due out in November 2015.)

Research from 2005 found that pregnancy discrimination cost women £12 million a year in lost maternity pay in the UK and that low income women returned to hourly earnings 14% lower than in their previous job. As the proportion of women losing their job due to pregnancy discrimination has increased by 80% since 2005 and unemployment has increased, it is likely that these figures substantially understate the current situation. (Figures for Scotland are not available.)

Comparatively low rates of Statutory Maternity Pay, Statutory Paternity Pay, Shared Parental Pay and Maternity Allowance result in significantly reduced family incomes during maternity leave. Women eligible for Statutory Maternity Pay receive six weeks at 90% of salary followed by 33 weeks at the maximum flat rate of £139.58. Women who are eligible for Maternity Allowance (including self-employed and those changing jobs during pregnancy) receive 39 weeks at the maximum flat rate of £139.58. (The flat rate of both Statutory Maternity Pay and Maternity Allowance is set at 90% of income up to the maximum of £139.58.) Statutory Paternity Pay and Shared Parental Pay are set at the maximum flat rate of £139.58. While some employers choose to top-up statutory pay, the vast majority of women receive no contractual maternity pay.

By contrast, a number of other European countries offer maternity and parental pay at wage replacement levels. Poland pays 26 weeks of maternity leave at 100% of earnings with no ceiling, followed by 26 weeks of parental leave at 60% of earnings with no ceiling; Germany pays 14 weeks of maternity leave at 100% of earnings with no ceiling, followed by 12 months of parental leave at 67% of income with a ceiling of approximately £1300/month.

The financial pressures on pregnant women and new families have increased as a result of cuts to benefits and statutory payments over the past five years. Compared with 2010, families in 2014 received £1.5 billion less in benefits and statutory payments during pregnancy and their child's first year. These cuts and their impacts are detailed in our report, *Valuing Families: the impact of cuts to maternity benefits* (2014). The cuts to benefits and statutory payments include: freezing and means-testing Child Benefit; removing the baby element, and reducing the income cut-off for the family element, of Child Tax Credit; below inflation up-rating of Statutory Maternity Pay and Maternity Allowance; removing Sure Start Maternity Grant for all but a family's first child (or multiple birth); and abolition of both the Child Trust Fund and Health in Pregnancy Grant. (Figures for Scotland are not available.)

## **Sure Start Maternity Grant**

We recommend the following changes to better assist pregnant women and new families:

- The Sure Start Maternity Grant be restored for second and subsequent children. Some parents with other young children have clothing and equipment to hand from previous pregnancies, but many do not. Pregnancies can be unexpected, clothing and equipment may have worn out and need replacing, housing arrangements may leave families without the capacity to store clothing and equipment in intervening years. As noted above, the financial pressures associated with a new baby are not limited to the purchase of clothing and equipment.
- The Sure Start Maternity Grant should remain cash rather than in kind. While in-kind resources would be welcome, these should not replace the Sure Start Maternity Grant as a cash payment. The cash payment enables low income families to use the funds in the way that best meets their needs. While some families use the grant to purchase clothing and equipment, others rely on 'hand me downs' for clothing and equipment and use the grant to assist with day to day living expenses at a time of reduced income.
- Increase the rate of Sure Start Maternity Grant to reflect increased cost of living. The grant has not increased since 2002.
- Increase low income parents' access to advice about maternity rights at work and in the benefits system by provision of a dedicated maternity rights advice service for Scotland.

## WELFARE REFORM COMMITTEE

### THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

#### WRITTEN SUBMISSION FROM PERTH & KINROSS COUNCIL

**How should the new welfare powers proposed by the Smith Agreement be used to improve or change:**

**a) Personal Independence Payments (PIP), Disability Living Allowance (DLA), Attendance Allowance (AA) and Carer's Allowance (CA):**

Whether delivered centrally or at a local level, by local authorities, the benefits listed above should be delivered in a way that ensures ease of access for people with disabilities and their carers. Local authorities are ideally placed to deliver these benefits and have a proven track record administering Housing Benefit, Council Tax Reduction, Scottish Welfare Fund and a wide range of ancillary benefits. The required skills, culture, knowledge and the capacity to share most information already exists within local authorities. Should via the local authority be the preferred method of delivery then it is vital that adequate administration funding is provided. The advantages of local authority delivery do not end at administration of the above benefits, but extend to a more rounded model of welfare provision with the individual firmly at the centre; a system in stark contrast to the current delivery which can seem remote and faceless to those who need it most. The above benefits will require national legislation, regulations and guidance. Local authorities have excellent working relationships and regular communication with both CoSLA and Scottish Government which would ease the implementation of any benefit administration. Local authorities also provide a range of ancillary benefits, concessions and discounts for charges such as Council Tax and so, direct links to these benefits would not only enhance customer service but reduce barriers to services entitlements for those most in need.

Any Scottish disability and carers benefit system will require effective communication with UK Government benefit delivery centres and the most effective method would be via electronic means. This communication will be required to transfer information to and from the Scottish benefit administration in order to:

- Provide information regarding disability benefit and CA entitlement as this can change means-tested benefit entitlement administered at a UK level (DWP and HMRC). The benefits affected are income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance (ESA), Income Support (IS), Pension Credit (PC), Tax Credits (TC) and Universal Credit (UC).
- Provide information regarding CA entitlement to DWP offices responsible for administration of contributory benefits such as ESA to prevent overpayment of benefit due to overlapping benefit rules.

If local authorities are not the desired option for end-to-end delivery, they should play a key role in the application and evidence gathering process.

### Application process

People with disabilities and their carers often cite the application process as the most difficult part of claiming benefit. The current system is not as accessible as it could be and this in itself is a barrier to people accessing their entitlements.

