



## WELFARE REFORM COMMITTEE

### AGENDA

**17th Meeting, 2015 (Session 4)**

**Tuesday 6 October 2015**

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

1. **Decision on taking business in private:** The Committee will decide whether to take item 3 in private.
2. **Future Delivery of Social Security in Scotland:** The Committee will take evidence from—

Ashley Campbell, Policy Manager, Chartered Institute of Housing;

Allan Gunn, Head of Revenues and Business Support, The Highland Council;

Jeremy Hewer, Policy Adviser, Scottish Federation of Housing Associations;

Julie Hunter, Housing Strategy Manager, North Lanarkshire Council, ALACHO;

Mandy Morrison, Operational Manager, Quarriers;

Jules Oldham, National Policy & Practice Coordinator, Homeless Action Scotland;

and then from—

Mark Ballard, Head of Policy, Barnardo's Scotland;

John Dickie, Director, Child Poverty Action Group in Scotland;

Keith Dryburgh, Policy Manager, Citizens Advice Scotland;

Maggie Kelly, Consultant Policy Advisor, One Parent Families Scotland;

Peter Kelly, Director, The Poverty Alliance;

Alison McLaughlin, Money Adviser, Children 1st.

3. **Work programme:** The Committee will consider its work programme.
4. **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 2**


SPICe Briefing on Universal Credit and Discretionary Housing Payments WR/S4/15/17/1

Evidence Summary and Written Submissions WR/S4/15/17/2

SPICe Briefing on the Smith Commission and the Scotland Bill WR/S4/15/17/3

**Agenda Item 3**

PRIVATE PAPER WR/S4/15/17/4 (P)

Agenda item 1		WR/S4/15/17/1
06 October 2014		

## **Benefits / Powers to Be Devolved**

### **Universal Credit & DHPs**

1. This paper provides an overview of the UC and discretionary housing payments which the Smith Commission proposed Scotland would have some, or all powers over.

#### **UNIVERSAL CREDIT**

2. The most significant part of the UK Government's welfare reform agenda is the introduction of Universal Credit (UC). UC is a means tested benefit for working age people who are unable to work, unemployed or in low-paid work. It will replace six existing working age benefits
  - Income support
  - Income based Jobseekers Allowance
  - Housing Benefit
  - Child Tax Credit
  - Working Tax Credit
  - Income based Employment and Support Allowance
3. The aim of UC is to simplify the benefits system and improve work incentives.

#### **Implementation of UC**

4. UC is being implemented on a phased basis, starting with "simple" claims i.e. new claims from single people without children, in selected pathfinder areas in April 2013.
5. The process of rolling out UC to all parts of the country is currently taking place, mostly still for "simple" claims. Claimants have to meet certain "gateway conditions" to receive UC. But if a claimants circumstances change after starting UC they will still stay on the benefit.
6. To date, most UC cases come under the 'live service'. This is the approach which has involved DWP staff in helping claimants through the process of claiming the benefit and then reporting changes of circumstances once an

award has been made. At the same time, a digital service is being developed and tested. The aim is that this 'digital service' will catch up and then overtake the live service.

7. The area covered by the Inverness Job Centre was the first area in Scotland where UC could be claimed and expansion in other areas of Scotland began in January 2015. As at August 2015 there were around 11,850 UC claimants in Scotland<sup>1</sup>.
8. The DWP expects that the last new claims for legacy benefits will be accepted in 2017 with the bulk of existing legacy benefit claimants being migrated to UC by 2019. Once fully implemented around 700,000 households in Scotland are expected to receive UC<sup>2</sup>.

### **Calculation of UC**

9. **Under UC, each claimant has a “standard allowance” to which other elements are added depending on household circumstances.** The additional elements consist of amounts for children, childcare costs, housing costs, limited capability for work and caring for a severely disabled person. **All the elements will add up to the maximum UC award, but how much a claimant will receive will depend on their earned and unearned income.**
10. Every £1 of earned income above the claimant's work allowance will reduce the UC award by 65p (i.e. a taper rate of 65%). In many cases, this single taper rate of 65% will be an improvement for existing benefits claimants who could face higher combined tapers from a number of existing benefits. This lower taper rate is expected to help improve work incentives.
11. Unearned income, for example, through certain benefits or an occupational pension, will normally reduce the UC award pound for pound.

### **Conditionality**

12. The introduction of UC is supported by a new conditionality framework. To receive UC, claimants must sign a 'Claimant Commitment'. This will set out what the claimant has agreed to do to prepare for and look for work, or to increase earnings. **Failure to comply with a 'Claimant Commitment' could result in a sanction and a reduction in UC award.** Eventually, UC will include “in-work” conditionality which means that claimants earning below a “conditionality threshold” will have to prepare, look and be available for more or better paid work.

### **The Housing Element**

13. The housing element of UC provides support for claimants in rented accommodation and owner-occupiers. The Scotland Bill provisions only apply

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<sup>1</sup> DWP [Data tables: Universal Credit: monthly experimental official statistics to 3 September 2015](#)

<sup>2</sup> HC DB 14 May 2013 c198w

to the housing costs for rented accommodation so the rest this section focuses on this element.

14. Briefly, where a claimant is liable to pay rent, their level of assistance will be calculated with reference to their household size and circumstances in addition to the actual rent level charged.<sup>3</sup>
15. Changes to Housing Benefit entitlement introduced prior to the implementation of UC such as the “bedroom tax” in the social rented sector, the national caps on Local Housing Allowance (LHA) entitlement, calculating LHA based on the 30th percentile of market rents and the household benefit cap, are being ‘carried over’ and will also apply to claims for the housing element of UC. LHA refers to the system of housing support for private sector tenants.
16. While in general the existing rules regarding payment of housing benefit there are some differences within UC. These are detailed in the House of Commons Library Briefing [\*The Housing Element of Universal Credit\*](#).
17. Differences include the fact that certain types of supported accommodation (known as ‘specified accommodation’ will be treated outwith the UC framework. The current system of non-dependent deductions which vary according to the non-dependents age and income is also replaced with a flat rate housing costs contribution.

### **Payment of the Housing Element**

18. The default position is that the housing element of Universal Credit is paid directly to the tenant as a monthly household payment. Under the current system of Housing Benefit administered by councils on behalf of DWP, tenants of housing associations generally mandate payments direct to their landlord. Council tenants currently have their Housing Benefit calculated by the council on behalf of DWP and automatically paid to the council as landlord.
19. The UK Government has set up arrangements for Alternative Payment Arrangements to be made in exceptional circumstances (as outlined in guidance<sup>4</sup>). Direct payments can be made to the landlord if the tenant/claimant has arrears in excess of two month’s rent or the DWP decision maker deems the person to be vulnerable and unable to manage payments to the landlord.

### **The UK Summer Budget 2015**

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<sup>3</sup> Detailed provisions setting out how housing costs will be calculated under UC are contained in Regulations 25 and 26 together with Schedules 1-5 of the *Universal Credit Regulations 2013*.

<sup>4</sup> Personal Budgeting Support and Alternative Payment Arrangements  
[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)

20. As part of the Summer Budget 2015, the UK Government announced some changes to UC including. Of particular relevance to the housing element are:

- From April 2017 those out of **work aged 18 to 21 making new claims to Universal Credit will no longer be automatically entitled to the housing element**. Parents whose children live with them, vulnerable groups, and those who were living independently and working continuously for the preceding 6 months will be exempt from this measure.
- **Lowering the household benefit cap** – The government will lower the household benefit cap, which caps the amount of benefits out-of-work working-age families can receive, to £20,000 (from £26,000), except in Greater London where the cap will be £23,000. The cap works by reducing housing costs support.

### Payment of Universal Credit Award

21. The default position is that Universal Credit is made as a single monthly household payment. The Alternative Payment Arrangements allow, in exceptional circumstances, more frequent than monthly payments or a split payment of an award between partners.

### Discretionary Housing Payments

22. Local authorities can make discretionary housing payments (DHPs) to individuals:

- entitled to Housing Benefit, or Universal Credit that includes a housing costs element for rent payments
- and require further financial assistance with housing costs

Local authorities have discretion to pay DHPs, how financial hardship is assessed, the amount that is paid (within certain limits) and how long the payments are made for. The relevant regulations are the *Discretionary Financial Assistance Regulations 2001 [SI 2001/1167]*<sup>5</sup>. Local authorities must also take DWP [guidance](#), (2014) into account.

### Funding of DHPs

23. The DWP provides local authorities with funding for DHPs. From 2011, it substantially increased this funding to help tenants cope with welfare reforms.

24. Local authorities can “top up” their DHP allocation from their own funds. In September 2013, the Scottish Government announced it would provide £20m to local authorities top up their funds with the explicit policy intention of mitigating the impact of the bedroom tax. At that time, £20m was the maximum that the UK Government allocations could be topped up by, as

<sup>5</sup> Made under sections 140B(1), 140C(1) and (4) and 189(4) to (6) of the Social Security Administration Act 1992, and section 70 of the Child Support, Pensions and Social Security Act 2000

legislation capped total DHP spending to 2.5 the UK Government's contribution.<sup>6</sup>

25. In February 2014, Nicola Sturgeon MSP asked the UK Government the DWP lift the legislative cap on DHP spending to allow the Scottish Government to provide additional funding to fully mitigate the impact of the bedroom tax.
26. On 2 May 2014, the UK Government agreed to transfer the order making powers to set the spending limit on DHPs to the Scottish Government.<sup>7</sup> Following the transfer of powers, the Scottish Government laid a further order which removed the cap on DHP spending in Scotland altogether.<sup>8</sup>
27. With the removal of the cap on spending the Scottish Government increased their DHP allocation to £35m<sup>9</sup> in 2014-15 and 2-15-16. The same amount was allocated for 2015-16. As Table 1 shows, total funding in Scotland in 2014-15 and 2015-16 is around £50m.

**Table 1: Scottish DHP Budget 2013-14 to 2015-16,<sup>10</sup> £m**

	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
<b>DWP</b>	15	15.2	<b>13.3</b>
<b>Scottish Government</b>	20	35	<b>35</b>
<b>Total</b>	<b>35m</b>	<b>50.2m</b>	<b>48.3m</b>

28. The Scottish Government consider that this is a sufficient amount to mitigate the impact of the bedroom tax. They expect that every tenant affected by the bedroom tax<sup>11</sup> should receive, on application to their local authority, a DHP cover their bedroom tax reduction in 2015-16. As at May 2015, 72,026 people in Scotland are affected by the Bedroom Tax, losing on average £12.08 per week.

<sup>6</sup> Article 7 of The Discretionary Housing Payment (Grants) Order 2001), made under section 70(3)(a) of the Child Support, Pensions and Social Security Act 2000

<sup>7</sup> The powers were transferred by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2014](#) The Order came into force on 5 November 2014

<sup>8</sup> the *Discretionary Housing Payments (Limit on Total Expenditure) Revocation (Scotland) Order 2014* in the Scottish Parliament on 10<sup>th</sup> November 2014 removing the cap on DHP spending in Scotland altogether.

<sup>9</sup> The Scottish Government had already issued a "letter of comfort" to local authorities while the relevant powers were being devolved allowing them to spend up to £35m)

<sup>10</sup> The DWP 2015-16 allocations are set out in [HB Subsidy Circular S1/2015: Discretionary Housing Payments government contribution for tax year 2015 to 2016](#).

<sup>11</sup> And entitled to a DHP



29. The Committee has previously heard evidence<sup>12</sup> about the use of DHPs. Stakeholders have generally been positive about the Scottish Government's funding for DHPs. The evidence suggested that the majority of tenants affected by the bedroom tax were receiving a DHP. Tenants need to apply to their local authority for a DHP – a minority of tenants were not engaging with their local authority despite efforts by staff to contact all those affected by the bedroom tax.
30. Witnesses did express some concerns about the workload in administering DHPs and the future funding of DHPs. Evidence also suggested that some people have “slipped off” housing benefit and no longer receive it because their bedroom tax reduction was more than the benefit they were receiving. This means they will not be able to receive a DHP to cover their bedroom tax, as tenants must be eligible for housing benefit to receive a DHP.

### Statistics

31. The Scottish Government publishes statistics on DHPs in Scotland. The latest [statistics](#) published in August 2015 show that in Scotland, between 1 April and 30 June 2015. The total value of awards spent or committed across Scotland was £40.5 million. Local authorities have different procedures for administering and paying DHPs.
32. DWP statistics<sup>13</sup> for the year 2014-15 shows that in Scotland the majority of DHP spend in Scotland (84%) was made to help tenants meet a shortfall in rent caused by the bedroom tax. Only 7% of spend was unrelated to a welfare reform.

Kate Berry  
SPICe  
30 September 2015

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<sup>12</sup> As part of its [inquiry](#) into the bedroom tax. A further evidence session with stakeholders was held on 19 May 2015, after the removal of the spending cap on DHPs

<sup>13</sup> DWP (2015) *Use of Discretionary Housing Payments GB - Analysis of End of Year Returns from Local Authorities April 2014 - March 2015*. Scottish Government. Edinburgh. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/437116/use-of-discretionary-housing-payments-2014-15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437116/use-of-discretionary-housing-payments-2014-15.pdf)

**Welfare Reform Committee**  
**17<sup>th</sup> Meeting, 2015 (Session 4), Tuesday 06 October 2015**  
**The Future Delivery of Social Security in Scotland**  
**Evidence summary and submissions**

**Background**

1. Today is the third day of oral evidence in the Committee's inquiry into the 'Future Delivery of Social Security in Scotland'.
2. The Committee decided it would tackle this inquiry in four workstreams and wants to know:

**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
- b.) Universal Credit (housing element and administrative arrangements arrangements) and Discretionary Housing Payments
- c.) the Work Programme and Work Choice
- d.) the Regulated Social Fund, new benefits, top-ups and delivery of benefits overall.

Under these workstreams the Committee decided it would particularly welcome:

- I. Practical suggestions to ensure that the principles of dignity, respect, support, equality and common sense are embedded in the new system.
- II. Views on the integration of Scottish devolved benefits with existing devolved powers and any unintended consequences of changes.
- III. Systems of intergovernmental working in relation to benefit delivery

**Today's Session**

3. Today's session will focus on Universal Credit (housing element), Discretionary Housing Payment, top ups and new benefits.
4. Annexe A contains a SPICe evidence summary on these policy areas.
5. Annexe B contains the written submissions from the following witnesses who will appear before you today. (Some witnesses have not submitted written evidence.)

Panel 1

- I. CIH
- II. Highland Council
- III. Quarriers
- IV. SFHA

Panel 2

- V. Barnardo's Scotland
- VI. Child Poverty Action Group in Scotland
- VII. Children 1<sup>st</sup>
- VIII. Citizens Advice Scotland
- IX. One Parent Families Scotland
- X. The Poverty Alliance

6. Annexe C contains hyperlinks to all evidence submissions received to date.

Heather Lyall  
Welfare Reform Committee  
30 September 2015

## Annexe A



### Welfare Reform Committee

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

#### Summary of Evidence on Universal Credit, Discretionary Payments, Top-Ups and New Benefits

### Introduction

This paper summarises the written evidence received on Universal Credit, Discretionary Payments, Top-ups and New Benefits.

### Universal Credit (UC) – the Housing Element

The Smith Commission recommended that the Scottish Parliament will have the power to vary the housing cost elements of UC, including varying the under-occupancy charge and local housing allowance rates, eligible rent, and deductions for non-dependents.” The Scotland Bill provides for these powers in relation to rented accommodation.

### Bedroom Tax

Many comments were made suggesting that the Scottish Government should use the powers to abolish the bedroom tax (e.g SFHA, Prospect Community Housing, Citizens Advice Scotland (CAS), CIH, Shelter (Scotland) North Lanarkshire Council).

The Scottish Government is currently using DHPs to mitigate the impact of the bedroom tax. Comment was made to suggest that this should be a temporary measure because it is administratively costly and complex and has obscured its other uses, for example for tenants in the private rented sector (eg SFHA, Highland Council).

Crisis said that if it was not financially viable to use the powers to abolish the bedroom tax then the powers should be used to extend exemptions to the bedroom tax, for example, to parents who have non-resident children staying with them occasionally.

## **Local Housing Allowance (LHA)**

The LHA is used to work out the maximum housing element payable for tenants who rent privately. Very briefly, a LHA rate is set for each size of property in each 18 Broad Market Rental Areas in Scotland. The LHA rate is set at the 30<sup>th</sup> percentile of rents in the area (the UK Government reduced this from the 50<sup>th</sup> percentile of rents in the area).

Some general comment was made about the level of support the housing element of UC provides to private tenants. One Parent Families Scotland (OPFS) and the Child Poverty Action Group (CPAG) both suggested that recent changes have meant that for many families private sector accommodation has become increasingly unaffordable for tenants.

CPAG suggested that the Scottish Government should examine how it can ensure that the housing element of UC reflects real rents in the private sector. OPFS said that there is an urgent need to increase support for families via the housing element of universal credit.

Shelter (Scotland) recommended that the Scottish Government review the affordability of the private rented sector in light of changes made to the LHA. They suggested the Scottish Government should carry out detailed modelling of how this will affect Scottish private renters and consider whether it is in a position to roll back the changes to LHA or increase discretionary housing payments. This would increase the percentage of the private rented accommodation that is affordable to people claiming LHA.

CPAG highlighted that the design of the LHA system limits the number of bedrooms tenants are entitled to, rather than the number of bedrooms they need, in the same ways the bedroom tax does for those in social housing. They argue that the Scottish Government should take steps to ensure that parents with shared care of children receive enough LHA to sustain a tenancy big enough for them to keep a room free for their child (or children).

### *LHA rates*

Crisis notes that the UK Government has broken the link between actual rents and the support available for housing costs, with LHA rate increases now capped at one per cent (as opposed to reflecting the market increase). The current UK Work and Welfare Bill will introduce a freeze on LHA for the next four years. They suggest the Scottish Government could use the power to allow scope to vary LHA rates across Scotland so that they are more responsive to local housing markets. This would help ensure benefit claimants can access a range of property in high rent areas, and that public funds are protected in lower rent areas.

### *Shared Accommodation Rate*

Some younger tenants in private rented accommodation will be affected by the shared accommodation rate (SAR). This limits housing benefit to the cost of rent in

shared, rather than self-contained, property. Prior to 2011 the SAR applied to people under the age of 25. This was then extended to people under the age of 35.

Crisis argues that for many young people sharing is simply an unsuitable option because of their personal circumstances. They recommend that, as a minimum, the current list of exemptions to the policy should be extended by the Scottish Government to include, for example, high risk offenders under the age of 25 (high risk offenders over this age are currently exempt, care leavers over the age of 22 (care leavers aged 22 or under are currently exempt,) and parents with non-resident children. They argue that the Scottish Government should consider lowering the age of the SAR once again, and ensure that the above groups are exempt.

### **Service Charges and Adaptations**

A number of respondents (e.g. Housing Support Enabling Unit and Coalition of Care Providers Scotland (HSEU and CCPS), Horizon Housing Association and Blackwood Homes and Care (HHABHC) refer to the way the housing element of UC does not include service charges for maintaining and servicing property adaptations such as hoists and stair lifts.

These service charges are currently eligible under the current housing benefit system. The UK Government has argued that other systems are designed to pay for these charges. But, HHABHC's response states that, "the DWP has however been unable to advise which other systems are designed to pay for a landlord's costs". They argue that the maintenance of adaptations are crucial to a tenant continuing to live in the house and are indisputably housing costs. They estimate that around 682 of their tenants would be affected by this omission and individuals would lose between £7 and £26 per week depending on the type and number of installed adaptations.

HSEU and CCPS and HHABHC argue that the Scottish Parliament should amend the housing element of UC to provide that maintenance costs for adaptations to be included as an eligible charge. In the event that the Universal Credit eligibility cannot be amended under devolved powers, HHABHC suggest that the provisions for Discretionary Housing Payments (DHPs) in Scotland be improved to clearly state that these can be used to support ancillary housing costs for disabled people.