Benefit	Face-to-face	Telephone	Paper form	Online
AA			✓	
CA			✓	✓
DLA			✓	
PIP		✓	✓	

Any system should make access to benefits as simple as possible; the system should treat people with dignity and respect and should provide different methods of accessing the system. The current system can also require more than one level of form-filling which invites duplication, overlap and frustration or distress for individuals. Any system implemented in Scotland should seek to capture information once to prevent, additional costs, delays in processing, and distress for the person making the claim. The application process for the Scottish Welfare Fund is a good example and how it could work for benefits. All Scottish local authorities are required to have at least three methods of application for welfare fund and in the case of Perth & Kinross Council; all four of the application methods mentioned above are in place.

### Assessment process

A Scottish system should take cognisance of the health condition; evidence of a medical diagnosis of a progressive condition such as dementia, certain types of multiple sclerosis and motor-neuron disease should be accepted without the need for assessment or repeated assessment.

The current assessment process for PIP, in 97-98% of cases, includes a medical assessment. These assessments could often be avoided; they can also be inconvenient for the person claiming benefit, traumatic for the individual and although the assessment should not be considered as a snapshot in time, this is often the case. Use of information held by social care and health services, from people involved in the care of the person should be used to inform the decision-making process, and thus prevent or reduce the need for medical assessments (currently provided by the private sector). The current system relies heavily on the latter and it could be argued that this does not make the best use of the resources or finances available and can often result in duplication of information. Local authorities hold information on their service-users, including: occupational therapy assessments, care assessments and care plans. Data sharing protocols could be put in place to share this information, to simplify and streamline the administration and reduce the cost of delivery.

### Payment of benefits

Benefit should be paid direct to the individual or to their appointee; this creates the right conditions for people to maintain their independence and their dignity. It also gives individuals the right to flexibility and the freedom to use the financial assistance to support their needs in a way that they choose.

### **Disability-related benefit under 16s**

Consideration should be given to a disability benefit similar in design to DLA for children under the age of 16. Although it is sensible that current legislation requires consideration to be given to the care required by the child, “*substantially in excess of the normal requirements of persons [their] age...*” or “*substantial [care, supervision or watching over] which younger persons in normal physical or mental health may have but which persons of [their] age and in normal physical and mental health would not have*” given that all children require care, in practice, too much emphasis can be placed in comparisons with other children rather than the medical condition and subsequent care needs that arise. Use of existing information, shared seamlessly by the decision-making authority and those health and social care professionals involved in the child’s care, should be used to inform decision-making to prevent unnecessary requests for evidence being placed on parents and others responsible for the child; such requests can often have financial implications for families. Families with disabled children should not have to bear the cost of assessments or medical evidence.

### **Disability-related benefit 16 and over**

Consideration should be given to a disability benefit which retains certain key features of both the current PIP and previous DLA systems for those over the age of 16:

- Non-means-tested, non-contributory and non-taxable;
- Two components which take into account care/daily living needs and mobility needs;
- Include the alternative route (grounds of severe mental impairment) to the higher rate of the mobility component;
- Severity of the condition and level of care/supervision/attention/intervention should influence the level of award for care/daily living component, not whether the needs are during the day, at night or both.
- Medical evidence of progressive conditions such as dementia and motor-neuron disease should be accepted and individuals should not therefore require separate or repeat medical assessments.
- Assessment should include both subjective and objective elements in order to ensure consistency of benefit delivery whilst taking cognisance of the differing ways disability can affect individuals.
- Special rules for individuals who are terminally ill.

Consideration should also be given to the following aspects which would provide positive change to the current system:

- The disability benefit and the practitioners involved in the assessment and decision-making process of the benefit should have the ability to recognise and have an understanding of the care/daily living and mobility needs arising from mental health. The current descriptors within the PIP assessment for the daily living component do not adequately reflect the difficulties faced by people affected by mental health problems. The DLA assessment process was more subjective in nature and therefore not so prescriptive a test, therefore care needs arising from mental health problems could have been

more easily acknowledged, however, an apparent lack of knowledge and understanding of practitioners (including professionals) involved in the assessment and decision-making processes meant that those affected by mental health problems would often miss out.

- The assessment process should make use of existing information held by health and social care professionals e.g occupational therapy assessments, care assessments and care plans, thus preventing or reducing the need for medical assessments and preventing duplication within the system as a whole. Data sharing protocols will be required to ensure effective and legitimate sharing of information. Consideration should also be given to the following:
  - a. Abolition of AA and the eligibility criteria for PIP/DLA/new disability benefit extended to anyone over the age of 16 or,
  - b. Eligibility for PIP/DLA/new disability benefit should end at 69 and eligibility for AA begin at 70.

The rationale for the recommendations above is to bring the policy around disability benefits in line with current policy on retirement-age and the fact that people are expected to work for longer. Increased standards of living and advances in medicine mean that, generally, people are healthier and more mobile for longer, disability in terms of mobility should therefore be recognised as non-age-related until later in life.

Extending the eligibility criteria of an existing or new disability benefit to include those aged between 65 and 69 or to anyone over the age of 16, would have no financial implications for reserved welfare provision. Entitlement to the mobility component does not attract additional premiums or elements from reserved provision for older people i.e. Pension Credit or Housing Benefit.

### **Carer's Allowance (CA)**

CA should be retained in its current form, non-means-tested and non-contributory, however consideration should be given to harmonising the qualifying criteria with that of [Carer's Credit](#) which is paid if the person provides care for 20 hours or more per week. Carer's Allowance is an earnings replacement benefit, yet it attracts less weekly income than sickness or unemployment benefits. Carers often have to give up employment in order to look after someone, and the combined effect of the caring role and the lack of income can have adverse effects on the health and wellbeing of the carer. Caring for someone else is one of the most valued things that someone can do for another person, however the amount paid by the current system is not a meaningful value. Moreover, carers are often forced to rely solely on the benefits system for their income, not least because there is a maximum amount of earnings for those in receipt of CA, because employment opportunities may be restricted. An earnings disregard or earnings taper would allow carers the choice of working more hours or in higher paid employment. In order to maximise their entitlement many carers have to claim IS/UC in addition to CA. The current system is complex and has unnecessary duplication. A review of the weekly amount should be considered as a priority. In terms of equalities, women are more likely to undertake caring roles and are therefore disproportionately affected by the low level of benefit, limit on earnings and complexity within the current CA system.