### **Local authority temporary accommodation**

HSEU and CCPS refers to the fact that under UC the eligible rent for (LA) temporary accommodation is restricted to Local Housing Allowance rates plus £45 management charge. Currently, the management charge is covered through DHP because legislation is not in place to allow UC to cover the cost. There is concern that this situation is not sustainable because DHP is not an entitlement and is cash limited so is not a guaranteed way of covering the housing costs of vulnerable homeless people. This could lead to repeat homelessness presentations and/ or further pressure on other types of supported housing (i.e. Specified Accommodation) which is not subject to the UC system.

North Lanarkshire Council also referred to the potentially “catastrophic” treatment of temporary homeless accommodation. They said, “The link between costs and benefits in respect of this particular type of accommodation will be dismantled under UC and the significant reductions in financial assistance to meet this higher cost accommodation, will lead to a drop in quality standards over time.”

### **Non – dependent deductions**

Currently, a UC claimant’s housing element is reduced if they have “non-dependents” (e.g. adult children) living with them, although there are some exemptions to non-dependent deductions. Under UC, the non-dependent deduction (referred to as the housing costs contribution) is a flat rate of £68.37 per non-dependent per month. For those currently on housing benefit non-dependent deductions vary depending on the age and income of the non-dependent.

Inverclyde Health and Social Care Partnership said that the powers to vary the housing element of UC could be used to introduce further categories of non – dependent deduction exemptions, for example, people in receipt of Industrial Injuries Disablement Benefits.

The Glasgow Council for the Voluntary Sector acknowledged that a flat rate may be beneficial, for example for those who live with a non-dependent who will not disclose their income - housing costs can be processed without waiting for income disclosures or using estimates. As such, they advocated Scotland keep a flat rate of non-dependent deduction but also suggested a review and revision of the charge as the rate of £68.37 is higher than the current minimum non-dependent deduction under housing benefit. They also encouraged Scottish Ministers to scrap non-dependent deductions when the non-dependent has no income.

South Lanarkshire Council said the extent to which the non-dependent deduction can be varied requires clarification, but any power to vary this to a fairer system would be welcomed.

### **18-21 year olds**

The UK Government has announced that housing costs support for 18-21 year olds will be removed from UC.

Crisis point out that it is not yet clear how the Government intends to do this. They suggest it is likely to be a part of the basic eligibility for the benefit and therefore reserved to Westminster. However it is possible that exemptions to this new policy will be set out in regulations. Depending on what primary legislation is used to give force to the regulations, they may then come within the power of the Scottish Parliament.

Crisis is currently working with the DWP to develop a list of exemptions that will ensure Housing Cost support remains targeted at vulnerable young people to prevent homelessness. These include, those currently living in homeless accommodation or who have formerly been homeless as young adults and those without family or who have experienced relationship breakdown with their parents.

## Link to Minimum Standards

CRISIS also suggests that housing subsidy should be linked to the property meeting minimum standards. They said that in England Rent Repayment Orders can be used by tenants to reclaim rent where a property does not meet certain criteria, such as Houses of Multiple Occupation licensing criteria. Most often they are used by local authorities to reclaim housing benefit. A similar system could be developed in Scotland where properties fail to meet minimum criteria, such as the Repairing Standard, other licensing requirements or minimum energy efficiency standards.

## Administration Issues

Inverclyde Health and Social Care Partnership said that the costs of developing and supporting a bespoke Scottish UC claim IT system to allow the flexibility to meet the market rents of LHA and the removal of the bedroom tax may be considerable or even prohibitive. They suggest an alternative, and perhaps less expensive option, of introducing a local dimension to the administration of the Housing Element of UC by local authorities utilising skills and enhancing IT systems such as ATLAS, already in place.

Local authorities could be informed of UC entitlement and assess housing costs taking account of the additional powers then either notify DWP of the value to be included within the UC payment or award as DHP. This would incur development and support costs in respect of ATLAS and on-going operational costs for local authorities.

## Direct Payment of the Housing Element

The default position is that the housing element of UC is paid directly to the tenant. Direct payments can be made to the landlord if the tenant/claimant has arrears in excess of two month's rent or the DWP decision maker deems the person to be vulnerable and unable to manage payments to the landlord (in line with the guidance on Alternative Payment Arrangements).

The Scottish Government has said that it wants payment of the housing element of UC to be made direct to landlords, for all new UC claims, where the claimant is renting from a social landlord<sup>1</sup>.

Amongst the evidence there was a consensus that direct payment of the housing element of UC to the tenant should not be the default position. Many highlighted concerns for households who may find it difficult to cope with budgeting (e.g. CAS). COSLA said that their members have been concerned that monthly direct payments of UC would result in significant numbers of tenants falling into debt and increased rent arrears to social landlords affecting their cash flow and access to affordable capital.

<sup>1</sup> [Scottish Government New Benefits for Scotland. News Release 12 August 2015](#)



A number of respondents (eg CPAG, SFHA, Castle Rock Edinvar, Rights Advice Network) suggested that tenants should be able to choose direct payments to landlords. Prospect Community Housing said that direct payments to landlords should be the default position.

Falkirk Council said that if the housing element cannot automatically be paid to the landlord for all social tenant claimants then it should be the default option for claimants. If a tenant requests the Housing Cost element be paid to them, that should be authorised only where the DWP have confirmation from the landlord of that tenants' payment history and current account balance.

CIH (Scotland) recommended that that housing element should be paid to landlords as standard in cases involving tenants who are known to have difficulty managing money. All other UC claimants should be given the choice as to whether they want to receive the payments directly or if they would like housing costs to be paid to their landlord. They argued that this option will protect tenants who are unlikely to be able to cope with managing a household budget while ensuring that others are encouraged to take responsibility for their finances even if their decision ultimately results in payments being made directly to the landlord. Landlords will still have the security of being able to request an alternative payment arrangement for tenants who decide to receive their housing costs but subsequently fall into arrears landlord of that tenants' payment history and current account balance

### *Private Tenants*

CPAG said that in relation to private sector tenants the choice to receive the housing element will be particularly important as tenants 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.

### *Administration*

A note of caution about direct payments to landlords was sounded by North Ayrshire Council. They said that to implement and administer direct payments will require fundamental changes to DWP systems. DWP has an Alternative Payment Arrangement facility in place to pay the Housing Element direct to landlords but this comes after the calculation of the Housing Element and both processes would need to be harmonised. There is a risk that changes in tenancy and tenants moving on and off UC could result in underpayments and overpayments of the Housing Element increasing administration complexity.

Falkirk Council also made the point that sufficient funding needs to be provided to enable robust management of rent accounts to identify at the earliest stage where a problem may exist or be getting worse and to ensure that local resources are available to support tenants who fall into difficulties with paying their rent.

## Frequency of UC Payments

UC is a monthly payment. Currently many benefit payments are made bi-monthly. The Scottish Government has said it wants claimants to be given the choice of having their payments made twice a month rather than once a month.<sup>2</sup>

Many respondents were supportive of allowing UC claimants to have their benefit paid more frequently than monthly (e.g. CAS, CIH, One Parent Families Scotland, Policy Scotland Welfare Reform Network).

The Glasgow Council for Voluntary Sector said that evidence shows that most people cycle on and off social security benefits and that many of these people cycle into low skilled, low paid jobs where wages are paid weekly or fortnightly, not on a monthly basis. They did not support the premise that paying UC on a monthly basis will help people who are moving into work get used to budgeting in this way. Similarly, CAS said that some CAB clients are already struggling with fortnightly payments and will be even more severely affected by having to manage on a single monthly sum.

Where comment was made, most respondents suggested bi-monthly payments should be the norm. Policy Scotland Welfare Reform Network said that weekly benefit payments should be made.

CAS was inclined to recommend that the Scottish Government use its powers to pay UC to claimants more frequently. However they are surveying their 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. They will be able to provide more evidence once this is complete in early October.

### *Practical Concerns*

Some respondents highlighted practical concerns that may arise with the payment of UC on a more frequent basis. CIH said that they understood it was the Scottish Government's intention to offer UC claimants the option of receiving two payments per month rather than one. They said that while this might help claimants to budget they raised a difficulty due to the waiting time for UC to be paid. It was their understanding that if a tenant does choose to receive payments twice monthly, they will face a waiting period of around six weeks after which they will only receive half of their payment, the other half being made the following fortnight. This could cause difficulties so tenants would need to be aware of payment waiting times if they are offered the choice of more frequent payments.

COSLA also raised the issue of waiting periods for benefit payments and are now "less convinced" that bi-monthly payments will assist claimants. For bi-monthly payments they had hoped that the first payment would be for the month, and then the second and following payments would be the half month in arrears. Discussions

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<sup>2</sup> [Scottish Government New Benefits for Scotland. News Release 12 August 2015](#)

on the matter are continuing with the DWP. COSLA suggested that the facility of bi-monthly payments should only be a default position if this is sorted out. Otherwise it should be a promoted option.

North Ayrshire Council also said that careful consideration is required to adjust the frequency of payments without creating administration difficulties and affecting the income of customer.

Professor Paul Spicker suggested that using the powers to vary the timing and frequency of the payment of UC may be difficult partly because changes require the co-operation of the UK Government and the cost may prove prohibitive, given the current administration costs which he says are estimated to reach £15.84 billion by 2021.

### **Split Household Payments**

The default position is that UC is paid as one single household payment, although in exceptional circumstances alternative payment arrangements can be made. The Scottish Parliament would have powers to vary who the UC payment is made to.

Concern has been raised about the default single household payment. 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. 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 (CAS).

Some respondents (e.g. CAS, CIH) suggested that there was as yet little evidence about the impact of single household payments or the practical implications of splitting household payments. 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 UC.

A number of respondents (e.g. Shelter Scotland) recommended that the Scottish Government should enable UC payments to be made to individuals where appropriate.

CIH (Scotland) said that the majority of their members who gave a view supported the right of joint applicants to choose whether to have their payment split or to receive one lump sum. However, some also pointed out that this could result in unintended consequences. For example, joint tenants are equally liable for the entire rent. If one partner pays their share of the rent, or more, and the other partner does not, they could both face court action. As there is little evidence about the impact of splitting payment and this option could potentially lead to the creation of a more complex system which would have to calculate total awards for some applicants and separate awards for others.

CIH argued that, to protect potential court action, if joint applicants were to be given the option to have their payments split and they choose to do so, the housing cost should be paid directly to their landlord with the other elements being split between

the parties. The splitting of the remaining amount must be carried out as per DWP guidance taking into account factors such as whether the claim includes an element for a child or dependent or an element for the care of a disabled person.

CAS's 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 survey will further inform their view on whether changes to the current system are necessary.

## **General UC Issues**

A number of respondents raised issues about the current administration and structure of UC which need to be considered, even though the Scotland Bill does not devolve powers to Scotland in these areas. Some of these issues have been summarised briefly below.

### *Administration issues*

At the moment housing benefit is administered by local authorities while UC is administered by the DWP. Some responses highlighted that social landlords currently have good relationships with housing benefit departments of local authorities which enables smooth application processes and effective information exchange to avoid errors and fraud (Prospect Community Housing, Moray Council). Prospect Community Housing were concerned that under UC they have little or no means of effective communication with the DWP. Comment was made about the need for close working between UC service centres and local authorities to ensure accurate processing and administration of benefit delivery (Prospect Community Housing HSEUCC).

Moray Council suggested that if direct payments were used extensively it would be cumbersome as there are no interfaces developed for automatic credit to rent accounts. Therefore, there is a risk of creating a complex two tier national system that has real potential to become a mess in Scotland, be inefficient for the customer and the local authority and costly for the Scottish Government in terms of adjusting the national system. They suggest that if this element of UC was devolved, it would make sense for either local authorities to make an assessment by verifying housing costs on behalf of the DWP as part of the UC process, or by removing housing costs completely from UC and negotiating with the UK Government a new welfare benefit structure.

UC is assessed on a monthly basis. It means that any change is treated as occurring from the beginning of the month, regardless of when it actually occurred. Highland Council argue that this can lead to "rough justice" for landlords. They give an example of a claimant moving to new accommodation just before the end of his/her assessment period. The new landlord will receive housing costs payment for the whole of the past assessment period and the previous landlord will not receive any payment. They argue that in reality this means that even with direct payments in place there are no guarantees that a landlord will receive a payment. Landlords require assurances they will receive the expected rent payments for tenants in their properties.

Glasgow Council for Voluntary Sector also give the example that if an individual moves from higher cost housing during the assessment period they will receive the housing costs for the less expensive property. This is potentially problematic for people moving from expensive temporary, emergency or supported accommodation, and also causes concern for the accommodation provider, who may find they receive no payment at all to their service. They advocate a review of this process to protect both the individual/family and the accommodation provider.

### *Structural Issues*

- Some respondents mentioned that 7 day waiting period that UC claimants have to wait before their claim is approved. This combined with the monthly in arrears payment means that claimants can wait 5 weeks for their payment
- Joseph Rowntree Foundation suggested that there could be potential for considering Council Tax within UC.
- From April 2016 under Universal Credit, home owners will only receive support with mortgage interest payments after a waiting period of 39 weeks rather than the current 13 weeks. Should families need to be placed in temporary homeless accommodation, they will be subject to LHA which will be insufficient to meet the cost of the temporary accommodation. Support for mortgage interest awarded will be repayable to the DWP upon sale of the home or when the claimant returns to work (Children 1<sup>st</sup>). There is no entitlement to help with mortgage interest to help with mortgage interest if the claimant is earning (MND).
- Backdating of housing benefit will be reduced from 6 months to 4 weeks, which will affect the most vulnerable families significantly (Children 1<sup>st</sup>)
- The Family Element of housing benefit will be lost at £11.34 per week made in the future, based on resources rather than need (Children 1<sup>st</sup>).

## **Discretionary Housing Payments**

Discretionary Housing Payments (DHPs) are extra payments that can be made to people in receipt of housing benefit who need further assistance to meet the full cost of their rent. Local authorities currently administer DHPs. They are being used to mitigate the impact of the bedroom tax in Scotland.

### *Use of the DHP powers*

As mentioned above, a number of respondents considered that the housing element powers should be used to abolish the bedroom tax. This would leave the DHPs to cover other types of support for housing costs, for example those living in the private sector (e.g. COSLA, South Lanarkshire Council). Clarity over the future funding of DHPs was also requested (e.g. CAS).

CPAG said that was 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. CAS suggested that certain groups of people should be prioritised

for DHPs. This included housing benefit claimants who are subject to the bedroom tax (until housing benefit is fully replaced by UC) and those affected by the benefit cap. Presently, the number of people affected by the benefit cap are low (769 households in May 2015) but this is expected to rise when the benefit cap is reduced from £26,000 to £20,000.

Children 1<sup>st</sup> highlighted an example of an urgent application for a DHP from a single parent family with a disabled child who was at risk of homelessness. The application was unsuccessful as the fund was finite. They encourage the committee to consider how to ensure that Scotland's social security funding is based on need.

CIH Scotland encouraged the Scottish Government to explore options of increasing the flexibility around how DHPs can be awarded in Scotland especially where payments could help to support people to live independently in their own homes. Although they agreed that the element of discretion is useful and allows support to be tailored to deal with local needs, members have stated that it would be useful for standardisation of some elements of the process and clearer guidance for local authorities. They recommend that the Scottish Government takes the opportunity presented by the devolution of new powers to issue new guidance on DHPs and develop a standard application process. This would be of particular benefit to housing providers operating across more than one local authority area.

### *Streamlining Discretionary Funding Streams*

A few respondents suggested that there was scope to streamline and rationalise discretionary funding streams. Dundee City Council, Rights Advice Network and Scottish Borders Council, for example, suggested there could be scope to integrate DHPs and the Scottish Welfare Fund. This would simplify administration and provide a single point of entry for customers. Scottish Borders Council said that the introduction of longer term stable caseload and geographical based funding would reduce current uncertainty and pressures facing local authorities and allow longer term service planning.

### *Comment on the Bill's Provisions*

Inclusion Scotland and One Parent Families Scotland, amongst others, are concerned that the Scotland Bill limits the eligibility of DHPs only to those in receipt of Housing Benefit or Universal Credit. Because of a bedroom tax reduction some people will no longer receive housing benefit. Therefore, they are not eligible for a DHP. CPAG would like to see this provision in the Scotland Bill removed. CAS also pointed out that this eligibility criteria would affect other groups, including those 21 and under who will in the future not be eligible for the housing costs element of UC.

OPFS highlighted that the Scotland Bill prevents DHPs made to those where the need for financial assistance is as a result of a sanction (unless they meet other criteria). They argue that sanctions are often applied to families in an unfair way. DHPs should be available to all, regardless of whether someone has an entitlement to help with housing costs or has been sanctioned so that it can be effectively targeted at those who need it most.

## Discretionary Payments

There was relatively little comment made about discretionary payments.

Carer's Scotland said that the current drafting of the Scotland Bill in Clause 23 appears to increase restriction on such payments, which were already devolved to the Scottish Welfare Fund. In particular, they appear to prevent the Scottish Welfare Fund from making payments to those who have been sanctioned or failed to meet the conditions attached to a reserved benefit. It currently does not have such a restriction. They supported the call from Inclusion Scotland and Enable Scotland to press for removal the restriction that would prevent the Scottish Welfare Fund from providing assistance.

As the accompanying paper notes, the UK Government's view is that clause 23 broadens the existing reservation that allows for the establishment of the Scottish Welfare Fund. The clause removes the requirement for the person's need to be immediate or to have arisen out of an exceptional event or circumstances. However, in the case of those who have been sanctioned this restriction still remains – in effect for claimants who have been sanctioned it replicates current provision.

## Top-Ups and New Benefits

The Smith Commission proposed that the Scottish Parliament should have new powers to create new benefits in areas of devolved responsibility, in line with the funding principles set out in paragraph 95 and should have new powers to make discretionary payments in any area of welfare without the need to obtain prior permission from DWP.

There was limited evidence in the submissions over the power for the Scottish Government to top-up reserved benefits and create new benefits.

COSLA and North Lanarkshire Council both said they had no firm position on top-ups and new benefits, but said that the Scottish Government would be constrained by a 'tight fiscal framework',

“...unless the Scottish Government can generate additional income via their new tax raising powers, to distribute wealth from the wealthy to the most vulnerable people in Scotland”. (North Lanarkshire Council)

Argyll and Bute Council welcomed the flexibility that the power to create new benefits and top-ups brings, but that any increases or new entitlements should be disregarded when calculating entitlement to reserved benefits. The Council also said that the interaction of any new benefits would have to be examined carefully as there is the potential to increase complexity, with little net benefit.

In relation to top-ups, Professor Spicker notes that the power has already been tested in Scotland, where DHPs have been used to top-up entitlements to Housing Benefit to compensate for the 'bedroom tax'.

## ***Top-ups***

Barnardo's Scotland said they were concerned that top-ups are limited to those in receipt of a reserved benefit. They referred to care leavers who may not be in receipt of benefits, or who have been sanctioned for so long, "they no longer consider it to be worth it".

### ***Suggestions for Top-Ups***

Some of the submissions provided examples where the Scottish Government might want to make top-ups. For example, CPAG and One Parent Families Scotland (OPFS) both refer to the fact that a number of family benefits have had their value frozen and/or the method of uprating has changed. OPFS said that the switch from RPI to CPI as a measure of inflation, and the subsequent use of 1% uprating for most benefits "has been a very significant cause of increasing poverty for single parent families and others".

OPFS said that the ability to top-up could reverse some of the impacts, and one method might be to restore RPI as a measure of uprating, with targeted uprating on children's benefits. "This would target funds at tackling child poverty, support the Scottish Government's Getting it Right for Every Child aims and provide investment in early years, helping children get a better start in life".

CPAG recommended that the Scottish Government use the top-up powers to increase the value of Child Benefit and the child element of UC in line with inflation, at the very least. However, to go further, CPAG suggested that the Scottish Government could use top-up powers to create a 'Triple lock' on Child Benefit, as has been done with the State Pension – where benefits are uprated in line with earnings, inflation, or 2.5%, whichever is greater.

Other considerations might be to maintain entitlement to the child element of UC in respect of third and subsequent children. Provisions in the current Welfare Reform and Work Bill would remove UC payment in respect of third and subsequent children in a family. Regarding Child Benefit, the Scottish Government could increase entitlement for the second and subsequent children, as the amount currently reduces from the second child onwards (CPAG).

The Housing Support Enabling Unit and Coalition of Care Providers Scotland, and CPAG, both suggested top-ups could be used for disabled carers who find themselves worse off under UC:

"An example of this is where a disabled carer claims Universal Credit to top up their Carers Allowance, but only receives one additional element (i.e. either an adult disability element or a carers element – whichever is the highest), which may result in them receiving a lower amount of Universal Credit than their previous income top-up benefit (which would have paid carers premium and adult disability premium together). This is likely to mean a loss of at least £28.75 per week, in addition to any cut they may also experience as a result of their child qualifying for the lower disability addition".



The Glasgow Council for the Voluntary Sector's submission outlines a number of areas that could be explored for new or top-up benefits. This included an interim or transition payment to people applying for UC. There is a 5 week waiting time from application to payment. People who have recently received leave to remain often experience additional exceptional delays when receiving status, NINO and benefits

They also suggested changes to the rules around the UC element with a view to top-up benefits being introduced. As explained in the accompanying paper the top-up provision in the Scotland Bill does not allow top-ups to be made for housing costs. Therefore, if the Bill remains as it is these suggestions may need to be considered in the context of the Scottish Government's power to vary the housing element of UC or discretionary housing payments. In summary their suggestions for top-ups focussed on:

- 1) Housing Benefit and Supported Accommodation. Temporary and high cost accommodation is expensive and the earnings disregards do not leave people with adequate income and the cost becomes a barrier to work.
- 2) Housing Benefit Family Allowance Premium: The family allowance premium is being removed from Housing Benefit as a result of the 2016 Summer Budget and their members would like Ministers to consider how, if possible, this payment could be protected when the housing element of UC is devolved to Scotland.
- 3) Supported Accommodation and Emergency Accommodation fuel charges- the fuel costs of private rooms are ineligible to be paid by housing benefit. At present in Glasgow everyone who lives in Supported or Emergency Accommodation is charged £17.22 per week for fuel. They encourage Ministers to review this process and scope the possibility of introducing a standard, lower rate of fuel charge across Scotland.
- 4) The disconnect between UK reserved benefit legislation and Scottish Homelessness legislation in relation to EEA migrants: This results in EEA Migrants being unable to claim/ineligible for Housing Benefit, but continuing to be entitled to accommodation under Scottish Law. At present Local Authorities are meeting housing costs in order to fulfil their statutory duty under the homelessness legislation. They encourage a scoping exercise to determine if Scotland's new powers could bring housing cost payments to EEA migrants in line with Scottish legislation.

### *Funding Top-ups*

In terms of funding top-ups, Professor Spicker referred to the principle of no-detriment outlined by the Smith Commission (para 94). There are two principles of no-detriment:

1. The Scottish and UK Government's budgets should be no larger or smaller simply as a result of the initial transfer of tax and/or spending powers, before considering how these are used.
2. There should be no detriment as a result of the UK Government or Scottish Government policy decisions post devolution.

In addition, paragraph 55 of Smith, said that any new benefits or discretionary payments must provide additional income, and not result in a reduction to their

entitlement to other benefits. For example, if the Scottish Government increased the award for CA, it must not be lost when CA is counted as income for UC. Professor Spicker said that while there is no certainty how these principles would be interpreted in practice, “they do seem to offer the scope to undertake major changes in the delivery of benefits and services”.

### ***New benefits***

There has been much debate about what the Smith Commission meant when it referred to the power to create new benefits. Some interpreted it as Scotland having the power to create new benefits in any area that is already devolved, while the UK Government interpreted it as new benefits in the areas that will be devolved in the Scotland Bill, i.e. disability and carer benefits, the Regulated Social Fund, and discretionary housing payments. However, the Secretary of State for Scotland has recently (August 2015) stated that the Scottish Parliament already has the power to create benefits in devolved areas (see the accompanying paper for further details)

Perhaps as a result of this, the submissions only referred to new benefits in the context of the benefits being devolved under the Scotland Bill. New versions of disability and carer benefits were referred to in a previous summary of evidence. The consideration of new benefits that fall within the Regulated Social Fund will be summarised further on in the Committee’s inquiry.

**Kate Berry and Nicki Georghiou**  
**Senior Researchers**  
**SPICe**

**30 September 2015**

## **Annexe B**

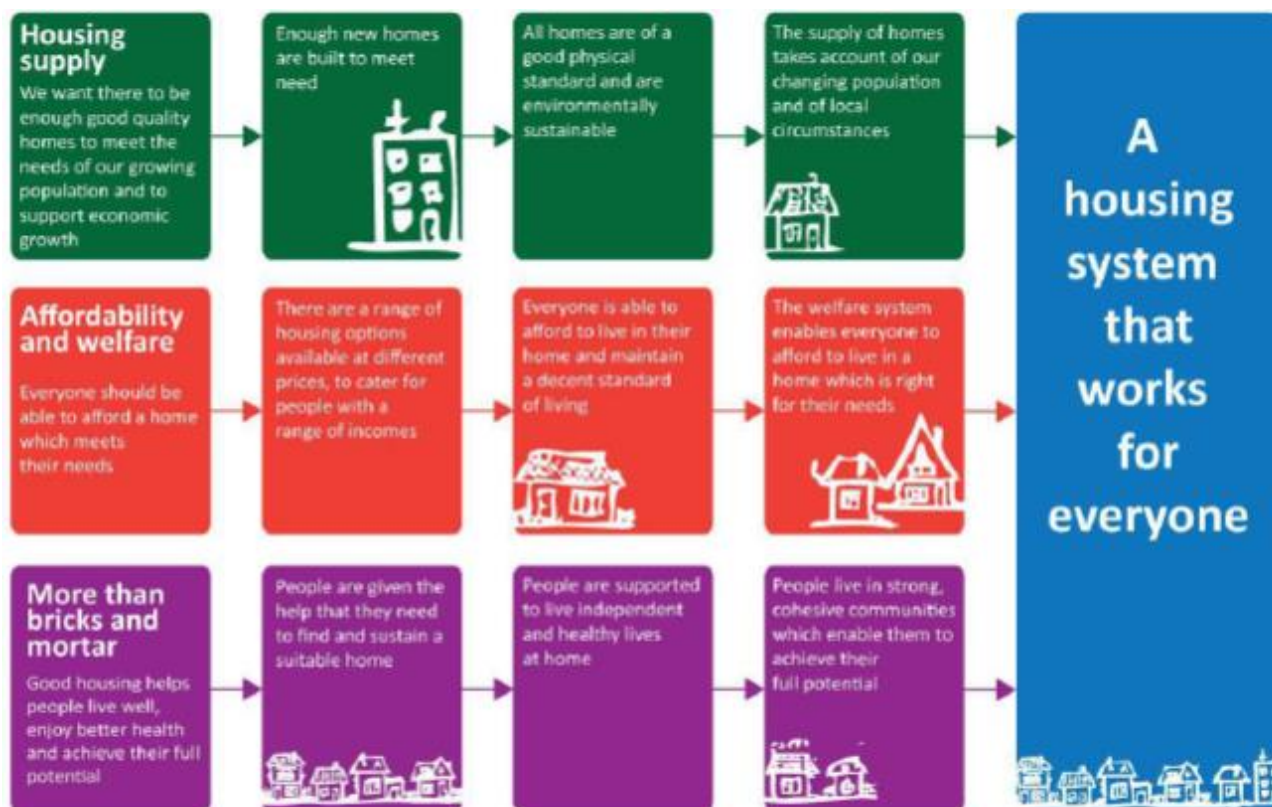
### **WELFARE REFORM COMMITTEE THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND WRITTEN SUBMISSION FROM CIH**

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse and growing membership of people who work in both the public and private sectors, in 20 countries on five continents across the world including 2,500 in Scotland. Further information is available at: [www.cih.org](http://www.cih.org)

#### **1. General Comments**

1.1 CIH Scotland welcomes the opportunity to submit our views on how the new powers to be devolved to the Scottish Government through the Scotland Bill should be used to create a better social security system in Scotland.

1.2 We have been involved in discussions around the devolution of powers to Scotland throughout the process of the Smith commission, the publication of legislative clauses and now the introduction of the Scotland Bill. Our aim throughout the process has been to ensure that the powers transferred to the Scottish Government will support our vision of creating a housing system that works for everyone. This includes the provision of a social security system that supports people to live in a home that meets their needs. This vision is outlined in the diagram below.



1.3 CIH has previously expressed support for the principles behind the development of UC and we still agree that there are benefits in a simplified system with a single taper rate allowing claimants to more easily understand the impacts of returning to work or increasing their working hours. However, it is not difficult to see that there have been issues with the implementation of UC to date. We hope that the devolution of powers to the Scottish Government will help to iron out some of the problems being reported by our members and the wider housing sector across the UK.

1.4 In developing this response, we consulted with our members on two specific areas:

- Universal Credit (UC) housing element and administrative arrangements; and
- The use of Discretionary Housing Payments (DHPs).

The views we gathered have been used to form the basis of this response.

## 2. Cost and Practicalities of Implementing Changes

2.1 We have voiced concerns before about how changes to the social security system in Scotland, including administrative costs and the cost of increasing benefits, will be funded. Our evidence to the Devolution Committee on the Scotland

Bill<sup>3</sup> points out that it is still unclear how changes will impact on Scotland's block grant and how the principle of 'no detriment' will be determined and costed.

2.2 We welcome the Scottish Government's ambitions to mitigate UK Government welfare reform measures and the additional funding that has been made available to cover the cost of the 'bedroom tax' has benefitted many households. However, it is not clear how sustainable this will be going forward and how further changes will be funded given the current financial climate. Some members have questioned the fairness of fully mitigating this welfare reform measure in isolation while those affected by other measures receive less assistance.

2.3 We would welcome a full financial impact assessment from the Scottish Government setting out the anticipated costs of any administrative changes and top ups to benefits planned. In addition, we would urge the Scottish Government to carry out a full Equalities Impact Assessment to ensure that financial support is targeted effectively and that no group of people affected by welfare reform measures is overlooked. When limited funding is available, it is essential to ensure that it is spent fairly.

2.4 In order to create a balanced housing system, we must consider the system as a whole. Additional investment in creating a better social security system must work alongside continued investment in the supply of new affordable housing to meet the needs of our population.

2.5 The following sections outline how we would like to see the Scottish Government make use of new powers assuming that it would be financially viable to do so.

### **3. Universal Credit – Direct Payments**

3.1 One of the strongest concerns expressed by our members throughout the process of welfare reform has been the increased risk of rent arrears and the impact that this will have on landlords' ability to continue to provide good quality housing and services and the impact on tenants in terms of increased financial pressure and the possibility of court action and even eviction.

3.2 Over 480,000 households in Scotland receive help to cover their housing costs making up 78% of social housing tenants and 20% of private tenants<sup>4</sup>. Non-payment therefore constitutes a significant risk to both social and private landlords.

3.3 Many of our members who responded to our call for views ahead of this evidence stated that it was too early in the rollout to be able to tell what the final impacts would be for themselves, their tenants or their organisations.

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<sup>3</sup> [http://www.cih.org/publication-free/display/vpathDCR/templatedata/cih/publication-free/data/Scotland/CIH Scotland Response to call for evidence on The UK Governments Scotland Bill](http://www.cih.org/publication-free/display/vpathDCR/templatedata/cih/publication-free/data/Scotland/CIH%20Scotland%20Response%20to%20call%20for%20evidence%20on%20The%20UK%20Governments%20Scotland%20Bill)

<sup>4</sup> <http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/KeyInfoTables>

3.4 Others stated that while arrears rates under UC are currently manageable, they have only been dealing with a small number of 'simple' cases and even these were requiring significant resources. We have heard concerns that landlords will struggle to maintain the same levels of support for people when caseloads start to increase and when more complex claims start to be accepted.

3.5 None of our members who contacted us in relation to this topic think that payments should be made directly to tenants as standard. Many highlighted concerns for households who may find it difficult to cope with budgeting. Forcing this responsibility onto people could exacerbate mental health problems and could put children at risk. There were also strong feelings that wherever possible, tenants should be given the choice as to whether they receive their housing costs rather than receiving them as standard.

3.6 We recommend that housing element payments should be made to landlords as standard in cases involving tenants who are known to have difficulty managing money. All other UC claimants should be given the choice as to whether they want to receive the payments directly or if they would like housing costs to be paid to their landlord.

3.7 This option will protect tenants who are unlikely to be able to cope with managing a household budget while ensuring that others are encouraged to take responsibility for their finances even if their decision ultimately results in payments being made directly to the landlord. Landlords will still have the security of being able to request an alternative payment arrangement for tenants who decide to receive their housing costs but subsequently fall into arrears.

#### **4. Universal Credit – Frequency of Payments**

4.1 Our members have informed us that the vast majority of tenants will find it easier to budget with more frequent payments and would prefer to see UC paid twice monthly as standard or for tenants to be given the choice.

4.2 We understand that it is the intention of the Scottish Government to offer UC claimants the option of receiving two payments per month rather than one. While discussion with our members suggests this would help the majority of tenants with their budgeting, this may contribute to financial difficulties due to waiting time for UC to be paid.

4.3 It is our understanding that if a tenant does choose to receive payments twice monthly, they will face a waiting period of around six weeks after which they will only receive half of their payment, the other half being made the following fortnight. This will obviously cause significant difficulties for some claimants from the outset creating further conflict for tenants having to juggle rent payments with other essentials such as food and fuel bills. We know around half of all working age people living in poverty in Scotland are in working households<sup>5</sup>. It is not realistic to expect

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<sup>5</sup> <http://www.gov.scot/Publications/2015/06/3637/downloads>

households who are already struggling to get by in work to be saving money to tide them over in case they ever need to claim UC.

4.4 We agree that all UC claimants should be offered the choice of payment frequency but it is essential that they fully understand how long they will have to wait for payments, how much they will receive and where they can access support if they need it. We would also welcome clarity on the forms of financial support that could be made to available to claimants during the transition to UC.

## **5. Universal Credit – Split Payments**

5.1 The issue of whether UC payments should be split between joint applicants is complex. As the Committee is no doubt aware, paying the full UC entitlement into one bank account has the potential to facilitate financial dominance as a control mechanism in cases involving domestic abuse.

5.2 The majority of our members who gave a view on this subject support the right of joint applicants to choose whether to have their payment split or to receive one lump sum. However, some also pointed out that this could result in unintended consequences. For example, joint tenants are equally liable for the entire rent. If one partner pays their share of the rent, or more, and the other partner does not, they could both face court action.

5.3 One solution offered to prevent this scenario was that where joint applicants opt to have their payment split, the housing element should be paid directly to the landlord with the remainder split between the two parties. This would ensure that the housing element would be used for its intended purpose.

5.4 Given the infancy of UC and the fact that split payments are not commonly used, we do not feel that there is enough evidence of how well the system for splitting payments is currently working and whether it would be practical to give people the choice to receive separate payments. This option could potentially lead to the creation of a more complex system which would have to calculate total awards for some applicants and separate awards for others.

5.5 We feel that where payments are split, protection against potential court action for rent arrears being taken against a tenant who is not at fault should take priority over the right of tenants to choose to receive their housing costs. Therefore, we propose that if joint applicants were to be given the option to have their payments split and they choose to do so, the housing cost should be paid directly to their landlord with the other elements being split between the parties. The splitting of the remaining amount must be carried out as per DWP guidance<sup>6</sup> taking into account factors such as whether the claim includes an element for a child or dependent or an element for the care of a disabled person.

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<sup>6</sup> Chapter B1 <https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

## **6. Universal Credit – Variation of the Housing Element**

6.1 The vast majority of our members would like to see the housing element of UC increased for those affected by the ‘bedroom tax’ and we feel that the desire for this welfare reform measure in particular to be reversed is reflected across the housing sector in Scotland.

6.2 Mitigating the ‘bedroom tax’ through the housing element of UC would have several potential benefits.

6.3 Firstly, it would negate the need to apply for assistance through DHPs. While most housing providers agree that this system is working as well as it can, there can be complications in that an application has to be submitted even though the understanding is that a payment will definitely be made. This is seen as unnecessary and bureaucratic. There can also be complications if a person’s housing benefit claim stops and then restarts meaning another DHP application has to be submitted.

6.4 Secondly, removing ‘bedroom tax’ mitigation funding from the DHP pot would make it more clear how much funding is available to support households affected by other circumstances.

6.5 We believe that the housing element of UC would be a better vehicle to mitigate the ‘bedroom tax’ than DHPs.

6.6 When asked whether the housing element should be used to mitigate other welfare reform measures, our members suggested that tenants who have had their housing benefit or LHA reduced should be supported in the same way, particularly young people under 35 who are only entitled to the shared accommodation rate and 18-21 year olds who would not be automatically entitled to help with their housing costs under new rules announced by the UK Government during the Summer Budget. However, concerns were also raised around how further mitigation work could be funded. (See section 2, Cost and Practicalities of Implementing Changes)

6.7 Concerns have also been raised with the eligibility of costs relating to the maintenance of adaptations. We recommend that the housing cost element of UC should cover maintenance of adaptations which can be essential in supporting a person to remain in their home. This would presumably also allow these costs to be covered by DHPs. (See section 7, Discretionary Housing Payments)

## **7. Discretionary Housing Payments**

7.1 While the majority of our members feel that the current system for DHPs is working well, some greater flexibility around how they can be awarded would be welcome, particularly with regards to ineligible service charges. We note that the drafting of the Scotland Bill has relaxed some of the limitations around how DHPs can be awarded in Scotland and this is welcome but limitations still remain in terms of eligibility, specifically existing entitlement to HB or the housing element of UC.



7.2 Members have, for example, described situations where DHPs cannot be awarded to cover the cost of a service which is essential to helping a person remain in their home such as low level support services or maintenance of adaptations.

7.3 We would encourage the Scottish Government to explore options of increasing the flexibility around how DHPs can be awarded in Scotland especially where payments could help to support people to live independently in their own homes.

7.4 While we agree that the element of discretion is useful and allows support to be tailored to deal with local needs, members have stated that it would be useful for standardisation of some elements of the process and clearer guidance for local authorities.

7.5 We recommend that the Scottish Government takes the opportunity presented by the devolution of new powers to issue new guidance on DHPs and develop a standard application process. This would be of particular benefit to housing providers operating across more than one local authority area.

**WELFARE REFORM COMMITTEE**  
**THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND**  
**WRITTEN SUBMISSION FROM HIGHLAND COUNCIL**

The Highland Council area covers a third of the land area of Scotland including the most remote and sparsely populated parts of the United Kingdom. We have the 7th highest population of the 32 authorities in Scotland. It is 10 times larger than Luxembourg, 20 per cent larger than Wales, and nearly the size of Belgium

Only 25% of the population live in settlements of over 10,000 people and 40% in settlements of over 1,000 people. Residents in the Highlands or other rural areas in the UK face many more complexities when accessing support and digital services for their benefits compared to someone living in an inner city, for instance.

**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 Highland Council strongly believes that the disability benefits system must meet customer needs. Individuals who require additional support due to health conditions need to know that there is a reliable and effective system available where appropriate, whether it is time-limited support or lifelong help. The protection of the most vulnerable and marginalised service users should therefore be guaranteed.

Disability benefit recipients may require extra financial support to arrange for specific services to be delivered to meet their needs and ensures that their most basic human rights are respected and it significantly improves their quality of life too. These two outcomes should constitute the core of any disability benefits system.

In Great Britain, it is reported by the DWP\* that a substantially higher proportion of families with disabled members live in poverty, compared to families where no one is disabled. 19% of families with at least one disabled member live in relative income poverty, on a before housing costs basis, compared to 15% of families with no disabled member. \*[Disability facts and figures - GOV.UK](https://gov.uk/disability-facts-and-figures)

The Highland Council believes the Smith Commission affords the opportunity to develop a future disability benefits system to be built upon the concept of personalisation and improve the current assessment process which is to the detriment of claimants. This may include:

- *Introduce a holistic assessment of individuals to include supporting medical evidence which would determine if a face to face assessment is required – This would identify claimants whose conditions are significant enough to award PIP without the need for a face to face assessment.*
- *Where a face to face assessment is required a local Assessment Centre is available - The Highland geographical area compounded by the small number*

of Assessment Centres means claimants have further to travel and in some instances is an expense which they cannot afford. It is noted a claimant will have their fares re-imbursed when they attend their assessment. However, if they do not have the money in the first instance to pay the fare then the added burden can exasperate an already stressful experience.