### **Universal Credit (housing element and administrative arrangements) and Discretionary Housing Payments (DHP)**

- The housing element of UC should be paid direct to social landlords. The housing element should be paid direct to private landlords where current safeguards, as per Housing Benefit regulations, apply.
- UC payments should be more frequent than monthly and should be split in couple households to prevent or reduce the opportunity for financial abuse or control.
- Local authorities have administered DHP since its inception in 2001 and should retain the administration as the required knowledge skills and systems are already established. Any changes to the current system should involve consultation with local authorities.

### **The Work Programme and Work Choice**

The current system could be improved by closer working relationships between Jobcentre Plus and Work Programme providers. Communication between these agencies can be poor and co-location or dedicated liaison workers could improve service delivery. Consideration should be given to the approach taken to the delivery of the Work Programme and how health, housing, education and training, childcare and income can impact on a person's preparedness for work. It is necessary to ensure that the right incentives and necessary support are in place to prepare people for work. This will include putting in place education, training and employability programmes that ensure individuals are ready and able to access the jobs that are available. Strong links are required between education, training, employment and health. The current sanctions regime in place for, not only those who are fit for work, but for those on sickness benefit, adversely affects those individuals furthest removed from the job market. Work Programme providers are not afforded the time to provide the intensive support required to assist individuals back into the job market or to prepare them for their first paid employment. Barriers to work such as literacy, numeracy and even childcare can be the most difficult to overcome. The efforts of the current work programme are often concentrated on those recently out of work, which produces better outcomes and attracts more funding. Providers therefore find themselves producing outcomes to satisfy funders rather than providing support to overcome or address the causes of unemployment.

### **Regulated Social Fund, new benefits, top-ups and delivery of benefits overall.**

Consideration should be given to the administration of the Regulated Social Fund within local authorities alongside or integral to the delivery of the Scottish Welfare Fund. There are a number of areas of overlap between the two systems and combined delivery would be the most customer-centred and cost-effective. Welfare Fund Teams have access to the DWP customer information system (CIS) therefore established channels of communication for UK Government benefits already exist.

Consideration should be given to the following:

#### **Sure Start Maternity Grant:**

- Reviewing the eligibility criteria for a grant, the current system excludes too many families by refusing a grant to households where Child Benefit is already in payment. It is reasonable to expect people to keep items such as cots and prams from previous births, however there comes a point when this



expectation becomes unreasonable. The criteria should be relaxed to provide support to the first child and exclude families where there are other children under the age of five. The current system redirects need to the Scottish Welfare Fund, where awards are often made from pressurised budgets to low income households for baby items. Integrating the administration of these grants would also reduce or prevent misuse of the Funds.

Funeral Payment:

- Including Council Tax Reduction as one of the qualifying incomes.
- Reviewing the award of the payment – current awards are unrealistic in terms of the current cost of a funeral and affords little or no choice to those arranging the funeral.

Cold Weather Payment:

- Payments are currently made automatically to those who qualify and no applications have to be made. The current system is very effective and in order to replicate a similar system, Scottish local authorities could liaise with their identified DWP single point of contact (SPOC) for customer information. Effective data sharing protocols would be necessary. CTR may be considered as a qualifying income however issues arise where there is no Council Tax liability to attract benefit. Our first option would be for the DWP to continue to deliver these payments on behalf of Scottish Government.
- Consideration could be given to reducing the number of days to qualify for payment.

Winter Fuel Payment:

- Consideration could be given to whether this remains a universal payment to those of qualifying age.

## WELFARE REFORM COMMITTEE

### THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

#### WRITTEN EVIDENCE SUBMITTED BY DAVID EISER, UNIVERSITY OF STIRLING AND CENTRE ON CONSTITUTIONAL CHANGE

There has rightly been much focus on discussing the opportunities that devolved welfare powers provide to improve the delivery of welfare in Scotland. This note considers the way that issues of financing and fiscal governance are likely to influence the way that new powers are used (or at least the options for using the new powers).

Many of the issues discussed in this paper are expected to be clarified in Scotland's new Fiscal Framework. The Fiscal Framework is currently being negotiated by the two governments. There is no formal timetable for its publication, but it is expected to be available sometime after the UK Government's Spending Review and the Scottish Government's Draft Budget.

The key points that this note makes are:

- The block grant to the Scottish Government will be increased to reflect the transfer of welfare powers. In future years, the size of this transfer will be indexed in some way to spending on the 'devolved' benefits by the UK Government in rUK.
- The precise way in which this indexation is made is yet to be determined, but will influence the level of resource that is transferred to the Scottish Government to reflect the new powers.
- Over the period to 2020/1, the spending forecasts of the UK Government suggest that the level of resources transferred to the Scottish Government to reflect the new welfare powers will decline in real terms.
- The power to vary elements of UC, and to top-up other benefits, does not involve the transfer of spending to the Scottish Parliament per se. If the Scottish Government decides to vary one of these rates, then the costs of that policy variation (and any corresponding administrative cost) incurred by the UK Government would have to be reimbursed by the Scottish Government. Calculating the fiscal costs of such policy variation could be contentious.
- It is as yet unclear how resource will be transferred to the Scottish Government to reflect its new responsibilities for employability programmes. Different funding options would have different implications for the budgetary risks and rewards the Scottish budget is exposed to.
- Devolution of the Work Programme will provide the Scottish Government opportunity to re-think the provision of employability support, but the complicating factor is that sanctions and conditionality will remain reserved.

- Consideration must be given to the design of institutions and protocols for managing fiscal aspects of welfare devolution. Issues here include welfare expenditure forecasting, calculating the costs of policy variation, and agreed rules around how no detriment principles will be applied.

### The devolved welfare benefits: funding implications

For the welfare benefits that are being transferred to Scotland, the Scottish Government's block grant will need to be increased, in the year that the powers are transferred, to reflect the value of spending by the UK Government on these benefits in Scotland. In 2013/14, spending on the 'devolved' benefits in Scotland amounted to £2.5bn.

In future years, this block grant adjustment (BGA) will have to be indexed in some way to reflect the UK Exchequer saving from having transferred the responsibility to Scotland. This indexation serves two purposes. First, to ensure that the BGA reflects, at least notionally, the value of expenditure 'foregone' (saved) by the UK Exchequer (thus the BGA can be thought of as representing the value of welfare expenditure that the UK government would have incurred if the benefits had not been devolved). Second, to ensure that the Scottish budget is protected from demographic or fiscal changes that affect welfare spending in the UK as a whole.

Over the course of this parliament, the UK Government is expecting to achieve reductions in spending on the majority of the benefits to be devolved. Spending forecasts contained in the July Budget imply a fall in spending on the benefits to be devolved from £2.5bn to £2.2bn by the end of the parliament (Table 1). A large part of this forecast 'saving' is driven by the transfer from DLA to PIP for claimants of working age, whose claims will be reassessed against stricter criteria. A significant fall in expenditure on Winter Fuel Payments is also forecast, due largely to the increase in State Pension age (which will have reached 66 for both males and females by 2020).

**Table 1: Forecast change (Summer Budget 2015) in GB benefit spending and caseload, 2015/16 - 2020/21**

	Caseload (000s)	Caseload (%)	Real terms exp.(£m)	Real terms exp. (%)	Real terms exp. per capita
<b><i>All devolved benefits</i></b>	<b>-1225</b>	<b>-6%</b>	<b>-£2,359</b>	<b>-9%</b>	<b>-12%</b>
Attendance Allowance	63	4%	£37	1%	-3%
DLA/ PIP	-344	-10%	-£1,867	-12%	-15%
Carer's Allowance	126	11%	£275	11%	7%
Severe Disablement Allowance	-88	-80%	-£383	-80%	-81%

Industrial Injuries Disablement Benefit	-22	-7%	-£121	-13%	-16%
Winter Fuel Payment	-960	-8%	-£294	-14%	-17%

Of course the full magnitude of these expected savings may not materialise. Compared to the forecasts in its 2010 Budget, the Coalition Government's spending on DLA/PIP was 11% (£1.4bn) higher in 2014/15 than had been expected. This higher than forecast expenditure was due to a combination of economic factors, forecast errors, and administrative problems in moving to the new assessment system.

The case has been made that, in designing a different system of disability benefits, Scotland could achieve savings of its own by having, for example, a less aggressive or repetitive form of assessment, or a delivery model that builds on existing integration between health and social care provision. **This notwithstanding, the clear implication is that, when welfare powers are transferred to the Scottish Parliament, the grant is likely to be less rather than more than £2.5bn, and the direction of policy at UK level is likely to be towards further spending retrenchment. The Scottish budget is thus likely to face a declining BGA rather than an increasing BGA to fund devolved welfare, at least in the initial years.**

The precise way in which Scotland's block grant adjustment for welfare powers will be indexed to rUK expenditure will be determined as part of the emerging Fiscal Framework. **Different indexation methods could yield quite different grant adjustments for Scotland.** For example, the BGA could be indexed to total spending on 'devolved' benefits in rUK; or to per capita spending on devolved benefits in rUK. The former approach would disadvantage Scotland if its population were to grow more rapidly than that of rUK; but even if the block grant was indexed to per capita spending in rUK, the Scottish budget would still bear the risk of a more rapidly ageing population, or less rapid decline in the incidence of disability. (As shown in Figure 1 in the Annex, relative per capita spending on the benefits to be devolved to Scotland has declined since 1999, due largely to a lower incidence of disability).

**The indexation method chosen depends on the set of risks and rewards that it is felt the Scottish budget should be exposed to.** It is important to note however that the indexation method for the devolved welfare benefits cannot be discussed in isolation from the question of how the block grant is indexed for devolved tax powers.

### **Varying housing elements of UC, and top-up payments**

The power to vary elements of UC, and to top-up other benefits, does not involve the transfer of spending to the Scottish Parliament per se. Indeed, if the Scottish Government chooses not to vary UC or any individual benefit rate, then there is no funding implication. If however the Scottish Government decided it wanted to increase the local housing allowance rates under UC, or a particular benefit, then the costs of that policy variation (and any corresponding administrative cost) incurred by the UK Government would have to be reimbursed by the Scottish Government.

**A critical issue is how the costs of policy variation are estimated. The calculation of the cost of policy variation is likely to be contentious, especially given that changes to benefit rates may induce behavioural effects which alter benefit spend or tax take in other parts of the fiscal system.** Under the 'no detriment' principles, the Scottish Government may have to compensate the UK Government for these second order or knock-on effects. How these no detriment calculations are made is yet to be resolved.

**One implication of not devolving Housing Benefit entirely, but only the power to vary certain elements, is that the Scottish Government does not gain the fiscal rewards from investment in social housing that results in reduced spending on Housing Benefit (as a result of lower rents).** Between 1999-2013, real terms per capita Housing Benefit expenditure increased by 45% in GB, compared to 17% in Scotland, due largely to lower growth in private and social rent in Scotland. The extent to which this differential growth in rents is due to policy intervention cannot be ascertained with any certainty.

Of course the powers to vary housing elements of UC and top-up other benefits amount to a partial devolution of working age benefits. At UK level, whilst the freeze in working age benefits, tax credits and Local Housing Allowance for four years is expected to save some £4bn by 2020, changes to eligibility, work allowances and taper rates account for almost £6bn of welfare savings. **A scenario whereby the Scottish Government were to increase UC benefit rates, whilst the UK Government were reducing work allowances or increasing taper rates, is likely to weaken work incentives for some claimants. This may create further tension between governments in relation to 'no detriment' principles.**

### **Employability Programmes**

Devolution of the Work Programme will provide the Scottish Government opportunity to re-think the provision of employability support, including the funding model, the focus on particular target groups, delivery arrangements, flexibility of support, and programme objectives and targets. Similar decisions will also be possible in respect of Work Choice.