- *Where appropriate re-introduce indefinite awards for degenerative and incurable conditions* - PIP does not currently offer indefinite awards meaning claimants are faced with systematic reassessments of their condition which given the very nature be demeaning and cause additional distress to already difficult circumstances.
- *Introduce an additional PIP daily living allowance comparable to the Care lower rate currently available to existing DLA* – PIP only has standard and enhanced daily living rates. In the Highland Council area approximately 2,170 working-age claimants are in receipt of the DLA lower rate care - currently £21.80 per week – which enables eligibility to premiums when claiming additional benefits. If a DLA claimant is unsuccessful at their PIP re-assessment in addition to losing their DLA lower rate care, a working-age claimant would no longer be entitled to disability premiums which would have a significant financial impact annually. For example
  - *Loss of DLA lower care & tax credit disability premium - £6,066 per annum*
  - *Loss of DLA lower care & HB/CTR disability premiums - £2,628 per annum*

The above 2 examples are dependent on the claimants individual circumstances based on the loss of DLA lower care

Finally any new disability benefits system should support not stigmatise its beneficiaries. The current system results in greater demands for individuals to prove their disability. Scotland should grasp the opportunity to offer support whilst focusing on what people can do and work towards maximising their skills and strengths, not diminishing their ability and confidence.

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

The Universal Credit (UC) proposals to enable the Scottish Government to change the payment frequency, vary the housing cost elements, pay housing costs direct to landlords and modify the existing plans for single household payments are welcomed by The Highland Council.

In Scotland, The Highland Council was the first Local Authority to go live with UC in November 2013. Our experience has highlighted some of the challenges faced by residents in the Highlands when negotiating this complex benefit system to make a claim. Claimants regularly require support from various organisations including the Council to resolve their benefit entitlement. In addition, as a social landlord, the Council has experienced significant challenges in the management of rent collection levels from some UC recipients.

The existing system already has some of the functionality to meet and apply the proposed policy changes e.g. direct payments to landlords, frequency of payments

and split single household payments can already be applied. Legislation could be extended to allow the override of the under occupancy criteria for residents residing in Scotland.

Currently tenants affected by the under occupancy rules are required to make a separate application to the local authority for a Discretionary Housing Payment (DHP). Adopting an 'at source' approach would ensure all claimants particularly those who are vulnerable would receive assistance and be treated equally. This change would also remove any complexity around the allocation of DHP funding to local authorities and reduce the administrative cost of applying the DHP scheme.

The implication of monthly assessment periods on direct payments to landlords has been evident in some cases in Highland. The monthly assessment period is arguably even more significant than monthly payments in its implications. It means that any change is treated as occurring from the beginning of the month, regardless of when it actually occurred. This 'whole-month' approach can lead to some losses and 'rough justice' for landlords. For example:

*A claimant moves to new accommodation just before the end of his/her assessment period. He/she notifies the change immediately to DWP including the new landlord details and direct payments are approved. The new landlord will receive housing costs payment for the whole of the past assessment period and the previous landlord will not receive any payment.*

In reality this means that even with direct payments in place there are no guarantees that a landlord will receive a payment. Landlords require assurances they will receive the expected rent payments for tenants in their properties.

Similarly monthly assessment periods are proving particularly problematic for UC recipients residing in temporary accommodation. Due to the classification of some temporary accommodation, not all properties fall within the exempt accommodation criteria and therefore are subject to local housing allowance rates. The transient nature of some tenants in this accommodation type has resulted in cases where a tenant has moved out of the property just before the end of the assessment period resulting in no housing cost element being paid for the whole month. This approach is leaving tenants with increasing rent arrears and a burden on Local authorities who have a duty to provide accommodation.

Local Authorities need some assurances that they will receive payments towards the rent in cases where tenants are entitled to claim benefits. In considering the proposed policies The Highland Council would ask that steps are taken to remove this type of accommodation from Universal Credit policy and allow it to continue under Housing Benefit.

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

In any national framework, it is important that the focus is on local delivery, taking account of differences in local economies and local labour markets and developing an integrated service which is entrenched within, and responsible to, the people of the Highlands for local accountability.

The Council expressed concerns about the introduction of both these programmes at their introduction, principally concerns about how they would operate in rural areas with scattered populations and low incidence of eligible clients. Another principle consideration has been to avoid “double funding” – to ensure that Scottish Government / Local Authority resources were not being used to substitute for investment that should more properly be part of the DWP Programmes.

During this period many Local Authorities, including Highland, have been providing a range of services often supported by EU funding. These have identified the need for greater integration and coordinated leadership in recent policy initiatives within Scotland in recent years where “employability” is increasingly being recognised as one of a range of anti-poverty measures. The introduction of the measures to be devolved provides a major opportunity to develop a set of coherent and integrated approaches designed to deliver at a more local level.

The Cabinet Secretary for Fair Work, Skills and Training has also launched a discussion paper on the future of Employability Support in Scotland. The Highland Council will respond by the deadline of 9<sup>th</sup> October 2015. The Scottish Government and Local Authorities have recognised that further devolution of employability funding and programmes provides Scotland with an opportunity to make real progress.

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

A modern welfare system should meet customer needs; the current system is not fit for purpose. This can be highlighted by a variety of different forms/applications which are complex and lengthy, requiring to be completed for a plethora of benefits. We have no firm position on the creation or otherwise of new benefits. However, the opportunity to rationalise the number of available benefits, most with very complicated qualifying criterion, should be explored.

This not only simplifies the system for customers but it can also reduce administrative and advisory costs which should be reinvested into the actual payment sums/entitlement to customers. Another key factor in any revised welfare system is that it is likely that the tight fiscal framework in Scotland will constrain some options in this regard. It is important that any options considered form part of a clear outcome and customer focussed strategy which builds on integrated approaches with services delivered locally and considered in the context of the overall spending review.

The Smith Commission provides the Scottish Government with the opportunity to design a system which has less bureaucracy, more flexibility and a move towards maximising resources to deliver and manage a successful social security system to our customers in Scotland. Within this system, Local Authorities can deliver a single point of contact service which can provide information, holistic support and benefit delivery to claimants.

This model would remove the need for claimants being forced to try and contact various numbers, email addresses and/or websites for assistance and enhance the

localism aspect. In consolidating the point of contact the ambiguity over who to contact when some event happens, or need arises, is removed. Claimants can immediately reach an adviser who is able to offer assistance and will understand the potential issues and problems faced within The Highland Council area.

For over 30 years, Local Authorities have demonstrated through the processing of Housing Benefit and associated Council Tax schemes the ability to provide and deliver effective and efficient local processing functions. Local Authorities also administer benefit/welfare-related claims including Educational Maintenance Allowance, Free School Meals (P4+) and School Clothing Grants. More recently, following the abolition of specific parts of the Regulated Social Fund, Councils in Scotland have played a pivotal role in the successful implementation and delivery of the replacement scheme - the Scottish Welfare Fund.

Delivered locally, this has seen Local Authorities provide increased support accessibility for significantly vulnerable groups, as well as delivering innovative and joined up preventative solutions and services. Councils have achieved this despite challenging budgetary pressures.

## WELFARE REFORM COMMITTEE

### THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

#### WRITTEN SUBMISSION FROM QUARRIERS

##### **Introduction**

Quarriers is one of Scotland's largest health and social care charities supporting thousands of disadvantaged people each year. We support vulnerable children, young people, adults and families who face challenging circumstances such as homelessness, learning and physical disabilities and epilepsy. We welcome the opportunity to respond to the Welfare Reform Committee's call for evidence on the future delivery of social security in Scotland.

##### **Question 1: Personal Independence Payments, Disability Living Allowance Attendance, Allowance and Carer's Allowance**

- a. Should Scotland replace or improve these benefits?**
- b. What are the main priorities for improving/replacing these benefits to make sure people are supported equally and with dignity and respect?**

We welcome the Smith Commission proposals to give the Scottish Parliament increased powers over benefits for people with a disability and carers. Quarriers believes the welfare system should ensure that people with a disability are empowered to lead active, productive and dignified lives whether in or out of employment. The reality, however, is that people with a disability have been subject to a disproportionate amount of cuts in their benefits which is undermining their human rights and preventing them from participating fully in society.

We do not believe, however, that replacing the current benefits architecture with an entirely new system is the answer. We have concerns about the technical and financial challenges this could pose and the timescales it may entail. Rather, we think the best approach is to make improvements to the existing system. Central to this is ensuring that people with a disability and their carers have an adequate level of income to ensure that they have their rights safeguarded and are supported to live with dignity and respect.

A major concern with the current system is the length of time it currently takes for PIP claims to be processed and to transfer from Disability Living Allowance (DLA) to Personal Independence Payments (PIP). The uncertainty caused by these delays can be stressful and causes anxiety among the people we support and their families and carers. In our experience, reducing the time it takes to process claims would make a big difference to people.

The transfer of power over DLA and PIP to the Scottish Parliament is an opportunity to develop a more sympathetic and supportive assessment process. At present, people are being required to travel long distances to attend PIP assessments which can be impractical, expensive, and stressful. Furthermore, we hear anecdotal evidence from the people we support that the assessments themselves are flawed and do not always give an adequate account of a person's level of impairment. More

consideration needs to be given as to how to assess fluctuating conditions such as Bipolar Disorder. There is also a need to review the criteria used to determine mobility requirements.

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

### **a. What are the main priorities for improving these benefits to make sure people are supported equally and with dignity and respect?**

The powers to vary some of the practical arrangements around Universal Credit, such as frequency of payments, paying housing elements directly to landlords, and varying the under-occupancy charge (Bedroom Tax) and local housing allowance rates, eligible rent, and deductions for non-dependents provide real opportunity for change.

The new administrative powers over Universal Credit could be used to design payment cycles that help people budget. For example, people could be given a choice of fortnightly payments rather than monthly ones. Individuals could also be given the choice as to whether the housing element gets paid directly to the landlord to avoid the risk of their getting into arrears.

Housing element of universal credit should include payments for the first week of claim which it currently does not cover. The experience of people we support is that at present the length of process from application to first payment is too long and they are forced to rely on short term advances which they then have to repay.

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

### **a. After these programmes have come to an end, what should be put in place to support people into work?**

We think that any redesign of the work programme in Scotland should include greater flexibility to accommodate the needs of different groups. Access to employability support and work related activity is important for the people we support, but it is essential that opportunities are tailored to the individual and their specific abilities. There also need to be more emphasis on in-work support for those who have found employment but may have barriers which make it more difficult for them to sustain it. An emphasis on skills development, equality and workplace health should be integral part to this.

A redesigned work programme should place employability support within a local context and policy in line with other devolved areas of responsibility. For example, the Scottish Government will be able to develop policies linking employability to areas such as housing, where an individual's ability to find and sustain employment is key. Links should also be made with local area based employability initiatives, as well as regional economic development activity.



#### **4) Delivery of benefits**

##### **a. How can the Scottish Government's departments work better together in promoting positive outcomes for people who access benefits?**

Effective communication between and within Government departments is essential to make sure claims are processed quickly and effectively. There also needs to be effective channels of communication between the Scottish Government, DWP and other organisations who work with individuals claiming benefits.

It is also crucial that we improve relations with frontline staff. These are too often based on suspicion and compliance rather than trust and cooperation. Where the Scottish Government has the responsibility we must foster a social security system built on trust between individuals and the services that support them. The system must focus on supporting and empowering disadvantaged people rather than stigmatizing and penalising them.

**WELFARE REFORM COMMITTEE**  
**THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND**  
**WRITTEN SUBMISSION FROM SFHA**

**1. Introduction**

1.1. As the national representative body for housing associations and co-operatives in Scotland, the SFHA welcomes the opportunity to respond to the Welfare Reform Committee's consultation on the future delivery of Social Security in Scotland.

1.2. Housing associations and housing co-operatives in Scotland own and manage 46% of the country's affordable rented housing stock. This represents 274,996 homes across Scotland, concentrated in some of the poorest communities in our country. Many are registered charities and our members have had first-hand experience of advising and supporting tenants who have for one reason or another had to seek assistance from the benefits system and the challenges tenants face in order to survive.

1.3. Housing associations and housing co-operatives are:

- Independent businesses providing and managing high quality affordable accommodation and housing related services;
- Responsible for accessing and managing public and private resources for house building and reliant on rental income to cover operating costs;
- Able to demonstrate added value through care and support, wider role and financial inclusion activities;
- Managing businesses imaginatively and inventively to benefit housing and communities through their not-for-profit ethos;
- Regulated by the independent Scottish Housing Regulator.

1.4. Our sector is extremely diverse, with organisations formed from a variety of different circumstances and in varying shapes and sizes. They range from large ex-local authority stock transfer organisations with tens of thousands of properties to small community controlled organisations owning a couple of hundred homes. Whatever their shape or form, all have seen the effect of recent welfare reforms on a significant number of their tenants and anticipate further changes ahead as having material implications for their activities.

1.5. Rental income funds three principal activities: repayment of bank lending; repairs and maintenance of properties; employment of staff to provide management services.

1.6. We estimate that 61% of all rental income of all housing associations and cooperatives in Scotland currently comes from Housing Benefit (with about two thirds relating to people of working age). It is therefore vital to the financial stability and capacity of associations that this income stream is not undermined. Devolution of administration provides the opportunity to do that by making it possible for rent support payments (the housing costs of UC) to be made to landlords. But this requires a careful approach.

## **2. The Smith Agreement and SFHA engagement around further devolution**

2.1. A principal concern of the SFHA concerns the reserved powers controlling policy and administration of Housing Benefit and latterly the housing costs element of Universal Credit. HB spending has grown in significance as rents have risen (particularly in the private sector), with the consequence that the balance of control over housing funding has shifted towards Westminster. The annual bill for rent support - Housing Benefit - is currently running at more than double the value of annual investment in building new homes. The system for rent support needs to be aligned with already devolved powers over housing policy and legal arrangements for housing in Scotland.

2.2. In our submission to the Smith Commission the SFHA argued for devolution of further powers to the Scottish Parliament, encompassing the social security system (excluding pensions) to enable the Scottish Parliament to fund and administer policies that could deliver a well-functioning housing system and operate coherently in relation to other benefits. Devolution would have been more straightforward if HB had not been part of Universal Credit. Since it is a part of UC, and earmarked for partial devolution or shared jurisdiction, we regard the devolution of administrative arrangements and the power to vary aspects of UC as useful and able to offer some benefits to claimants and landlords.

2.3. The SFHA has submitted two tranches of written evidence to the Scottish Parliament's Devolution (Further Powers) Committee, in January 2015 and in March 2015<sup>7</sup>, outlining concerns about the proposed devolution of powers. The intervening months have allowed further deliberation on these points particularly now that we have seen the Scotland Bill on which we have also submitted evidence to the Devolution Committee. Although SFHA called for UC roll out to be suspended / deferred, we are in a position to learn from current administration problems.

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

3.1. In inviting evidence on how the Scottish Parliament can use the proposed powers to improve the delivery of benefits in Scotland, the Committee posed four specific questions about how the new welfare powers proposed by the Smith Agreement should be used to improve or change. We address each in turn focussing particularly on the UC issues and housing costs element.

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

3.2. The devolved powers should be used to afford both dignity and respect to the claimant. This could be achieved by broadening the evidence base for assessment. The current system has an over-reliance on GP assessments and attendance at assessment centres.

3.3. The PIP claims procedure is too complex. Time is consumed attempting to reinstate PIP claims where the claimant has failed to attend their scheduled face to face assessments, more often than not the reason for which is that their disability prevented them from being able to attend. This is a particular problem for claimants with mental health and/or addiction issues. Even the process for simply obtaining a PIP application form is overly complex in which the claimant is subject to a scripted

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<sup>7</sup> [http://www.sfha.co.uk/index.php?option=com\\_docman&task=cat\\_view&gid=651&Itemid=340](http://www.sfha.co.uk/index.php?option=com_docman&task=cat_view&gid=651&Itemid=340)

phone call during which long passages from social security legislation are read out by the call handler. Again claimants with mental health and/or addiction problems can find all this difficult to cope with.

3.4. PIP claimants should be given a say about where medical assessments take place and there should be capacity for home visits where a proper evaluation can take place of how an individual functions in their day to day routine. The IT system for managing needs to be improved – for example Link Housing association reported one case where available SALUS appointments in Stirling were not on the ATOS appointment system, which meant an individual having their assessment delayed or having to have an appointment further from home than was necessary. Dunedin Canmore Housing Association report that their tenants in Edinburgh are being asked to attend interviews 25 miles away in North Berwick.

3.5. GP reports are costly and not necessarily the best placed to give a view of an individual's daily life; it should be possible to consider corroborative evidence from the individual's own testimony and other trusted individuals such as a carer or support worker who may have first hand knowledge of their daily living condition.

3.6. Conversely, evidence supplied by senior medical staff who have had direct contact with the individual should be accepted without the need for face to face assessments by the DWP's contractors with a more limited expertise.

### **Universal Credit - housing costs element, (power to vary and administrative arrangements) and Discretionary Housing Payments**

3.7. In recent years the administration of Housing Benefit by local authorities has facilitated tasks such as administration of Council Tax Reduction and Discretionary Housing Payments (DHPs), especially where these functions are carried out by the same department. Universal Credit breaks that synergy. Already housing associations are faced with having to manage and reconcile rent charges with various rent payments for any given tenant based on different sources, from

- the local authority for HB entitlement for tenants outwith UC;
- the local authority for any DHP due whether for HB or UC cases;
- the tenant, who needs to understand clearly which element of the rent charge they may be liable for and what support they may be receiving;
- DWP for Alternative Payment Arrangements (APA) for UC cases, where there is an arrear or vulnerability. UC regulations which apply to all for new cases following roll- out in February 2015 permit payment to landlords (known as 'managed' payments or APAs) to be granted only where
  - ☐ the claimant / tenant is deemed by a DWP decision-maker to be 'vulnerable' and therefore unable to manage payments to the landlord, or
  - ☐ the tenant/claimant has already accrued arrears in excess of two months' rent.

3.8. Under the current system of Housing Benefit administered by councils on behalf of DWP, tenants of housing associations can (and generally do) mandate payments direct to their landlord. When asked their preference, the overwhelming majority of tenants state they would prefer Housing Benefit to go straight to the

landlord<sup>8</sup>. Council tenants currently have their Housing Benefit (or 'rebates') calculated by the council on behalf of DWP and automatically paid to the council as landlord.

3.9. It is unquestionably the legal responsibility of a tenant to pay rent to the landlord. And most tenants want to have any rent support - the housing cost element of UC - paid direct to the landlord. That is what devolved powers could be used to achieve and the system the SFHA would welcome, but subject to the express agreement of the tenant (as is the case with HB at present for housing association tenants).

3.10. A particular concern is also around eligible costs under the housing element of UC. Under current HB rules, the maintenance charges for adaptations to properties to enable their use by disabled people, such as special baths, Clos-o-mat toilets, stair lifts, auto-doors and tracking systems are eligible for Housing Benefit. These adaptations are as essential to a tenant with a disability as the provision of water, gas and electricity are to tenants without a disability. A landlord is obliged to ensure that these services are safe to use and appropriately maintained. They should therefore be eligible as service charges for the housing element of UC.

3.11. Paragraph 45 of the Smith Commission report stated: "The Scottish Parliament will have the power to vary the housing cost elements of UC, including varying the under-occupancy charge and local housing allowance rates, eligible rent, and deductions for non-dependents."