**It is as yet unclear how resource will be transferred to the Scottish Government to reflect the spending forgone by the UK Government. The**

resource transfer could be made on the basis of spending per capita on equivalent programmes in rUK, or spending per target group claimant. Which of these options is deemed appropriate depends on whether one thinks the Scottish Government should face the costs of differential rates of unemployment/ disability in Scotland. Of course the Scottish Government would bear the costs of a relatively more generously funded programme (whether this generosity is in terms of the type of support available, or the focus across client groups).

Alternatively, the UK Government could reimburse the Scottish Government for the job outcomes that it achieves through its programmes, at the same rates that providers in rUK are (plus any administration fee). This approach is unlikely to be satisfactory, as it would imply that, should the Scottish Government elect to place more emphasis on supporting those furthest from the labour market, this policy choice may result in it receiving less than its 'fair' share of UK funding.

**The greatly complicating factor in all of this is that the conditionality and sanctions regime will remain reserved at Westminster.** Thus the DWP continues to determine who is referred to the Work Programme and the type of activity that should be undertaken. Work Programme providers cannot impose sanctions themselves, but report non-compliance to DWP who decide whether to impose a sanction. There is some scope for discretion in respect of referrals, reporting and sanctions at individual level. But it is unclear to what extent there could be broader flexibility in Scotland in terms of:

- Who is referred (e.g. could age limits on dependent children be varied?)
- The type of activity mandated
- The 'reasons' considered suitable for 'non-compliance'.

### **Fiscal governance**

Previous sessions have given consideration to issues around the delivery infrastructure for devolved welfare programmes in Scotland. It is also necessary to consider wider administrative/ institutional architecture that will be required, both at UK and Scottish levels, to manage fiscal governance.

**For example, there is the issue of how grant to the Scottish Government is determined/calculated, and the need for transparency around that.**

**There is also the issue of forecasting benefit expenditure in Scotland** – to what extent should this be a role for an independent fiscal commission, and what level of cooperation in terms of data-sharing or model-sharing with HMRC/DWP might be necessary to inform this.

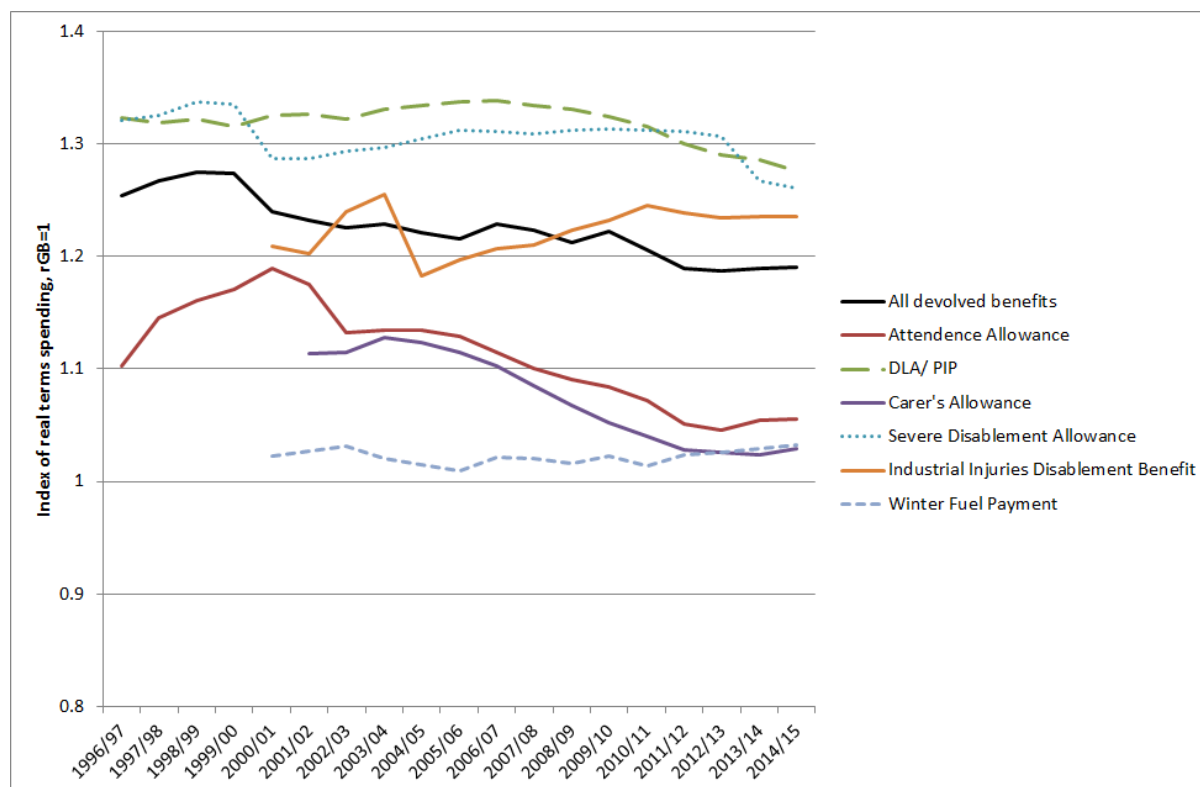
**Where non-devolved benefits are 'topped-up', there is a question about how the costs of this are calculated. The direct or first order fiscal implications might be relatively uncontentious – effectively this is the number of people in**

receipt of benefit multiplied by the increase in rate. But indirect or second order implications – which will be very relevant if the ‘no detriment’ principles are fully implemented in practice – will be subject to greater uncertainty.

Changes to benefit rates could theoretically induce behavioural responses, leading to higher or lower claimant rates for non-devolved benefits. Similarly, changes to devolved income tax rates in Scotland could effect eligibility for some reserved means-tested benefits in Scotland.

**It is imperative that the forthcoming Fiscal Framework sets out proposals for both the type of secondary order effects that will be subject to ‘no detriment’ calculations, and how the process of arriving at policy costings will be arrived at.** Will estimates be made by an existing institution such as the OBR, by some new UK-level independent body set up to advice on devolution finance, or by both UK and Scottish level institutions separately, prior to some form of negotiation. Similar questions exist with regard to the calculation of the administrative costs of policy variation. There is a clear need for transparent and agreed processes around how such costs are arrived at, and how any disputes are resolved.

#### **Annex 1: Index of real terms per capita spending on selected benefits in Scotland relative to rGB, 1996/7 – 2014/15, rGB=1**



**WELFARE REFORM COMMITTEE**  
**THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND**  
**WRITTEN SUBMISSION FROM PROFESSOR PAUL SPICKER**

1. This is a personal submission by Professor Paul Spicker, written in an individual capacity. Professor Spicker is the author of several works on social security policy including *How Social Security Works* (Policy Press, 2011). He also advises the Scottish Federation of Housing Associations on welfare reform, but this paper is not written in their behalf.

The call for submissions identifies four distinct areas for consideration, and the comments here are ordered accordingly.

**Personal Independence Payments, Disability Living Allowance Attendance Allowance and Carer's Allowance**

2. Benefits to support people with disability are given on a wide range of criteria, for many reasons. They include, amongst others:

- compensation for disability
- support for persistently low incomes
- support to meet the extra costs of disability
- assistance for rehabilitation
- support for carers
- help to meet specific needs, particularly mobility
- income smoothing, including interruption of earnings and redistribution of income between different periods of people's lives.

A [report from the IPPR](#) in 2014 argued for the devolution of Attendance Allowance, so that it could be integrated with social care for older people. Social care assessments do not depend on the same criteria as benefits for disability, and the problem with seeking closer integration is that it would probably lead to the sacrifice of other important objectives.

3. Attendance Allowance cannot be considered in isolation; there is a substantial overlap between Attendance Allowance and DLA/PIP. Currently a third of the claims for DLA come from older people, who obtain extensions of previous entitlements. The reason why claimants follow this route is that DLA (and PIP) make allowance for mobility needs, and Attendance Allowance does not. That means, however, that a person who has a stroke at age 63 may qualify for the mobility component, but a person another person who has the stroke at 66 may not - regardless of the severity of the need. It is not going to be possible to achieve any sort of equity between DLA/PIP and AA claims unless mobility needs are taken into account. However, by



any reasonable test, most people with mobility needs are older than the current limit of 65. If budgets are held constant, it will be possible to increase allowances for the mobility of older people only by redistributing money currently allocated to other people on benefit.

4. Many of the current problems of PIP are due to the assessment process. It was originally anticipated that three-quarters of all applicants would be assessed; according to the [National Audit Office](#), because of discrepancies between personal circumstances and information held, 98% of claimants have been receiving face to face assessments. This is a slow, intrusive and expensive requirement. It is presumptuous, because face-to-face assessments are being used to over-rule extensive medical evidence about people's circumstances over time. The process could be simply and fairly improved, without sacrificing any part of the principle of personalisation, by accepting medical evidence from senior doctors if they have previously examined the applicant.

5. The powers being devolved to Scotland will also mean that Scotland is responsible for most systems governing compensation for disability. It is open to Scotland to integrate several of these systems, including industrial injuries and decisions made by the courts, with no-fault compensation for disability. The approach was pioneered in New Zealand, which replaced court actions with a no-fault assessment of disability in relation to accidents of all kinds (see e.g. M Bismark, R Paterson, 2006, [No fault compensation in New Zealand](#), Health Affairs, Jan./Feb. 2006 25(1):278–83.). However, some other compensatory systems, such as Vaccine Damage Tribunals and War Pensions, are not set to be devolved and consequently could not be incorporated on the same terms.

### **Universal Credit (housing element and administrative arrangements) and Discretionary Housing Payments**

6. Many of the problems of Universal Credit are intrinsic to its design, and the Scottish Parliament can do little to set them right. The problems include

- the poverty trap, and the incompatibility of withdrawing benefits with maintaining financial incentives
- the inherent difficulty of assessing fluctuating incomes
- a central focus on work, for a classification of claimants where millions are not part of the labour market
- the hubris of trying to personalise benefits for 7-8 million people, and
- the impossibility of trying to respond to changes in 'real time'.

7. There are in principle some ways in which the scheme might be modified. The Scottish Parliament will have the power to alter the timing and the frequency of payments, and it may be able to take some measures to mitigate the consequences

of the scheme. This will be difficult, partly because any changes rely on the co-operation of a government that is committed to operating the scheme in a particular way, and partly because of the staggering expense of the administration, currently estimated to reach [£15.84 billion](#) by 2021. Proportionate costs may prove prohibitive.

8. If the expense of implementation is not too great, there are some small ways in which the operation of UC might be moderated.

- *Paydays.* The current intention is for UC to be paid to claimants on monthly on the anniversary of their claim. This promises to be chaotic. The date of the original claim will lose relevance as soon as people's circumstances change; it also means that no-one external, such as an adviser, a social housing provider or a local authority, can tell the claimant when the benefit is actually due. It will also mean, as the pilots have already shown, that people cannot be certain when their benefit is actually going to be paid. All claimants should have the same pay-day.
- *Waiting days.* Claimants will be required under the UC system to wait a long time before their first payment. The Scottish Parliament is gaining the power to vary that, and a right to make such payments where it considers there is a need. If this power was used to provide an initial payment during the first month - or on the first uniform pay day - it would reduce the subsequent entitlement to Universal Credit. This should be recoverable from the UK government under the no detriment principle.
- *Income smoothing.* The growth of payday loans has demonstrated the vulnerability of many people on very low incomes to disruption of their income, and the high costs associated with it. The Scotland Bill proposes to remove existing powers to make loans (s.20.3.c), but the power to vary the schedule of payments offers a small opportunity for flexibility; the option of making advance payments, recoverable from eventual entitlement, could help to smooth the income flow of people in difficult circumstances.