3.12. The Scotland Bill currently provides for such powers, and it will be important to tenants and social landlords for the Scottish Parliament to use those powers in due course, and make appropriate budget decisions, to vary the housing costs element of UC so that the 'bedroom tax' can in effect be abolished. While DHPs are a welcome expedient, they are only a temporary measure; their use to mitigate the 'bedroom tax' has tended to obscure other existing and potential uses. For example, following the Chancellor's Summer Budget, further restrictions on the eligibility for Housing Benefit will exclude many such as 18-21 year olds from assistance, as only Housing Benefit recipients are eligible, making the need for Scottish Parliament to have the necessary power to vary all the more pressing.

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

3.13. As Dr David Webster has pointed out in his sanctions briefing in May<sup>9</sup>, almost twice as many JSA claimants are sanctioned as had job outcomes; up to December 2014 there were 734,774 sanctions compared to 376,020 job outcomes. There were 596,022 Work Programme sanctions after challenges.

3.14. The devolution of work programme and work choice can only be an improvement. There is not enough emphasis on giving the opportunity for claimants to acquire the necessary skills to acquire and sustain employment and too much emphasis on punishing those who fail to comply.

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/193327/rrep822.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193327/rrep822.pdf)

<sup>9</sup> <http://www.cpag.org.uk/sites/default/files/uploads/15-05%20Sanctions%20Stats%20Briefing%20-%20D.Webster%20May%202015.docx>

3.15. The current practice of big firms sub-contracting on a diminishing return model of agreement does not work – it presupposes that there are up-front costs that have to be covered, ignoring the on-going overheads of providing support.

3.16. The time prescribed nature of the work programme is flawed. It only starts after the claimant has been unemployed a prescribed time and then lasts for a set period with no reference to the progress of the claimant. There should instead be early intervention, with a view to what the market is, building skills and building confidence of the claimant and suitability.

3.17. There are age barriers with focus on under 21s – so graduates can lose out, for example, as do over 50s. A preferred option would be a single door of entry involving a range of providers including third sector organisations and housing associations with wider role initiatives that can specialise to match capacities of client.

### **The Regulated Social Fund, New Benefits, Top-ups and Delivery of Benefits Overall**

3.18. The SFHA welcomes a commitment to the stronger intergovernmental working recommended by the Smith Commission, which should help to improve the delivery of benefits. The establishment of the Scottish Welfare Fund has been a welcome innovation, and is submitting a response to the Welfare Reform Committee's consultation on regulations.

3.19. It should be borne in mind that many devolved or reserved benefits can act as passports to other devolved or reserved benefits. It is therefore of critical importance that governments work closely together for this transition, and continue with close partnership.

3.20. Concern remains over the harm caused by delays in the delivery of benefits; as the Trussell Trust has pointed out, the majority of the referrals to their food banks are as a consequence of benefit delays and sanctions. In a recent submission to the Welfare Reform Committee's request for case studies on food bank use the SFHA survey of its members found that 47% of the referrals they were aware of was due to benefit delays. As Dr Webster highlighted in his May report, mandatory reconsiderations, even if successful, leave claimants and their budgets in a parlous state: "Although a successful challenge should result in a refund, this is only after weeks or months by which time serious damage is often done."

## **4. Conclusion**

4.1. The delivery of social security needs to be fair, efficient and promptly delivered. The best way to do this is through locally based systems and expertise that already exist, that are better placed to engage with claimants and stakeholders and to coordinate and account for benefit delivery to the whole community.

4.2. This concludes the submission by the SFHA.

## WELFARE REFORM COMMITTEE

### THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

#### WRITTEN SUBMISSION FROM BARNARDO'S SCOTLAND

#### Introduction

##### 1.1 Impact of welfare reforms on families

Barnardo's is the UK and Scotland's largest children's charity, and Barnardo's Scotland works with more than 26,500 children and young people in over 122 specialised services. Our services work with families and children who are living in poverty and facing multiple disadvantages. Many of our services are aimed at providing early intervention and support to families. This response draws on the experience of children and families supported by our services and the young people we work with to provide support into employment.

Recent changes in benefits have had a disproportionate impact on children and families. The research carried out by the Centre for Regional Economic and Social Research Sheffield Hallam University for the Welfare Reform committee on the Cumulative Impact Of Welfare Reform On Households In Scotland found that:

*"Families with dependent children are one of the biggest losers – in Scotland, couples with children lose an average of more than £1,400 a year, and lone parents around £1,800 a year. Because this is the cumulative impact of several individual benefit changes the overall impact has previously been hidden. In all, families with children lose an estimated £960m a year – approaching two-thirds of the overall financial loss in Scotland<sup>10</sup>."*

It appears that the planned changes to in-work benefits announced in the UK budget in July 2015 will continue this trend, and have a very negative impact on some families: it has been estimated that a family on tax credits with one full-time and one part-time earner, both on £8 per hour, and two children could lose up to £2,400 a year.

##### 1.2 links to wider Scottish Government agendas

Any discussion of how the Scottish Parliament can use any greater powers over welfare to deliver benefits in Scotland should therefore recognise the crucial links between welfare policy and the wider policy agenda around tackling poverty and inequality, and in particular the wellbeing of children in Scotland. One of the defining features of the Scottish Parliament has been the range of strategies and legislation which have, sought to improve the welfare of children. However, the remit of this legislation has been limited to the responsibilities that have been devolved to the Scottish Parliament, such as local authorities, health and the police. Consideration of the future delivery of Scottish social security should therefore look at how any

<sup>10</sup> <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/87136.aspx>

devolved welfare functions can become an effective part of structures such as Community Planning Partnerships, or children's services planning processes.

The need for this is clear given the impact of the previously mentioned cuts in welfare on children's services, including the services organisations like Barnardo's Scotland provide. Our recent joint report with NSPCC *Challenges from the frontline Supporting families with multiple adversities in Scotland during a time of austerity*<sup>11</sup> highlighted that our family support services are experiencing increases in the number of families who are presenting in a state of crisis, even where the service is designed and funded to deliver early intervention or preventative help. This appears to be largely a result of the cumulative effect of benefit sanctions, benefit delays, changes to tax credits and price rises for basic commodities such as food and energy. Taken together, these changes are tipping more families into crisis and aggravating pre-existing difficulties such as mental health problems, substance misuse and relationship breakdown. The severity of need is visibly growing. Barnardo's Scotland services report that caseloads are increasingly complex, with a growing number of issues involved. In addition, Barnardo's Scotland services are finding they need to meet basic material needs and stabilise home conditions before intensive family support work can begin.

The Child Poverty Strategy for Scotland recognises these issues, and on page 21 states:

*"Welfare Reform Mitigation Westminster's welfare cuts could reduce benefits in Scotland by over £4.5 billion in the five years to 2015 – around £1 billion of which would relate directly to children. Mitigating the full impact of these cuts will not be possible. However, we will do what we can under the current constitutional settlement, making the argument for fairer reform. Where we have responsibility, we are investing to support vulnerable people. Our current and planned spending will invest at least £258 million over the period 2013/14 to 2015/16 to limit the damage of Westminster's welfare policies on Scotland"*<sup>12</sup>.

Clearly, a greater alignment between the Scottish Child Poverty strategy and the Scottish social security system would reduce the need for mitigatory spending. This alignment would require the Scottish social security system to play its role in meeting the Scottish Government's Solidarity target, which is "to increase overall income and the proportion of income received by the three lowest income deciles as a group by 2017" and also the Cohesion target designed to reduce inequalities in economic participation across Scotland, as well as the three key outcomes outlined in the Scottish Child Poverty strategy of maximising household resources, improving children's wellbeing and life chances and ensuring children from low income households live in well-designed, sustainable places

A framework for delivering this could be the wellbeing principles that underlie the Getting It Right For Every Child (GIRFEC) approach, which has been given a statutory underpinning by recent children's legislation. The Children and Young

<sup>11</sup> <http://www.nspcc.org.uk/services-and-resources/research-and-resources/challenges-from-frontline/>

<sup>12</sup> <http://www.gov.scot/Publications/2011/03/14094421/0>



People (Scotland) Act 2014 introduced the eight wellbeing indicators of safe, healthy, achieving, nurtured, active, respected, responsible and included into Scots law, to ensure holistic, strengths-based, multi-dimensional assessment of wellbeing. The Act places a requirement on local authorities, Health Boards and other statutory services to develop local children's services plans. These plans should ensure that services for children are provided in a way which best safeguards, supports and promotes the wellbeing of children in the area concerned, ensuring that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising. Growing up in poverty can undermine all 8 aspects of a child's wellbeing, but has a particular relevance to the final indicator of 'included', which covers social, educational, physical and economic inequalities.

This links to the UN Convention on the Rights of the Child (UNCRC), which was also covered in the Children and Young People (Scotland) Act 2014, and which states that:

- every child has the right to benefit from social security. Governments must provide social security, including financial support and other benefits, to families in need of assistance (Article 26);
- a standard of living that is good enough to meet their physical and social needs and support their development (Article 27).

Therefore Barnardo's Scotland would recommend that any future social security system must be designed in a way that enables it to be part of the achievement of the Solidarity and Cohesion National Outcomes, and given the particular impact of recent welfare reform on children and families, be integrated into existing planning processes such as joint children services plans.

## **2: Response to the specific questions**

In its call for evidence the committee asked how 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 b) Universal Credit (housing element and administrative arrangements) and Discretionary Housing Payments c) the Work Programme and Work Choice d) the Regulated Social Fund, new benefits, top-ups and delivery of benefits overall.

In addition to the general remarks made above, covering the integration of Scottish devolved benefits with existing devolved powers, we also have specific comments to make on the areas outlined by the committee.

### **2.2 Welfare support for people with disabilities**

The experience of many children with disabilities and their parents that we work with has been that welfare support has increasingly lacked dignity, respect, support, equality and common sense, and we look forward to these principles being embedded in the new system .

As Inclusion Scotland has noted, a major early step forward could be achieved by broadening the evidence base for assessment. The current system has an over-reliance on GP assessments and attendance at assessment centres.

In the longer term, we hope that the devolution of disability and carers benefits is carried out in such a way as to give the Scottish Parliament the ability to develop new systems to support disabled people that focuses on supporting independent living and meeting the additional costs of daily living faced by disabled people.

One of the big challenges faced by young people with a disability is making a positive transition from children's services to adult services. Problems with benefits can play a major role in this. A new system of welfare support for people with disabilities must integrate well with social care arrangements (especially as self-directed support is rolled out), and with support for employment, education and training.

### 2.3 Universal benefits

Although we recognise that there are still questions to be answered about what the proposals for the devolution of the housing element and administrative arrangements for Universal credit will mean in practice, we would hope that, as described earlier, every effort is made to align these elements of Universal Credit that are devolved with the Scottish Government's existing strategies, including the Child Poverty Strategy for Scotland and GIRFEC.

Clause 21 of the current draft of the Scotland Bill would give the Scottish Parliament the flexibility to legislate for providing financial assistance to an individual who:

*appears to require financial assistance, in addition to any amount the individual receives by way of reserved benefit, for the purpose, or one of the purposes, for which the benefit is being provided.*

Clause 22 of the bill would devolve the responsibility to administer discretionary housing payments.

Clause 23 of the bill would devolve the responsibility to provide

*“financial or other assistance to or in respect of individuals who appear to require it for the purposes of meeting, or helping to meet, a short-term need that requires to be met to avoid a risk to the well-being of an individual.”*

However, these clauses contain a similar limitation:

*This exception does not except providing assistance where the requirement for it arises from reduction, non-payability or suspension of a benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit) unless—*

*(a) the requirement for it also arises from some exceptional event or exceptional circumstances, and*

*(b) the need is immediate as well as short-term*

While it appears that these clauses as currently drafted would make it impossible to routinely compensate for the loss of benefit due to sanctions, in our experience application of a sanction to a family that is already vulnerable can have devastating consequences on that family and on the wellbeing and welfare of the children. We would therefore hope that the breadth of what could be considered exceptional and immediate was tested to ensure that such short term payments could be used to support families who would otherwise face destitution.

We would also highlight concerns about the limiting of eligibility for such top-up, short term or housing support payments to those who are entitled to a reserved benefit. Some of the young people we work with, especially through our care leaver services have had very negative experiences of mainstream services, and, in particular, Job Centre plus (JCP), and so chose not to claim benefits, or may have been sanctioned for so long and so repeatedly they no longer consider it to be worth it. It is not clear such young people would be eligible for support under the terms of these clauses.

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

Barnardo's Scotland provides support into employment for young people through our Barnardo's Works service. These services are particularly focussed on supporting young people with additional needs, who would often be considered to be amongst those furthest from the labour market.

The proposed devolution of employability programmes provides an opportunity to support vulnerable young people more effectively and ensure that the job outcomes for them are markedly improved. We welcome the fact that the Scottish Government are consulting widely on how future employability programmes should be designed.

We need to carefully consider what works for vulnerable young people. The way that current programmes are designed – on a payment by results basis - means that those young people who require the most support to get into employment are often 'parked' and considered too difficult to help whilst those who are more likely to get and maintain a job are given priority. In our experience the Work Programme has been most effective for those closest to the labour market. Unfortunately the payment model does not take into account the extra time and resource involved in supporting those with additional needs get into employment. Consideration should be given to a rebalancing of support to ensure that the services working with those who need the most help to get into employment are resourced in such a way that this can be achieved.

For vulnerable young people there needs to be a move away from the current 'work first' approach where the focus is on moving the young people into work as quickly as possible, while all other barriers to employment are ignored. Our experience leads us to conclude that a capability approach is required, where particularly vulnerable young people are supported in terms of self-confidence, resilience and motivation alongside work to address external factors such as housing, money management, and substance misuse. Such a holistic approach would ensure the young person

had the opportunity to develop their capability for work. It is also crucial that the young person's voice is heard when determining the type of support and work they are looking for and that future programmes are not designed on a 'job at any cost' basis.

Barnardo's Scotland believes that one way to achieve this is to ensure that future employability services have protected funding to tackle youth unemployment, particularly those for the most disadvantaged and marginalised young people. The Scottish Government has committed to reducing youth unemployment by 2021. To do this we must make sure that the right support is available to every young person regardless of their level of need. The redesign of employability support should be used as an opportunity develop tailored services for specific groups who face particular adversities, rather than simply relying on generic programmes, and therefore a separate process for disadvantaged young people is needed.

Our work supporting young parents causes us to have a number of concerns about the fact that Job Centre Plus functions will not be devolved. Our service users tell us that the current operation of JCP fails to take account of the needs of people with children and recognise the particular pressures they face. The Committee will be familiar with stories of people being sanctioned and losing their benefits for being late for appointments. This is an experience we have heard time and again. Whilst we welcome the fact that there should be closer working between JCP and any new programmes we will not be able to establish a system based on respect, dignity or common sense if the current approach at the front end to jobseekers continues.

Mark Ballard  
Head of Policy  
Barnardo's Scotland  
31 August 2015

## WELFARE REFORM COMMITTEE

### THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

#### WRITTEN SUBMISSION RECEIVED FROM CHILDREN 1ST

CHILDREN 1<sup>ST</sup> is Scotland's National Children's Charity. We help Scotland's families to put children first, with practical advice and support in difficult times. And when the worst happens, we support survivors of abuse, neglect, and other traumatic events in childhood, to recover. We help Scotland's communities to play their part in looking out for and protecting children. We listen to Scotland's children and families and when government or society fails to hear them or fails to respect their rights, we speak out.

Our family support services work with up to a hundred families a year, many of whom are living on low incomes, experiencing financial difficulties and receiving support from the state. Our services have raised growing concerns around child poverty, structural socio-economic inequalities and the impact of welfare reform on the families that we work with. Anecdotally we have heard about the increasing use of food banks and levels of fuel poverty, the use of short-term, high-interest loan companies and significant levels of hunger amongst the children and young people that we work with. We have particular concerns about the impact of the introduction of Universal Credit in Scotland on the most vulnerable families, such as those living in kinship care arrangements or who have a disability.

CHILDREN 1<sup>ST</sup> also run a specialist service, the Glasgow Supporting Families Service (Tackling Money Worries), which aims to improve outcomes for low-income families with children who are facing a change in circumstances that places them at a higher risk of debt and money problems. In the four months since a Money Advisor was appointed to our service she has supported families to access £90,000 in unclaimed benefits and Welfare Fund Payments. Around 30% of the families that access CHILDREN 1<sup>ST</sup>'s service present with complex financial and debt problems that are near or at crisis point. These severely impact on their ability to cope with other stresses and significant events in their lives.

We are pleased to have the opportunity to provide evidence to the Welfare Reform Committee on the future of social security in Scotland. Our service users' experience of the welfare benefits system has given us some insights into the difficulties in navigating the system and understanding entitlements. We believe that this Inquiry is an important opportunity to fully ensure that our welfare system is fully equipped to be rights-based and person-centred so that the best interests of children and young people are fully taken into account and their voices are heard in the decisions that affect them. Our social security system should be fair, simple to engage with and its processes should be easy to understand and to explain. It should take account of the needs of the most vulnerable, offering them respect and dignity at often challenging and difficult times in their lives, without sanctioning families for changes in health or

social circumstances which may affect their ability to fully comply with regulations. Any changes to the existing system must also take account of the impact of trauma on many of the people who may wish to engage with it, and should encourage resilience, capacity building and autonomy where appropriate.

In terms of the constitutional settlement, our view is that any changes to the existing welfare system should be thoroughly considered to ensure that there are no unintended consequences that will negatively impact on the most vulnerable families and that proposals should be subject to a Child Rights and Wellbeing Impact Assessment, where possible. We also support the Child Poverty Action Group's call that further devolution should not be used as a cover for further cuts at a time when families are already feeling the pressure. Any additional devolved welfare powers should fully be viewed through the lens of existing Scottish Government agendas relating to child poverty, child protection, community engagement and planning processes and the changes that will be brought in through the Children and Young People (Scotland) Act 2014. We agree with Barnardo's that every effort should be made to align elements of Universal Credit that are devolved with the Scottish Government's existing strategies, including the Child Poverty Strategy and GIRFEC.

In our response we have focused on providing comment where our expertise lies within the workstreams identified by the Welfare Reform Committee and have therefore highlighted areas of concern relating to the existing arrangements—and those anticipated in the coming years—that we hope will be addressed, regardless of the specific arrangements of devolution. Throughout our evidence we have highlighted the key principles of dignity, support, respect and equality. We encourage the Committee to consider what powers are required to address these key issues.

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

Our services report that families often have difficulty accessing disability benefits for themselves and children, particularly where there is no diagnosis in place. This often happens in Disability Living Allowance (DLA) claims for children where there is a suspected developmental disorder such as Autism Spectrum Disorder (ASD) or Attention Deficit Disorder (ADD). For parents, we find that there can be difficulty in securing awards for mental health difficulties. Reasons for this include difficulties in accessing medical support services (for multiple reasons), and obtaining written support from medical professionals.

We also work with families where the adult is in receipt of DLA and has not yet migrated to Personal Independence Payments, and therefore anticipate these families will require additional support during this assessment phase.

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

From April 2016 under Universal Credit, home owners will only receive support with mortgage interest payments after a waiting period of 39 weeks rather than the current 13 weeks. We anticipate that this will put families at risk of homelessness as mortgage arrears accrue. Should families need to be placed in temporary homeless accommodation, they will be subject to Local Housing Allowances which will be insufficient to meet the cost of the temporary accommodation.

We also understand that support for mortgage interest awarded will be repayable to the DWP upon sale of the home or when the claimant returns to work. Families' budgets will therefore be vulnerable in returning to work as other additional costs are often associated with working, such as childcare and travel in addition to the added burden of housing debt repayments. There is also concern that if adequate money advice is not available to vulnerable households, families could find themselves in negative equity or at risk of homelessness as housing debt continues to accrue alongside debt to the DWP. Mortgage repayment options are limited where there is existing mortgage arrears, which is usually when money advice is sought.

CHILDREN 1<sup>ST</sup> believe that backdating of housing benefit will be reduced from 6 months to 4 weeks, which will affect the most vulnerable families significantly. Our service highlighted a case where one family needed to make a backdated claim for a dual tenancy, one of which was homeless accommodation. The family had become homeless having had to flee violence and racial abuse.

We also understand that the Family Element of housing benefit will be lost at £11.34 per week. Housing benefit will be paid directly to claimants rather than landlords, which may precipitate rent arrears as families struggle to adjust to change in payment frequencies.