## **The Work Programme and Work Choice**

9. Although the terms in which the Work Programme is being devolved are restrictive, there is nevertheless some opportunity to extend its scope. The Scotland Bill allows for 'topping up' benefits to people in need (s.21). If the Scottish Parliament wished to introduce supplementary programmes, for example a support programme of short duration, it could do so. The French '*Revenu de Solidarité Active*' undertakes activation in this way, offering individual contracts for social inclusion ([Contrat Unique d'Insertion](#)), which might stretch to courses in literacy, cookery or driving in order to enhance skills. A Scottish programme could usefully assist people to gain, e.g., a driving licence, a Food Hygiene certificate or the Construction Skills Certification Scheme card needed for construction work.

10. This would have a further implication. Under the terms of the 'no detriment' principle, if one Parliament undertakes an activity which costs or relieves costs from another Parliament, those consequences should be compensated. If the Scottish Parliament were to institute a process which led to people returning more rapidly to work than would happen otherwise, it would be saving the UK government money and in line with the Smith report's approach such savings should be returned to Scotland.

### **New benefits, top-ups and delivery of benefits overall**

11. *Topping up benefits.* The power to 'top up' benefits has been tested in practice: Discretionary Housing Payments have been used to top up entitlements of Housing Benefit, compensating for the bedroom tax. Housing Benefit, however, is administered and delivered locally - this is not a model that can be extended to many other benefits. If, for example, the Scottish Parliament decided in the same way to top up State Pension, which in administrative terms is one of the simplest benefits, it would require information about every eligible recipient in Scotland, and consequent revision of all computer programmes.

12. It would be more practical to deliver a topping-up benefit separately. Topping up in this way would depend on proof of entitlement to the benefit being topped up. Child Benefit could be topped up by asking claimants for their Child Benefit number or for other proof of the presence of a child; State Pension, by asking for proof that a State Pension is in payment or of age and residence. (It would be much more difficult to top up a benefit like Universal Credit on this model, because of the rapidly fluctuating entitlements.)

13. Topping up of reserved benefits is subject to two key rules, though neither of these has been included directly in the Scotland Bill. The first is the 'no detriment' principle, which means that actions taken by one government should not have the effect of exporting expenses to another. The examples given in the White Paper, *An enduring settlement*, refer to passporting and Vehicle Excise Duty (para 2.4.16); this suggests a complex and potentially pettyfoggling system of cross-charging. The second principle is that "Any new benefits or discretionary payments introduced by the Scottish Parliament must provide additional income for a recipient and not result in an automatic offsetting reduction in their entitlement to other benefits or post-tax earnings." (*Smith*, para 55)

14. There is no certainty as to how these principles would be interpreted in practice, but they do seem to offer the scope to undertake major changes in the delivery of benefits and services. One small example, considered above in paragraph 9, would be to offer extra support to benefit claimants seeking employment. The examples given in paragraph 12, of Child Benefit and State Pension, are much more radical. The 'discretionary' nature of payments under s.21 of the Scotland Bill would not

preclude regular payments (compare the use of discretion in the former Supplementary Benefit scheme).

15. In the case of Child Benefit, it would be open to the Scottish Government substantially to increase its value. Child Benefit in Scotland cost £926m in 2012/13. A 50% increase would cost about £465 million. Child Benefit does not affect other benefits and has no disincentive effect related to transitions to work. Taken in tandem with the substantial increases forthcoming in the minimum wage, this could reduce child poverty.

16. With a sufficiently large increase, it would also be possible to consider different treatment of Child Benefit in the Scottish tax system. Child Benefit is not taxed for most recipients, with the exception of higher-rate taxpayers who have it clawed back in its entirety. Making all Child Benefit taxable would mean that families with incomes above the tax threshold would gain less than families below it, and so that the benefits will be targeted more on lower incomes. The net cost of a 50% increase in Child Benefit, worth 20% to those who were taxed and 50% to those who were not, should then be in the region of £325m rather than £465m; a 25% increase in Child Benefit should cost about £115m. This does not violate the principle of adding value, or the principle of no detriment, because no family would actually receive less money than they presently get from the UK government. However, any increase in the value of Child Benefit would have to be at least 25%, or the conditions would not be satisfied. (That is because, assuming a 20% basic tax rate,  $125\% - [20\% \text{ of } 125\%] = 100\%$ .)

17. In relation to pensions, the UK government has decided to maintain a contributory principle, and to pay Pension Credit to those pensioners whose work record is insufficient to make up a full State Pension. Pension Credit is complex and confusing; one might also note that nearly 5% of Pension Credit payments are currently [made in error](#) and that it [fails to reach](#) something in the region of 35% of all the people it is intended for. Within the limits of the Scotland Bill, Scotland could introduce a Citizens' Pension for all, payable on the basis of age and residence, deducting only the entitlement to State Pension. The approach has been pioneered in New Zealand through their '[Superannuation](#)' scheme. This extra income would immediately mean that most people would not then be entitled to the means-tested Pensions Credit, and under the no-detriment principle, Scotland could then reclaim that money from the UK government. The cost of such a scheme would be the difference between the amounts paid to top up the basic pension for all and the reduction in entitlement to Pension Credit. The costs could be substantial, and are difficult to predict, because several hundred thousand pensioners in the UK, and probably more than 50,000 in Scotland, do not currently receive the means-tested benefits they are entitled to. The advantage of a Citizens Pension would be improved coverage, enhanced dignity, and a reduction in bureaucratic intrusion.

18. *The delivery of benefits overall.* Benefit service delivery is currently the subject of a review by the House of Commons Work and Pensions Committee. They have pointed to problems of delays and underpayment. The reservations mean that the potential role of the Scottish Parliament is limited, but there may be some scope for

mitigating some of the delivery problems. Examples might include PO boxes for claimants, welfare rights support, and computer access including scanning, photocopying and document certification. In France and Belgium, local authority centres (*Centres communaux d'action sociale*) prepare and verify benefit claims, for which by agreement they are paid a fee by the benefits authorities. This could be extended to trusted third sector providers.