Finally, we are concerned that decisions are being made, and will be made in the future, based on resources rather than need. We are aware of an urgent application to the Discretionary Housing Fund that was unsuccessful despite a risk of homelessness to a single parent family with a disabled child. The reason given was that the fund was finite, and that the family was not classed as a priority. Due to the imminent threat of homelessness, the appeal process would take too long so funds to secure the deposit were secured from a charity. We encourage the Committee to consider how to ensure that Scotland's social security funding is based on need.

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

The families that we work with are often living in poor conditions but have difficulty in securing awards from the Scottish Welfare Fund for decorating costs. In one case Social Work imposed a condition on the family that the interior standard of the home was improved to ensure the children remained at home but, to date, these claims

have been largely unsuccessful as decorating is assessed as low priority, with little recognition of the potential impact on mental health and wellbeing.

As the fund is discretionary, it is accepted that what may be deemed high priority will vary throughout the financial year, therefore decisions can be inconsistent. Moving costs for a family who had to move due to disability needs were refused funds for a van, but as they had to abandon a double bed and two mattresses, they were granted these items under a subsequent application. This process exacerbated a stressful situation for a lone parent family where the mother is a cancer survivor and has been sleeping on the floor pending award of a bed from the Fund.

We would welcome consideration on how these issues can be addressed so that the Fund works in a more intuitive manner that puts the best interests of families first.

To demonstrate the existing complexities, in the Annex to this evidence we have set out a case study of one of our service users who could be affected by the changes under Universal Credit. In terms of the delivery of benefits overall, we wish to highlight four key concerns:

### *1. Access to services*

CHILDREN 1<sup>ST</sup> have experience of families who are affected by literacy issues which can be difficult to overcome in seeking advice. Other barriers to seeking advice include location of advice services (i.e. in housing associations where a service user owes significant arrears) or opening hours of advice agencies which are during working hours or are held at times when service users cannot obtain childcare.

Vulnerable families affected by disability, mental health issues and addictions all report difficulties in engaging with organisations such as the DWP or HMRC. Many families only use mobile phones and telephoning these organisations can be cost prohibitive—or prohibitive if they do not have any call credit. These families are often affected by low self-esteem and poor confidence for multiple and complex reasons, which can impact ability to initiate contact with organisations or challenge decisions.

Additionally, moving claims to exclusively online will present difficulties for families with no internet access. Although there are provisions in local libraries to access the internet, literacy, ability to travel or library memberships may present barriers for many of our service users. We are also concerned that there is a lack of professional support available to help people claim benefits, which may leave vulnerable families open to fraud or abuse if they have to rely on support from others.

### *2. Local approaches*

The limiting of the child element within Universal Credit and freezing of Child Benefit will exacerbate the financial difficulties of our families, who—due to their background and experiences may already have poor outcomes. The realignment of child poverty definitions to ‘life chances’ may be better dealt with locally as the negative impact of



the 'Glasgow Effect' is well documented and yet the causes unclear.<sup>13</sup> Collaborative approaches involving families in both urban and rural areas will help identify needs and strengths rather than a blanket approach.

### 3. *Universal credit and families with kinship care arrangements*

CHILDREN 1<sup>ST</sup> provides the National Kinship Care Service, which offers information, advice and support to families with kinship care arrangements. Kinship carers provide a vital role in Scotland, caring for vulnerable children and young people, often at difficult and challenging times. In doing so they enable children to maintain family connection and recover from loss and trauma, often stepping in so that children can remain with their families and saving the local authority the cost of expensive residential care placements. Our service users highlight to us the impact of the financial burden of caring for a child, often later in life and in urgent circumstances with little warning. They tell us about the need for clear and coherent information about how they can access funds to support the children in their care and about the impact that their additional caring responsibilities have on their daily lives in terms of their own physical and mental health and work and employment opportunities.<sup>14</sup>

Census research demonstrated that a disproportionate number of Scottish kinship carers and the children they care for live in disadvantaged areas, with 45% of children in kinship care living in the poorest 20% of areas and 27% of kinship carers being on benefits or unemployed.<sup>15</sup> Given this information we are concerned that the introduction of Universal Credit will have a negative impact on some kinship care families of looked after children in Scotland relating to their ability to maximise their income. Specifically, kinship carers of looked after children will not be able to claim the child element of Universal Credit and will therefore need to rely on local authorities' kinship care allowance payments to help support their children in care. Currently kinship carers of looked after children have the choice of either accepting the local authority's kinship care allowance, or instead they can accept the combination of Child Benefit and Child tax credit payments if they are eligible. Some kinship carers may choose to do this if the amount of Child Benefit and Child Tax Credit is higher than the kinship care allowance rate set by their Local Authority.<sup>16</sup>

Although the Scottish Government recently announced changes that will bring allowances for eligible kinship carers in line with foster carers, local authorities in Scotland vary significantly in terms of the rates that they offer and under different parts of the legislation. Under the changes in Universal Credit, kinship carers of looked after children will have to accept the local authorities' kinship care allowance payment, no matter how much is it.

<sup>13</sup> Gray & Leyland, *A multilevel analysis of diet and socio-economic status in Scotland: investigating the 'Glasgow effect'*, Public Health Nutrition, 2009

<sup>14</sup> CHILDREN 1<sup>ST</sup>, *Kinship Care Financial Review*, 2013

<sup>15</sup> Sandy, S., et al, *Spotlight on Kinship Care: using Census microdata to examine the extent and nature of kinship care in the UK at the turn of the twentieth century*, Bristol University, 2011

<sup>16</sup> Gillies, A. *Coping with complexity: Financial support for kinship carers in Scotland*, 2015

The landscape of financial support for kinship care families in Scotland is confusing and alienating for carers, and we would welcome the Committee's consideration of how the future delivery of social security can address some of the issues leading to inconsistent and inequitable practice.

#### *4. Stigma and discrimination*

We have found that families have been affected by negative discourses that label benefit claimants as "scroungers" that is preventing them from claiming benefits to which they are entitled. CHILDREN 1<sup>ST</sup> believes that vulnerable families should be supported and treated with respect and dignity to help them get back on their feet. We agree with other submissions that respect for human rights and dignity must be the cornerstone of a new approach to social security.

Finally, we are concerned that the existing system fails to take into account the intricacies and complexities of domestic abuse. We would welcome consideration of the current plans to pay Universal Credit to one claimant only, which we believe may cause difficulties in the case of complex or abusive relationships or with respect to service users with dependency issues. For example, we are aware of one service user who was left with a benefits overpayments and council tax arrears bill of over £16,500 after it was determined that she was living as part of a couple. We understand that in this case the service user's husband was refusing to leave the house. We would therefore welcome how changes can be made to ensure that there is full recognition of the disempowerment affecting individuals in abusive relationships and subsequent effects on children.

## Annex

Below we undertook calculations with respect to one of our service users who is currently working and owns her own home. This service user would most likely be affected by Universal Credit as changes mean that the protection to benefit income will lapse if there is a change in circumstances. Currently tax credits are based on an average, but under Universal Credit there are fixed time periods.

Additionally, our service user's working hours change week by week due to childcare issues and their own mental and physical health. If their hours fell below the agreed requirement then her income protection would end and her overall income would be reduced. Our service user would receive support with mortgage payments but this would be repayable when she returns to work, and significant debt has already been accrued, which means this would not be possible.

Under the current system, our service user receives a surplus income of £169.83 and she is able to pay all of her household bills.

Under Universal Credit, our service user would have a monthly deficit of £149.54.

<b>Income</b>	<b>Current system</b>	<b>Universal Credit</b>
<i>Wages</i>	£866.67	£866.67
<i>Child Benefit</i>	£208.43	£208.43
<i>Child Tax Credit</i>	£1,391.48	£0
<i>Working tax Credit</i>	£387.31	£0
<i>Council Tax Reduction</i>	£23.05	£23.05
<i>Universal Credit</i>	£0	£1,459.42
<i>Total Income</i>	£2,876.94	£2,557.57
<i>Total monthly expenditure</i>	£2,707.11	£2,707.11
<b><i>Total disposable income</i></b>	<b>£169.83</b>	<b>-£149.54</b>

## **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>17</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>18</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

<sup>17</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>18</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)

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 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>19</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>20</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>21</sup>, although this masks a number of claimants who had to wait considerably longer, with 9% of

<sup>19</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>20</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%2C%20Voices%20from%20the%20Frontline%20September%202014\\_0.pdf](http://www.cas.org.uk/system/files/publications/Personal%20Independence%20Payment%20delays%2C%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>21</sup> Personal Independence Payment: Official Statistics to April 2015 – Department for Work and Pensions, June 2015

claims taking longer than 16 weeks in January 2015<sup>22</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 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 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.

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[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>22</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)

## 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>23</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.

<sup>23</sup> Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>



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>24</sup>.

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

<sup>24</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)

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>25</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.**

### 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

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<sup>25</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_for_Universal_Credit.htm)

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>26</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>27</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>28</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.

<sup>26</sup> The Gender Impact of Welfare Reform – Scottish Government Communities Analytical Services Division, August 2013 <http://www.gov.scot/resource/0043/00432337.pdf>

<sup>27</sup> Housing Policy and Welfare Reform – Women's Aid <http://www.womensaid.org.uk/page.asp?section=00010001001000320002&sectionTitle=Housing+Welfare>

<sup>28</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)

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 relatively low, with 769 households being affected in May 2015<sup>29</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>30</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>31</sup>. Clarification over whether this funding will be transferred to the Scottish Government following the devolution of DHPs would be welcome.

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<sup>29</sup> Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

<sup>30</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>31</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>

The devolution of Discretionary Housing Payments gives the Scottish Government an opportunity to revise existing guidance<sup>32</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>33</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 Access to Work scheme<sup>34</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

<sup>32</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>33</sup> Universal Credit is paid monthly in arrears and seven 'waiting days' are applied before a claimant is eligible for support.

<sup>34</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>

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.

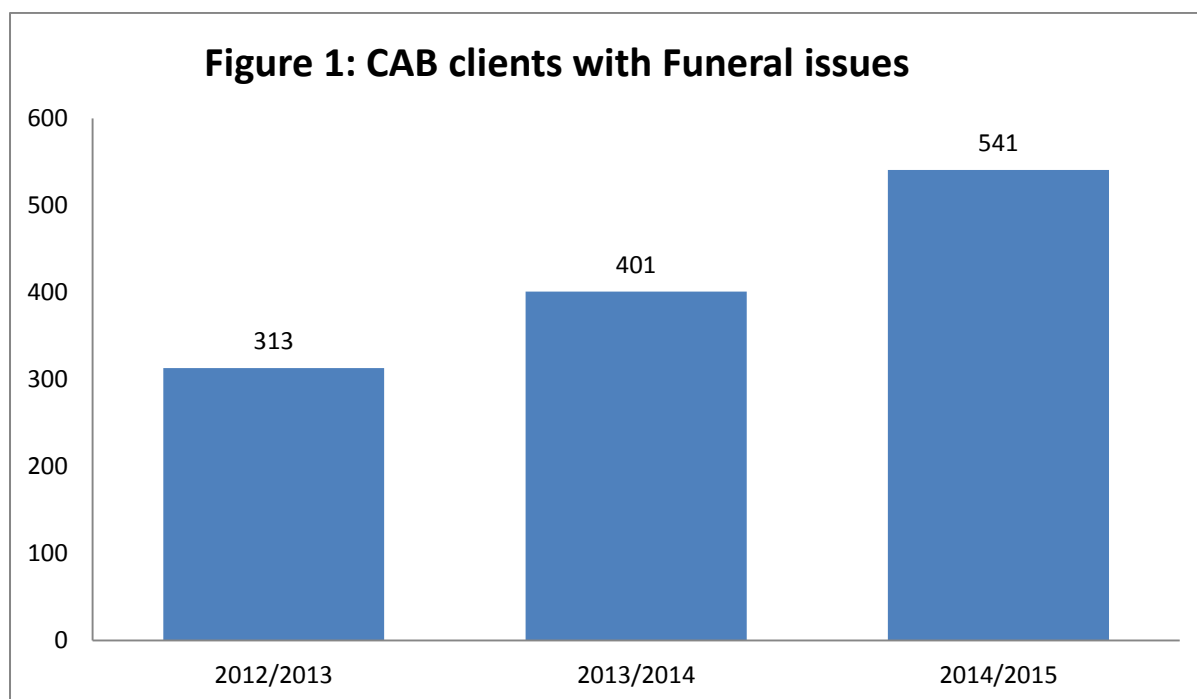
In our view, maintaining a requirement on a Scottish Government-devised employment support programme to continue to refer people for sanctions will result in a massive strain between Governments which have a different view of the sanctions and conditionality regimes put in place by the UK Government.

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

**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>35</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>35</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>36</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>37</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.

<sup>36</sup> Additional funeral expenses have been capped at £700 since 2003. University of Bath (2012)

<sup>37</sup> CAS, The Cost of Saying Goodbye, 2015



“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 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>38</sup>. 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.**

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<sup>38</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

## **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>39</sup>, a level significantly higher than in many other European countries<sup>40</sup>. Child poverty is projected to rise steeply in Scotland<sup>41</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>42</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>43</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

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

could have a significant positive effect on low income families. Research suggests that increased demand for food banks is strongly linked to problems with the administration of social security<sup>44</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:

<sup>39</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>40</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>41</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>42</sup> <http://www.cpag.org.uk/content/child-poverty-costs-uk-29-billion-year>

<sup>43</sup> <http://www.ifs.org.uk/publications/7054>

<sup>44</sup> <http://www.trusselltrust.org/resources/documents/press/foodbank-report.pdf>

- **New benefits are structured simply to minimise complexity.** Complex entitlement rules and conditions should be avoided and systems of 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>45</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 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

<sup>45</sup> <https://www.gov.uk/government/publications/ssac-occasional-paper-14-localisation-and-social-security>

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

claimant has a safe and accessible means of getting to the assessment 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

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

should that evidence be collected and who should be responsible for covering 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>46</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 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.

- **Make 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.

<sup>46</sup> For more information see:

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



**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 DWP of changes in their entitlement.

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

**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 cerebral palsy).

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

### **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>47</sup>. CPAG have already highlighted our concern about this clause of the Bill, the restrictive drafting of which will remove the 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>48</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

<sup>47</sup> Clause 19 of the Scotland Bill 2015/16

<sup>48</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)

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 household 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>49</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 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>50</sup>.

<sup>49</sup> The Gendering of Income within Households, <http://www.radstats.org.uk/no075/pahl.htm>

<sup>50</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)

## 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.

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

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

the chances that an individual will find employment.

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>51</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>52</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

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

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 estimated that the three years of 1% uprating alone would put 200,000 more children into poverty by 2016<sup>53</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 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

<sup>51</sup> <http://www.ifs.org.uk/publications/7054>

<sup>52</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%202020-07-15.pdf>

<sup>53</sup> For more information see <http://www.cpag.org.uk/sites/default/files/CPAG%20Briefing%20-%20Welfare%20Reform%20and%20Work%20Bill%20Commons%202nd%20Reading%202020-07-15.pdf>



three or more children<sup>54</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>54</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 RECEIVED FROM ONE PARENT FAMILIES SCOTLAND

One Parent Families Scotland is Scotland's leading single parent organisation. Building on seventy years of advocacy and service-delivery expertise, OPFS provides expert information, advice and support, along with training activities, work preparation programmes and flexible childcare. OPFS delivers services across Scotland in Edinburgh, Dundee, Glasgow, Renfrewshire, Lanarkshire and Aberdeen and provides support to over 5,000 families and 12,000 children. This response draws on our experience as service providers, supporting single parents across Scotland as well as previous consultations which we have conducted into their experiences of and views on welfare reform.<sup>55</sup>

OPFS has a vision of a Scotland in which all families, without exception, can prosper from life's opportunities. To this end we are working towards a Scotland where single parent families are free from poverty and have sufficient resources not just to survive but to thrive; are treated with dignity and respect and have equal opportunities and life chances, enabling them to flourish and achieve their full potential.

Along with other members of the Scottish Campaign on Welfare Reform (SCoWR) OPFS calls for a social security system based on the following 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.<sup>56</sup>

We want to see newly devolved social security powers for Scotland used in line with these principles and so welcome the Committee's focus on how new powers can be developed to ensure that the principles of dignity, respect, support, equality and common sense are embedded in the new system.

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<sup>55</sup> OPFS Stakeholder Focus Group Discussions Report, February 2014, Response to the Scottish Government Expert Working Group on Welfare: Call for Evidence

<http://www.gov.scot/Resource/0045/00451857.pdf>

<sup>56</sup> OPFS is member of the Scottish Campaign on Welfare Reform

<http://www.cpag.org.uk/sites/default/files/SCoWR%20manifesto%202013.pdf>

### Single parents and poverty

There are over 169,707 single parents in Scotland<sup>57</sup>. By 2033, this is projected to rise to 238,000 (24% to 38%)<sup>58</sup>. Because of the additional barriers they face, single parents are more at risk of being in poverty. Over four in every ten (43%) children in single parent families are poor, compared to just over two in ten (22%) of children in couple families.<sup>59</sup> Research shows that single parents are more likely to report having poor health (13%) being disabled or having a long term condition (15%) and have a disabled child (17%) than parents in couple families, where the figures are 7%, 9% and 14% respectively.<sup>60</sup>

### Devolution

The Smith Commission proposed new devolved welfare powers across a number of areas. In contrast, the draft clauses set out in the UK Government's Command Paper<sup>61</sup> appear to restrict these proposals in various ways<sup>62</sup> as does the subsequent Scotland Bill being debated at Westminster. There are a number of unresolved overarching issues, which could limit the Scottish Parliament's ability to develop newly devolved powers in an autonomous way. These include the "no detriment" clause which would give the UK the right to claw back monies if variations in expenditure in Scotland were deemed to be detrimental to the UK budget. The new Welfare Reform and Work Bill is also likely to result in further restrictions and ongoing cuts to the overall UK social security budget will also have an impact on the devolved budgets for the new social security powers.

Nevertheless, despite these restrictions, newly extended powers do offer opportunities for the Scottish Parliament and Government to develop legislation and policy to better tackle poverty and inequality in Scotland. The devolution of aspects of social security provision and employability services is part of a wider set of newly

<sup>57</sup> Scotland's Census 2011 - Table KS107SC - Lone parent households with dependent children

<sup>58</sup> Household Projections for Scotland, National Records of Scotland, 2008

<sup>59</sup> Households Below Average Income (HBAI) 1994/95-2011/12, Table 4.5db. DWP 2013

<sup>60</sup> Maplethorpe N, et al

Families with children in Britain: Findings from the 2008 Families and Children Study (FACS) (Research Report No. 656). London: DWP; 2008.

Available at: <https://www.gov.uk/government/publications/families-with-children-in-britain-findings-from-the-2008-families-and-children-study-facs-rr656>

<sup>61</sup> UK Government (2015) Scotland in the United Kingdom: An enduring settlement. London: HM Government. Available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/397079/Scotland\\_EnduringSettlement\\_acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397079/Scotland_EnduringSettlement_acc.pdf)

<sup>62</sup> Scottish Government (2015c) Further Devolution for Scotland: The Draft Clauses, Spice Briefing 15/16. Available at

[http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB\\_15-16\\_Further\\_Devolution\\_for\\_Scotland- The\\_Draft\\_Clauses.pdf](http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_15-16_Further_Devolution_for_Scotland- The_Draft_Clauses.pdf)

devolved powers including taxation and equalities legislation. Decisions about spending on social security must be seen in the context of these new powers *and* budgets for spending on existing devolved areas. This will involve difficult decisions but given the impacts of poverty on single parents and their children and the wider costs of poverty to society as a whole, it is critical that the Scottish Parliament make use of all its devolved powers to prioritise tackling poverty.

### **Overarching considerations**

On the whole, our social security system guarantees equality of entitlement across the UK. However, in England the introduction of the local welfare assistance scheme (replacing the previous national scheme), has undermined this principle of fairness, throwing many into greater poverty on the basis of a postcode lottery. To support equality, entitlement must be based on assessment of people's individual circumstances, not simply where they live. Such an approach requires a national scheme which guarantees standards and entitlement across Scotland.

An effective and independent system of appeal is crucial to ensuring the dignity and human rights of claimants. A properly constituted, national appeals service is needed to deliver a just and fair system for all.

To ensure a high quality service which puts the needs of service users first, services should be provided by not for profit providers. We do not think that the provision of essential services to families who are in poverty and therefore often in a very vulnerable position, ought to be provided by the private sector whose primary duty is to their shareholders rather than service users. As well as safeguarding individuals, public (and voluntary sector) provision can more readily facilitate opportunities for service user participation and democratic accountability.

When developing and delivering the newly devolved services the Scottish Parliament, Government and service providers should be mindful of their duties under the Equality Act, to promote equality and ensure that provision is meeting the needs of those with protected characteristics. This is relevant in relation to publicising the new benefits, developing eligibility criteria and ensuring that those delivering the scheme have in-depth knowledge of those using its services and their needs.

The UK is signatory to a number of international treaties that guarantee social and economic rights including the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). A human rights approach must be incorporated into both the design and delivery of social security and services.

In addition, the provision of cash entitlements (rather than support in kind) is fundamental to any system which aims to treat people with dignity and respect. Cash payments allow parents independence and choice. Support in kind increases stigma and undermines independence. It is also likely to increase administrative costs.

## Questions

**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**

**Personal Independence Payments, Disability Living Allowance Attendance Allowance**

The current wording of the Scotland Bill places unreasonable restrictions on the Scottish Parliaments powers to design eligibility criteria which would support single parent families which disabled members.

Already, previous changes to assessment criteria and the resulting cuts to disability benefits have had devastating impact on many disabled adults and children pushing them into greater poverty and impacting on their ability to participate equally in society.

Any assessment process must have regard for the UN Convention on the Rights of Persons with Disabilities. The Convention sets out disabled peoples political, economic, social and cultural rights - covering all areas of life, including mobility, health, education, work, recreation and equality before the law. To ensure that any new benefits are compatible with Convention rights, there is a need to ensure that eligibility criteria are framed to support disabled people enjoy access to all these aspects of life rather than more limited approaches.

To promote independence and avoid stigma it is essential that disability benefits remain as financial benefits to which disabled people have statutory entitlement. Disability benefits should not be subsumed into social care or other budgets as this opens the door to a postcode lottery. Pooling resources in this way also means that monies, which are currently paid directly to parents, are at risk of the cuts being imposed on other budgets. To avoid confusion, erosion of entitlement and a lack of transparency and oversight, OPFS believes control over disability benefits should be held at Scottish national level and that it should not be devolved to local authorities.

Many disabled people report very negative experiences of assessments for disability benefits. They are often treated with a lack of dignity and respect, the evidence they give misrepresented and the interviews/examinations are cursory and/or not relevant to their condition or disability.

This is due to the very restrictive eligibility criteria and compounded by the fact that assessments are made by private companies. There is ample evidence that the drive for efficiency and profits has had a very negative impact on the service that disabled people receive. To ensure a high quality service, which puts the needs of service users first, services need to be provided by not for profit providers.

With regard to assessments, the person themselves - first and foremost, and then any carers and professionals who are providing treatment and support should provide the main basis of the assessment (rather than face to face to face assessment by someone who does not know the claimant).

The frequency and quality of the reviews that people currently undergo are completely inappropriate. Reviews are regularly carried out even where medical evidence clearly shows that someone has a degenerative condition or no prospect of change. Reviews should be based on appropriate evidence, not scheduled on an arbitrary basis and should not be required at all where someone has a chronic or degenerative condition.

Measures to promote equality should include ensuring accessibility including the availability of a variety of accessible communication options for all devolved benefits. To promote equality, and counter negative stereotyping and stigma, delivery agents should have disability awareness training, which is co-produced by disabled people.

### **Carers Benefits**

Currently, the Bill would restrict payment of carers' benefits to those over 16, not in full time education or "gainfully employed". OPFS believes the eligibility requirements linked to age and employment should be removed from the Bill. The education restriction prevents single parents with additional caring responsibilities from improving their employability through education. Similarly, the exclusion of those in employment does nothing to help parents maintain or improve their employability. We should be supporting those who want to combine caring responsibilities with paid work rather than penalising them.

We welcome the Scottish Government's commitment to increasing the level of Carers' Allowance. However it should be kept in mind that the majority of single parents on low incomes rely on means tested benefits like JSA and housing benefit and do not have other sources of income. Any additional carers' benefit therefore will not benefit them, as it will be taken into account in calculating their entitlement to means tested benefits. The Scottish Parliament should consider how it may be able to redress this through other means such as top ups or the creation of new benefits.

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

### **Administrative arrangement for Universal Credit (UC) payments**

Current levels of benefits entitlement are very far below what families need to live with dignity and respect. Enabling single parents families to choose the frequency of their Universal Credit payments rather than imposing a monthly regime, would greatly assist them to better budget for their needs. Similarly, families ought to have a choice over how their housing payments are administered, including the option of having the housing element paid directly to their landlord.

### **Levels of UC housing element payments**

Cuts to housing benefit have left many families in the private sector struggling to meet their rent and put food on table for themselves and their children. There is an urgent need to increase support for families via the housing element of universal credit to prevent poverty, including child poverty, overcrowding and mounting indebtedness.

### **Discretionary housing payments**

As a result of cuts to housing benefit, some single parent families who previously

would have been entitled to help with housing costs are no longer eligible. The Bill, as it stands would prevent those without an entitlement to housing benefit (or the housing element of universal credit) from claiming a discretionally housing payment (DHP). It also excludes those who have been sanctioned (unless they meet other criteria) from help.

There is a large amount of evidence which shows that sanctions are often applied in an arbitrary and unfair way, plunging families into severe poverty, with devastating effects on people's health and wellbeing. These findings chime with our own experience; working with single parents who are sanctioned or threatened with sanctions through no fault of their own.

Over time more single parents, with younger and younger children are being brought into the sanctioning regime. The UK government has recently announced that single parents aged 18 or over with a child of 3 years old or over will no longer be entitled to Income Support. This means that parents as young as 18 now face the possibility of being sanctioned if they fail to meet JSA conditions.

DHPs should be available to all, regardless of whether someone has an entitlement to help with housing costs or has been sanctioned so that it can be effectively targeted at those who need it most. Discretionally housing payments, by their nature are targeting at those who are vulnerable to it impact of poverty. As such they are an important tool, along with the help available via the Scottish Welfare Fund in tackling poverty and child poverty.

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

In this section we have focused on the Work Programme as that is the programme which majority of our service users are referred to.

#### **The Work Programme**

OPFS supports single parents to access education and training to enable them to move into better paid, more sustainable employment. Currently the Bill only devolves powers to assist those who have been unemployed for twelve months. We believe this is unnecessarily restrictive and should be removed. Many single parents, who have recently moved out of paid employment, or are claiming Income Support or are carers would be keen to take up non-mandatory employability programmes given the opportunity.

The Work Programme, as it is currently designed, is insufficient to tackle the problems faced by single parents wishing to move into paid work. Just one in 10 people have been helped back to work by the government's £5 billion Work Programme flagship scheme leading to accusations that the programme is "worse than doing nothing". In fact the UK Government missed every single one of its minimum targets and in nearly half the UK, the Work Programme is literally worse than doing nothing.<sup>63</sup> As with disability assessments, private providers have been

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<sup>63</sup> See Public Accounts Committee - Twenty-First Report, The Work Programme <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/news/work-programme-report/> and

severely criticised in relation to both outcomes for participants and the cost to the public purse.

Many single parents experiences of the Work Programme are very negative, both in terms of how well the scheme supports them to find sustainable work which fits with their caring responsibilities and in relation to the attitudes of staff. Often, staff appear to completely disregard the fact that parents have responsibilities for children and make completely unreasonable demands on them. In some cases this can be compounded by overtly hostile attitudes towards single parents. When parents are unable to comply, they can be sanctioned, lose benefit and are often plunged into financial crisis, punishing parents and children alike.

The devolution of the Work Programme provides the opportunity for the Scottish Parliament to legislate for a different model, one which is better able to meet the needs of single parents and more responsive to local labour market conditions. We already have good evidence about what works for single parents in Scotland<sup>64</sup> has a proven track record of delivering successful schemes delivered by voluntary sector/local authority partnerships such as " Working for Families", Big Lottery funded "Making it Work " programmes and the SCVO Community Jobs Programme.

Single parents tell us they want good, well-resourced help and assistance with finding and moving into work and that they would engage with these services without the threat of sanctions. As it stands, the Scotland Bill will devolve responsibility for the Work Programme to the Scottish Government whilst maintaining the current sanctioning regime, which underpins both referrals to, and the policing of the Work Programme by the DWP. This would seriously restrict Parliament's opportunities to develop effective employability services.

OPFS believes that to provide a holistic approach to supporting people to achieve their potential; in the long term, skills and employability services should be integrated and the direct link with benefits removed.

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However, notwithstanding the final detail of devolution, there is more that could be done regardless of where powers lie. To make the new Work Programme more effective (and crucially to minimise the impact of sanctioning on single parents, if it is still in place) there are several practical steps which we recommend.

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[http://www.pcs.org.uk/en/news\\_and\\_events/pcs\\_comment/pcs\\_comment.cfm/work-programme-still-worse-than-doing-nothing](http://www.pcs.org.uk/en/news_and_events/pcs_comment/pcs_comment.cfm/work-programme-still-worse-than-doing-nothing).

<sup>64</sup> Evaluation of the Working for Families Fund (2004-2008); Napier University; 2009

<http://www.scotland.gov.uk/Resource/Doc/269769/0080320.pdf>



The Scottish Government should take steps to promote and develop a Scottish good practice approach to any UK sanctioning regime. This should:

- be customised and implemented by local authorities and others concerned with the tackling poverty and inequalities, alongside Jobcentre Plus and Work Programme providers
- provide guidance and support to management and staff about need to take the appropriate guidance, legislation and treaties into consideration in relation to making any referral for sanctioning. These include:
  - Lone parent flexibilities - special rules within social security guidance and legislation which apply to single parents (Whilst in theory these flexibilities ought to provide some protection against being unfairly sanctioned, in practice they are routinely ignored)
- The United Nations Convention on the Rights of the Child (UNCRC)<sup>65</sup> guarantees children the right to a standard of living adequate for the child's development (Article 27) and the right to benefit from social security (Article 26).
- Work Programme providers should receive training in how to apply the appropriate guidance and legislation and should be subject to ongoing monitoring to check that these are adhered to.

To promote equality, counteract stigma and negative stereotypes and provide effective services which meet parents needs (and safeguard the wellbeing of their children) the new Work Programme providers should have training in the issues faced by single parents. This training should be co-produced by single parents and organizations with expertise in the issues for single parents.

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

##### **Delivery of benefits overall**

As noted earlier, to promote equality of access and entitlement a national scheme should be maintained. A national scheme does not imply a remote and inaccessible service, options for local face-to-face engagement should be available for example, and employability services should be tailored to local market conditions, but standards and entitlement should be coordinated nationally.

Adequate resources for staff training and for administration and decision-making is very important. We see many single parents families left penniless and in crisis simply because of DWP and HMRC delays and mistakes. The completely inadequate and lengthy review and appeals process also leaves many parents without money for extended periods. This has been exacerbated by the introduction of mandatory reconsiderations. Sufficient resources to support these functions and provide a decent service would make a big difference to the levels of poverty experienced by many single parent families.

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<sup>65</sup> [http://www.unicef.org/crc/files/Rights\\_overview.pdf](http://www.unicef.org/crc/files/Rights_overview.pdf) summary fact sheet of UNCRC

In term of reviews and appeals, as a first step we recommend that mandatory reconsiderations are abolished and that delivery agents have binding targets for how long they can take to make decisions on applications and reviews.

Systems which support automatic passporting to other benefits and associated entitlements should be automated as far a possible so that parents receive their entitlements without making separate applications. (But alternative methods must also be in place for those who may be entitled to support while not claiming. benefits (for example young pregnant women). This will support take up, especially amongst those who may face challenges making a claim.

Where passporting for one benefit is reliant on entitlement to another, and as a result of devolution these two benefits are now are now administered by separate jurisdictions, it is essential that intergovernmental protocols for coordinating these are discussed and agreed at the earliest possible opportunity to prevent administrative problems and loss of benefits for claimants in the transition period.

Similarly if the work Programme is only partially devolved (in so far the DWP retains powers to sanction Work Programme participants) there will be need to be detailed intergovernmental cooperation to ensure that participants are able to benefit fully from the newly devolved Work Programme.

### **The Regulated Social Fund**

The regulated social fund provides a safety net to many families at times of major upheaval including bereavement and the birth of a baby. Cuts to maternity payments have hit single mothers and their children very hard. The level of Maternity Grants has not been increased since 2002 and urgently needs uprating to reflect the real cost of having a baby. We support calls to make Maternity Grant payable for all children - not just the first child, (as was the case previously before this provision was abolished). OPFS also believes that the Scottish Government should work towards extending Maternity Grants to all mothers, not just those on low income in order to increase take up and reduce stigma.

Maternity Grants must continue to be made as cash payments and not as items in kind. Parents are best placed to make decisions about what they need for their new baby depending on what resources they have available and should be able to maintain the choice and independence they currently have. There is already a large body of evidence that payments in kind (initially introduced for asylum seekers) increase stigma and undermine independence.

Overall, these measures would play a very important part in tackling child poverty and support the Scottish Government's early intervention approach, ensuring that newborns get a better start in life.

### **Top ups and new benefits**

Cuts to social security budgets since 2010 as are having a profoundly negative impact on the lives of the many single parents. These include cuts to housing

benefit, tax credits (including especially help with childcare costs), benefits associated with pregnancy, maternity, young children and child benefit. More generally, the switch from using the RPI to CPI index as a measure of inflation for annual uprating and the subsequent imposition of a 1% uprating cap for most benefits has been a very significant cause of increasing poverty for single parents families and others. In addition, the current UK Government has announced a raft of further cuts including a freeze in working-age benefits, tax Credits and Child Benefit for two years from 2016-17; lowering the households' Benefit Cap; and removing automatic entitlement to housing support for 18 to 21 year olds.

New research from JRF has looked at the projected impact of the recent budget announcement for different people on minimum wages since 2010. They found that single parents have been the biggest losers. In 2010 a single parent working full time on the minimum wage, was typically just short of the minimum they needed to live with dignity (97 per cent). This shortfall will grow to around (around 71 per cent) by 2020.<sup>66</sup>

The ability to top up benefits could reverse some of these impacts by, for example, restoring RPI as a measure of uprating in the first instance and targeting the uprating of specific benefits. To support single parents and their children we recommend that children's benefits in particular be targeted for uprating. This would target funds at tackling child poverty, support the Scottish government's Getting it Right for Every Child aims and provide investment in early years, helping children to get a better start in life.

Although the extent of devolution remains uncertain, what is certain is that the Scottish Government will have substantial addition new powers over the shape of social security and a range of other areas in Scotland. Given the impact of welfare reform on single parents is crucial that these powers are put to use to tackle poverty and inequality.

Maggie Kelly  
Policy Consultant  
One Parent Families Scotland

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<sup>66</sup> Hirsch, D., Will the 2015 Summer Budget improve living standards in 2020? JRF <http://www.jrf.org.uk/publication/will-2015-summer-budget-improve-living-standards-2020>

## **WELFARE REFORM COMMITTEE**

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

#### **WRITTEN SUBMISSION FROM THE POVERTY ALLIANCE**

##### **Introduction**

The Poverty Alliance is the national anti-poverty network in Scotland, formally established in 1992. We are an independent organisation with more than 200 members drawn from the voluntary and public sectors, trade unions, researchers, faith groups and individuals with direct experience of poverty. Our aim is to work with others to enable communities and individuals to tackle poverty. We have a number of key policy areas that provide the focus for our activities; these are addressing low incomes, supporting services to address poverty, enhancing the participation of people with direct experience of poverty in policy development processes, and addressing attitudes to poverty.

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

Alongside our colleagues on the Scottish Campaign on Welfare Reform, the Poverty Alliance has called for a welfare system based on 5 key principles:

1. Increase benefit rates to a level where no one is left in poverty and all have sufficient income to lead a dignified life
2. Make welfare benefits work for Scotland
3. Make respect for human rights and dignity the cornerstone of a new approach to welfare
4. Radically simplify the welfare system
5. Invest in the support needed to enable everyone to participate fully in society

In order to ensure that the future delivery of social security in Scotland works for those who need it most, our society security system must be based on these principles.

We believe that people with direct experience of poverty must be consulted on any proposals and their voices must be reflected at all stages of the policy making process. It is people who have experience of accessing these benefits who will know best what works for them.

Like many colleagues in the third sector, the Poverty Alliance was disappointed with the speed that consultation took place at during the Smith Commission and we would have liked to have seen more time for engagement exercises. However, we welcomed, and continue to welcome, new powers coming to Scotland, and there is now a need to think about how these new powers can be used alongside existing powers to tackle poverty and achieve a more socially just Scotland.

##### **Keeping respect at the heart of the welfare system**

The Poverty Alliance is concerned by the hardening of attitudes in recent years to people experiencing poverty and to the welfare state more generally. We have

noticed a marked increase in the use of stigmatising and divisive language both by politicians and by the media. We are concerned that this is at least partly a result of changes in our welfare system and we hope that any further changes in Scotland work to reverse this trend. Our social security system must operate in ways that values all people, not just those in employment. Some people may not be able to take paid employment but will contribute to society in other ways, and they should be valued, not demonised, for this.

For disability benefits, this means putting trust back into the system. If we base our system of disability benefits on rights, then we must start from a position of trust and this means the way we assess people for disability benefits must change. Assessments must be done in a way which respects the individual and keeps their dignity at the heart of the process. It must be compassionate and take into account that people can experience things differently at different times. Assessments should not simply be a snapshot of people's lives and should perhaps monitor people's conditions over a longer period of time to develop a better understanding of their lives. We should not have a system where terminally ill people are losing their entitlement to benefits and dying without having any money.

We must also remove the mistrust of jobseekers. The current sanctions regime starts from a position of mistrust. The future delivery of the Work Programme must move away from this towards a system where people are rewarded for their efforts, and not punished for being poor.

Dignity and respect are closely linked to choice. We have seen this in the delivery of the Scottish Welfare Fund with people feeling that they have been stigmatised by the lack of choice in how grants are awarded i.e. vouchers rather than cash. We believe that choice should be an integral part of the social security system. The devolution of the housing benefit element of Universal Credit allows us the opportunity to think about how we deliver this in practice. We are supportive of allowing people the opportunity to decide for themselves the frequency and method of payment i.e. whether they would like the benefit to be paid fortnightly, monthly etc.

### **Recommendations:**

- **Change assessments for disability benefits to start from a position of trust, and ensure that the system reflects the changing nature of disability.**
- **Ensure trust is a key part of the security system by building choice into Universal Credit.**

### **A personalised service**

There has to be an inbuilt acknowledgement in the system that people are complex, and will all have different needs. This means taking a personalised approach. Services must work for the people accessing them. We have to think about where people live – people in rural and urban areas will have very different experiences of service delivery, and employment.

Some people will find it easier to enter the labour market than others, and some will require additional support. We need to ensure that services work with people to identify their needs and how they can best be supported. This should not be a top down process. It is essential that we listen to what people are telling us they need.

There cannot be a one size fits all approach to the future delivery of social security in Scotland. We must think about how we work with people to ensure that social security delivers for them and is able to respond to their needs.

#### **Recommendations:**

- **Services to be built around people, and people who rely on services to be included in design and delivery.**

#### **A joined up approach**

We often hear of the need for a more joined up approach but frequently it either is not clear what is meant by this. With new powers on the way it is more important than ever to consider what joined up working means and how we use new powers alongside existing ones to achieve the best possible outcomes for people.

In terms of disability benefits we need to think about the interactions between health, social care and the benefits system. If we are to make the most of additional powers how we can support people into employment where appropriate, and support people to make the most of the opportunities available to them. We also need to think about how we support carers and look at a joined up approach in employment and social security policies so that carers too are able to provide for their families but also pursue their own careers while providing caring responsibilities.