19. All public agencies are subject ultimately to judicial review of administrative action, but recourse can only be given when other mechanisms have been exhausted. The effect of recent reductions in service users' rights in social security, including Mandatory Reconsideration, is not to deny rights of review, but to alter the balance between internal review and judicial intervention. Action to remedy administrative delay, misjudgement or maladministration is not a reserved matter. It should not be beyond Scots Law (and so the powers of the Scottish Parliament) to offer enhanced methods of redress, making timeous and effective legal intervention more accessible.

## Annexe B

- [Aberdeen City \(128KB pdf\)](#)
- [Aberdeenshire Council \(131KB pdf\)](#)
- [Aberlour \(185KB pdf\)](#)
- [Action for M.E. \(187KB pdf\)](#)
- [Age Scotland \(160KB pdf\)](#)
- [Age Scotland - supplementary submission \(168KB pdf\)](#)
- [Alzheimer Scotland \(330KB pdf\)](#)
- [Angus Council \(150KB pdf\)](#)
- [Anonymous written submission 1 \(11KB pdf\)](#)
- [Anonymous written submission 2 \(87KB pdf\)](#)
- [Anonymous written submission 3 \(65KB pdf\)](#)
- [Argyll & Bute Council \(205KB pdf\)](#)
- [Barnardo's Scotland \(222KB pdf\)](#)
- [Butterfly Trust \(70KB pdf\)](#)
- [Carers Scotland \(215KB pdf\)](#)
- [Carers Trust Scotland \(371KB pdf\)](#)
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- [Chartered Institute of Housing \(CIH\) \(296KB pdf\)](#)
- [Children 1st \(163KB pdf\)](#)
- [Citizen's Advice Scotland \(CAS\) \(399KB pdf\)](#)
- [Citizen's Advice Scotland - supplementary submission \(1067KB pdf\)](#)
- [Claire Schiavone \(81KB pdf\)](#)
- [Close the Gap \(255KB pdf\)](#)
- [Cornerstone \(69KB pdf\)](#)
- [COSLA \(157KB pdf\)](#)
- [COSLA - supplementary submission \(151KB pdf\)](#)
- [CPAG Scotland \(464KB pdf\)](#)
- [Crisis \(113KB pdf\)](#)
- [Dundee City Council \(277KB pdf\)](#)
- [East Ayrshire CPP \(135KB pdf\)](#)
- [East Dunbartonshire Council \(128KB pdf\)](#)
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- [Employment Support Scotland \(218Kb pdf\)](#)

- [ENABLE Scotland \(210 KB pdf\)](#)
- [Falkirk Council \(185KB pdf\)](#)
- [Glasgow Council of Voluntary Services \(268KB pdf\)](#)
- [Health and Social Care Alliance Scotland \(214KB pdf\)](#)
- [Highland Council \(258KB pdf\)](#)
- [Horizon Housing Association and Blackwood Care Home \(88KB pdf\)](#)
- [Housing Support Enabling Unit & Coalition of Care Providers Scotland \(379KB pdf\)](#)
- [Ian Wallace \(6KB pdf\)](#)
- [Inclusion Scotland \(372KB pdf\)](#)
- [Inclusion Scotland - supplementary \(279KB pdf\)](#)
- [Ingeus \(89KB pdf\)](#)
- [Inverclyde Health and Social Care Partnership \(138KB pdf\)](#)
- [Jennie Kermode \(136KB pdf\)](#)
- [John Cunningham \(73KB pdf\)](#)
- [Joseph Rowntree Foundation \(JRF\) \(235KB pdf\)](#)
- [Lesley McDade \(106KB pdf\)](#)
- [Louise Smith \(73KB pdf\)](#)
- [Low Income Tax Reform Group \(174KB pdf\)](#)
- [Macmillan Cancer Support \(66KB pdf\)](#)
- [Marie Curie \(162KB pdf\)](#)
- [Maternity Action \(92KB pdf\)](#)
- [MND Scotland \(175KB pdf\)](#)
- [Moray Council \(299KB pdf\)](#)
- [MS Society \(111KB pdf\)](#)
- [Mydex CIC \(147KB pdf\)](#)
- [National Deaf Children's Society \(213KB pdf\)](#)
- [NHS Lanarkshire \(181KB pdf\)](#)
- [Norman Gray \(70KB pdf\)](#)
- [North Ayrshire Council \(159KB pdf\)](#)
- [North Lanarkshire Council \(154KB pdf\)](#)
- [One Parent Families Scotland \(458KB pdf\)](#)
- [One Parent Families Scotland - supplementary \(649KB pdf\)](#)
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- [Perth & Kinross Council \(298KB pdf\)](#)
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- [Reed in Partnership \(33KB pdf\)](#)
- [Renfrewshire Council \(172KB pdf\)](#)
- [Rights Advice Scotland \(153KB pdf\)](#)
- [Salvation Army \(162KB pdf\)](#)
- [Scottish Association of Mental Health \(SAMH\) \(294KB pdf\)](#)
- [Scottish Association of Mental Health \(SAMH\) - supplementary \(141KB pdf\)](#)
- [Scottish Borders Council \(133KB pdf\)](#)
- [Scottish Women's Convention \(134KB pdf\)](#)
- [Scottish Council Voluntary Organisations \(SCVO\) \(393KB pdf\)](#)
- [Scottish Disability Equality Forum \(141KB pdf\)](#)
- [Scottish Federation of Housing Associations \(SFHA\) \(173KB pdf\)](#)
- [Shaw Trust \(288KB pdf\)](#)
- [Shelter Scotland \(78KB pdf\)](#)
- [Shetland Islands Council \(82KB pdf\)](#)
- [Social Work Scotland \(177KB pdf\)](#)
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