People with complex needs should have a key person that they can contact, rather than relying on a number of individuals all for different things. It is without this central contact that people begin to fall through the cracks.

Young people have been particularly negatively impacted by recent cuts to welfare announced in the UK Summer Budget. Again we need to look at how powers over employment and new welfare powers can support these people to ensure that are given the best possible opportunity to realise their potential.

There also have to be consideration given as to how devolved benefits will work alongside reserved powers. For example, we need to consider how policy makers in Scotland can change the Work Programme (or successor programmes) when the conditionality regime remains reserved at UK level.

#### **Recommendations:**

- **Further consideration to be given as to how new powers will work alongside existing powers.**
- **The establishment of a work programme that provides holistic support for people entering the labour market.**

## Keeping it simple

It is essential that our social security system is accessible. Too often people are unsure of what benefits they are entitled to and when. The process for claiming is complex and the often the language used on forms is often difficult to understand.

Our social security system has to work for those who need its support rather than those who administer it. This means that there must be suitable support in place to enable people to access the benefits they are entitled to. Not everyone has access to a computer and access to support should not be dependent on this. There must be flexibility built into the system to allow individuals to interact with the social security system in a way which works best for them.

There must be more awareness raising of the help that is available for people. If we are thinking seriously about social justice, then part of this must include how we increase benefit take up and ensure that in areas like the Scottish Welfare Fund there is no underspend while people are struggling to get by.

## Recommendations:

- **A wide range of application methods for social security benefits including online, in person and over the phone.**
- **An income maximisation programme designed to ensure that everyone is claiming the benefits they are entitled to.**

## Conclusion

As a society we need to think about what our priorities are. If our goal is to achieve a more socially just Scotland then we must put people first. The future delivery of social security in Scotland must be built around what works for people, and all decisions must be based around how we achieve the best outcomes for people reliant on the system. This means trusting people, allowing people a voice in decisions which impact on them, and making sure the social security system is joined up both within itself and with other services.

Of course there are limitations in what can be achieved without the full devolution of the social security system but there are choices we can make now to improve the lives of people with direct experience of poverty.

For too many years the decisions which we have made in the delivery of social security have been about cost, and not about what works best for those reliant on the system. We have to stop telling people what is in their best interest, and ensure the design and delivery of any new system is around what people have told us is needed.


There is a need to stop looking at areas of social security policy as silos. We must take a holistic approach and think about how different services can work together.

## Annexe C

- [Aberdeen City \(128KB pdf\)](#)
- [Aberdeenshire Council \(131KB pdf\)](#)
- [Aberlour \(185KB pdf\)](#)
- [Action for M.E. \(187KB pdf\)](#)
- [Age Scotland \(160KB pdf\)](#)
- [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 \(211KB pdf\)](#)
- [Carers Trust Scotland \(371KB pdf\)](#)
- [Castlerock Edinvar \(96KB pdf\)](#)
- [Chartered Institute of Housing \(CIH\) \(296KB pdf\)](#)
- [Children 1st \(163KB pdf\)](#)
- [Citizen's Advice Scotland \(CAS\) \(399KB pdf\)](#)
- [Claire Schiavone \(81KB pdf\)](#)
- [Cornerstone \(69KB pdf\)](#)
- [COSLA \(157KB pdf\)](#)
- [CPAG Scotland \(464KB pdf\)](#)
- [Crisis \(113KB pdf\)](#)
- [Dundee City Council \(277KB pdf\)](#)
- [East Ayrshire CPP \(135KB pdf\)](#)
- [East Dunbartonshire Council \(128KB pdf\)](#)
- [Edinburgh City Council \(144KB pdf\)](#)
- [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 \(379KB pdf\)](#)
- [Inclusion Scotland \(372KB pdf\)](#)
- [Inverclyde Health and Social Care Partnership \(138KB pdf\)](#)
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- [Joseph Rowntree Foundation \(JRF\) \(235KB pdf\)](#)
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- [Low Income Tax Reform Group \(174KB pdf\)](#)
- [Macmillan Cancer Support \(66KB pdf\)](#)
- [Marie Curie \(162KB pdf\)](#)
- [MND Scotland \(175KB pdf\)](#)



- [Moray Council \(299KB pdf\)](#)
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- [NHS Lanarkshire \(181KB pdf\)](#)
- [Norman Gray \(70KB pdf\)](#)
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- [North Lanarkshire Council \(154KB pdf\)](#)
- [One Parent Families Scotland \(458KB pdf\)](#)
- [Parkinsons UK \(245KB pdf\)](#)
- [PCS Scotland \(165KB pdf\)](#)
- [Perth & Kinross Council \(298KB pdf\)](#)
- [Policy Scotland Welfare Reform Network \(232KB pdf\)](#)
- [Poverty Alliance \(97KB pdf\)](#)
- [Professor David Bell \(652KB pdf\)](#)
- [Professor Kirstein Rummery \(263KB pdf\)](#)
- [Professor Paul Spicker \(207KB pdf\)](#)
- [Prospect Community Housing \(71KB pdf\)](#)
- [Psychologists Against Austerity Scotland \(8KB pdf\)](#)
- [Quarriers \(226KB pdf\)](#)
- [Reed in Partnership \(33KB pdf\)](#)
- [Rights Advice Scotland \(153KB pdf\)](#)
- [Salvation Army \(162KB pdf\)](#)
- [Scottish Association of Mental Health \(SAMH\) \(294KB pdf\)](#)
- [Scottish Borders Council \(133KB pdf\)](#)
- [Scottish Women's Convention \(134KB pdf\)](#)
- [Scottish Council Voluntary Organisations \(SCVO\) \(393KB pdf\)](#)
- [Scottish Disability Equality Forum \(141KB pdf\)](#) (new submission)
- [Scottish Federation of Housing Associations \(SFHA\) \(173KB pdf\)](#)
- [Shelter Scotland \(78KB pdf\)](#)
- [Shetland Islands Council \(82KB pdf\)](#)
- [South Lanarkshire Council \(160KB pdf\)](#)
- [VocaLink \(97KB pdf\)](#)
- [West Dunbartonshire Council \(121KB pdf\)](#)

Agenda item 1		WR/S4/15/17/3
06 October 2014		

## The Smith Commission and the Scotland Bill

### Introduction

1. This paper summarises the Smith Commission's made in relation to Universal Credit (UC), discretionary housing payments (DHPs), discretionary payments, top-ups and new benefits. It also tracks how the recommendations have been translated into the Scotland Bill and debate about those clauses.
2. In summary, no substantial amendments have been made to the welfare sections of the Scotland Bill since it was first introduced.

### Universal Credit Powers

#### The [Smith Commission](#) (27 November 2014)

3. The Smith Commission proposed that UC, including the conditionality and sanctions framework, will remain a reserved benefit administered and delivered by the DWP.
4. Within this framework two recommendations were made:
  - 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 (rec 44)
  - The Scottish Parliament will have the power to vary the housing cost elements of UC, including varying the under-occupancy charge and local housing allowance rates, eligible rent, and deductions for non-dependents (rec 45)

#### Draft Clauses - [Scotland in the United Kingdom: An Enduring Settlement](#) (22 January 2015).

5. Draft clause 20 provided Scottish Ministers with regulation making powers under section 11(4) of the Welfare Reform Act 2012 (determination and calculation of housing cost element in relation to rented accommodation) and regulations under section 5(1)(p) of the Social Security Administration Act 1992 (payments to another person on behalf of the beneficiary)

6. Clause 20(4) required that that Scottish Ministers cannot make regulations unless they have “consulted with the Secretary of State about the practicability of implementing the regulations”. The Secretary of State would then have to give agreement as to when any change made to the regulations is to start to have effect, and such agreement should not be “unreasonably withheld”.
7. Draft Clause 21 provided Scottish Ministers with regulation making powers regarding the persons to whom UC is paid and the frequency of those payments. The clause also contained the same consultation requirements as outlined above.

**The Devolution (Further Powers) Committee – [report](#) (14 May 2015)**

8. The main issue the Committee heard evidence on was whether the drafting of the clause in relation to the consultation process amounted to the power of the UK Government to “veto” the Scottish Government’s use of the powers. The Committee concluded that there is a case to be made that draft clauses could be considered or perceived as a veto and set out its expectation this issue to have been resolved to the satisfaction of both the Scottish and UK Governments before any future legislation is introduced.

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

9. The Scotland Bill did not change the drafting of the clause in relation to Scottish Ministers’ consultation requirements. The relevant clauses are now 24 and 25.

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

10. The Scottish Government proposed an alternative clause which would remove the requirement to obtain consent from a UK Secretary of State.

**Committee Stage (day 3) House of Commons, 30 June 2015<sup>1</sup>**

11. Angus Robertson (SNP) and Ian Murray (Lab) both lodged amendments to clause 24 and 25 of the Bill in relation to the consultation requirements. Angus Robertson’s amendment (118) would have removed the requirement for the Scottish Government to obtain consent from a UK Secretary of State in relation to Universal Credit and the costs of claimants who rent accommodation (as set out in the Scottish Government’s alternative clauses). Votes on the amendment were Aye 261, No 313.

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<sup>1</sup> A transcript of the debate can be found at:  
<http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150630/debtext/150630-0001.htm#15063034000002>

<b>Discretionary Housing Payments (DHPs)</b>
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**The [Smith Commission](#) (27 November 2014)**

12. The Smith Commission recommended that DHPs be devolved to the Scottish Parliament (par 49(3)).

**Draft Clauses - [Scotland in the United Kingdom: An Enduring Settlement](#) (22 January 2015).**

13. Draft Clause 19 would provide the Scottish Parliament with legislative competence for DHPs, subject to certain restrictions similar to those that already exist in respect of DHPs.

**The Devolution (Further Powers) Committee – [report](#) (14 May 2015)**

14. The Devolution Committee received evidence claiming that the clause would not allow full mitigation of the bedroom tax as entitlement was linked to housing benefit eligibility. Therefore, those who had “slipped off” housing benefit because of their bedroom tax reduction would not be eligible for a DHP. Questions were also raised around the future funding situation for DHPs.
15. The Committee sought clarity on the interplay between the power to remove the bedroom tax and the DHPs. It considered that, “...it is essential that the application of these clauses should not have the effect of causing detriment to individuals in receipt of discretionary housing payments”

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

16. The clause in the Scotland Bill (now clause 22) changed slightly from that initially proposed in the draft clauses. The clause no longer list costs that cannot be covered by DHPs (e.g. water charges). Changes were also made to allow DHPs to be paid where the need for financial assistance was as a result of being sanctioned (not previously allowed), but only where the requirement for it also arises from some exceptional event or exceptional circumstances and the requirement for it is immediate.
17. The clause provides that any DHP scheme must only provide assistance with housing costs to applicants who are in receipt of either housing benefit or another reserved benefit which includes payment for rental housing costs.

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

18. The Scottish Government argued that clause 22 fails to deliver the Smith Commission recommendation for autonomy as it is subject to restrictions. The Scottish Government proposed an alternative clause removing some restrictions, including those relating to sanctions

### **Committee Stage (day 3) House of Commons, 30 June 2015<sup>2</sup>**

19. During Committee Stage of the Scotland Bill, four amendments to clause 22 were lodged. The amendments included amendment 129 lodged by Graham Allen (Lab) to remove the provision that links eligibility for a DHP to eligibility for housing benefit and UC housing element). Amendment 116 lodged by Angus Robertson (SNP) sought to remove certain restrictions, including those relating to sanctions (the amendment was largely the same as the Scottish Government's alternative clauses.
20. However, none of the amendments were called so the Bill was not amended at Committee Stage.

### **Letter from Secretary of State of Scotland ([letter 26 August 2015](#))**

21. The Scotland Bill provisions regarding DHPs (clause 22) Top Ups and discretionary payments all take the same approach to the provision of assistance to those have been sanctioned. The clauses provide that payments cannot be automatically paid to cover a benefit reduction as a result of a sanction or any other reduction in a reserved benefit as a result of an individual's conduct. However, in these circumstances payments can be made but only where the requirement for it also arises from some exceptional event or exceptional circumstances *and* the requirement for a payment it is immediate.
22. In a letter to the Devolution (Further Powers) Committee the Secretary of State, explained the rationale for this approach:

"This is not an additional restriction for those who are sanctioned but a mechanism to ensure the sanctions and conditionality policy, which remains reserved to the UK Government under the Smith Commission Agreement, is not undermined.

Conditionality and the sanctions system is an integral driver of claimant behaviour across the whole claimant journey, and as such has clear impacts on the rate at which claimants flow-off out-of-work benefits (which are remaining reserved) and return to work.

It would undermine the system in place that ensures claimants comply with reasonable requirements if a person in Scotland who had failed to take up a job or training opportunity (and as a consequence has had their reserved benefit reduced) could simply have that short-fall made up by the Scottish Government".

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<sup>2</sup> A transcript of the debate can be found at:

<http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150630/debtext/150630-0001.htm#15063034000002>

**Top-Ups and Discretionary Payments****The [Smith Commission](#) (27 November 2014)**

23. The Smith Commission recommended that the Scottish Parliament will have new powers to make discretionary payments in any area of welfare without the need to obtain prior permission from the DWP (para 54).

**Draft Clauses - [Scotland in the United Kingdom: An Enduring Settlement](#) (22 January 2015).**

24. Draft Clause 18 provided the Scottish Parliament with powers to make discretionary payments. The Command Paper said (at 4.3.11) that the clause “broadens the provisions in the Scotland Act that allow for the Scottish Welfare Fund.”
25. Under the new power, there is no longer the requirement for the person’s need to be immediate or to have arisen out of an exceptional event or circumstances. Where a person is in receipt of a benefit that is subject to a reduction (for example as a result of a sanction because of non-compliance with a work-related requirement or the recovery of an overpayment or repayment of a compensation payment) a discretionary payment cannot be made to simply offset this reduction. However, a discretionary payment may be made if the need arises due to some other exceptional circumstance or event not related purely to the reduction in the benefit.
26. The draft clauses did not mention “top-ups”.

**The Devolution (Further Powers) Committee – [report](#) (14 May 2015)**

27. The debate around the draft clauses centred around the meaning of ‘discretionary’, whether it should be limited to those who have short term needs, and the lack of any provision to make “top-ups.”
28. The Devolution (Further Powers) Committee’s report recommended that the UK Government re-consider the draft clauses in order to ensure that the relevant sections of any future Bill meet the spirit and substance of the Smith Commission thereby ensuring that the Scottish Government would have genuine policy discretion in this area (para 322).

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

29. The Scotland Bill, as introduced, made no changes to the powers regarding discretionary payments (now clause 23) as described above.

30. The Bill did contain a new clause 21: Discretionary payments: top-up of reserved benefits. As the Explanatory Notes state,

“Clause 21 provides the Scottish Parliament with legislative competence to introduce discretionary top-up payments to people in Scotland who are entitled to a reserved benefit. These top-up payments could be paid on an individual case by case basis or to provide on-going entitlement to specific or all benefit claimants.

Where a person is in receipt of a reserved benefit that is subject to a reduction (for example as a result of a sanction because of non-compliance with a work-related requirement) a discretionary top-up payment cannot be made to an individual simply to offset this reduction.”

31. However, a top-up can be made to claimants who are sanctioned if the requirement for it also arises from some exceptional event or exceptional circumstances, and the requirement for it is immediate. Top payments made under this clause cannot be used to top-up housing costs.

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

32. The Scottish Government said that clause 23, in relation to powers over discretionary payments and assistance, failed to deliver the Smith Commission recommendation for autonomy as they are also subject to restrictions. Their alternative clause broadens when discretionary payments can be made by removing some restrictions including those relating to sanctions.

**Committee Stage (day 3) House of Commons, 30 June 2015<sup>3</sup>**

33. In relation to clause 23 discretionary payments and assistance, Ian Murray (Lab) lodged amendments 8 and 111) and Angus Robertson (SNP) lodged amendments (117 and 131). These amendments reflected the Scottish Government’s alternative clause’s aim of delivering the “*spirit and substance*” of the Smith report. The amendments were either not called or not selected.
34. Therefore, clause 23 of the Bill was not amended at Committee Stage and it has the same effect as described above under draft clause 18.

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<sup>3</sup> A transcript of the debate can be found at:  
<http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150630/debtext/150630-0001.htm#15063034000002>

**Letter from Secretary of State of Scotland ([letter 26 August 2015](#))**

35. In a letter to the Devolution (Further Powers) Committee the Secretary of State, explained the rationale for the provisions in clause 23 relating to sanctions (see description above under DHPs).

**New Benefits**

**The [Smith Commission](#) (27 November 2014)**

36. The Smith Commission recommended that:

“The Scottish Parliament will have new powers to create new benefits in areas of devolved responsibility, in line with the funding principles set out in paragraph 95 (para 45).

**Draft Clauses - [Scotland in the United Kingdom: An Enduring Settlement](#) (22 January 2015).**

37. The draft clauses did not contain any specific clause relating to the provision of new benefits. The Command Paper says that these powers are conferred by draft clauses 16 (disability and carer's benefits), 17 (Regulated Social Fund) and 19 (discretionary housing payments).
38. This was different to the general understanding of Smith, i.e. that the Scottish Parliament would have powers to create new benefits in any area of devolved responsibility (although the word “any” was not used in Smith). Thus, the clauses would allow the creation of new benefits within the specific areas of welfare that are to be devolved under the bill.

**The Devolution (Further Powers) Committee – [report](#) (14 May 2015)**

39. The Committee reaffirmed the agreement in the Smith Commission report that the Scottish Parliament should have the power to create new benefits in areas of devolved responsibility and recommended that the UK Government re-consider the draft clauses designed to devolve the creation of new benefits in order to ensure that the relevant sections of any future Bill meet the spirit and substance of the Smith Commission thereby ensuring that the Scottish Government would have genuine policy discretion in this area (para 322).

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

40. The Scotland Bill, as introduced, made no changes regarding powers over new benefits.



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

41. The Scottish Government proposed an alternative clause to give effect to the Smith recommendation of an explicit power to create new benefits in devolved areas

**Committee Stage**

42. At the Committee stage of the Bill, Ian Murray (Lab) lodged amendment 15 that would have devolved to the Scottish Parliament the creation of new benefits in devolved areas, rather than just in those areas devolved under the Bill. The amendment was withdrawn.

**Letter from Secretary of State of Scotland ([letter 26 August 2015](#))**

43. In a letter to the Devolution (Further Powers) Committee the Secretary of State, reference was made to the above amendment tabled at Committee stage. The Secretary of State indicated that there was no provision in the Bill for new benefits as the UK Government believed that the Scottish Government already had this power, and discussions are ongoing with the Scottish Government:

“There is no power in the Bill to create new benefits in areas of devolved responsibility because the UK Government believes the Scottish Parliament already has this power. By definition, if the area is one of devolved responsibility then the Scottish Parliament has full legislative competence to enact legislation in that area (as long as this does not also relate to a reserved matter) including the provision of new benefits should it wish to do so. However, as I indicated to the House of Commons at the Bill’s Committee stage, my officials have continued to discuss this with officials from the Scottish Government.

You also asked about alternative clauses that had been drafted by the Scottish Government in relation to welfare, in particular the new clause in relation to welfare. Amendments to this effect were tabled at Commons Committee. The Government rejected this amendment because it would not provide a new power to create benefits in areas of devolved responsibility; rather, it would devolve further areas of responsibility to the Scottish Parliament beyond that agreed by all of Scotland’s main political parties in the Smith Commission.

It would in effect give the Scottish Parliament competence to legislate to create any benefit in any area other than one that is for the same purpose as a reserved benefit in existence on the 28 May 2015. As such it would fundamentally undermine the social security reservation in a way that would limit the freedom of the UK Parliament to introduce new welfare benefits or making changes to existing reserved benefits in the future. This is clearly not what the Smith Commission intended or agreed.

44. There will be an opportunity to make amendments to the Scotland Bill at the Report Stage, but a date has not yet been set.

Kate Berry  
SPICe  
30 September 2015