



**CREATING
A FAIRER
SCOTLAND:
SOCIAL
SECURITY
THE STORY SO FAR...
AND THE NEXT STEPS**



**The Scottish
Government**
Riaghaltas na h-Alba

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Ministerial Foreword



In June this year, I started a discussion about how to create a fairer Scotland. Conversations, meetings and events have been taking place across the country since then about the type of country we want Scotland to be.

Part of those discussions, along with direct consultation, has been the powers relating to social security that the Smith Commission proposed be devolved to the Scottish Parliament, and which we expect to see delivered through the Scotland Bill currently being considered by the UK Parliament.

Those new powers over social security, despite their limited scope, will provide opportunities to develop different policies for Scotland which are fairer and help tackle inequalities and poverty, in line with the core purpose of the Scottish Government.

As set out in the current Programme for Government, we will use these powers to develop the beginnings of a system which is:

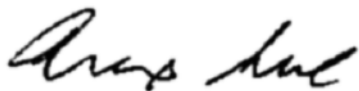
- Suited to the needs of our people and our country.
- Underpinned by respect for the dignity of individuals.
- Accessible, fair, and commands the full confidence of claimants and the organisations and services that support them.

We are committed to using the experience of those receiving benefits and stakeholders as we implement our powers. I have enjoyed meeting people who have experience of receiving support through the UK benefits system, and hearing from them about the things we can do better.

The Scottish Government is committed to using its powers which have at their heart a set of principles and values. I will publish a paper at the end of this year which will set out the vision for the Scottish approach to social security in more detail. I intend for that to be a vision shared by people across Scotland.

This vision will include ensuring people are treated with respect and dignity during their time of applying for, being assessed for, and receiving disability-related benefits. It is clear that we must provide people with relevant information so they are aware how the system will work for them and how long decisions will take. And it is also important that the system is fair and efficient – that the investment we all make in social security is well managed and is directed at the people who need it, in the way that will support them best.

I am grateful to all of those who have contributed so far to the conversation, and look forward to continuing it.

A handwritten signature in black ink, appearing to read 'Alex Neil'.

Alex Neil MSP
Cabinet Secretary for Social Justice, Communities and Pensioners' Rights

Introduction

Our discussions with citizens and organisations across Scotland are essential in shaping our approach. This paper provides a summary of what we have heard so far. It also provides initial indications of how we could use the powers that are being devolved to help to build a fairer Scotland.

Throughout this paper, we describe the powers that are being devolved as powers over social security, rather than welfare. This is an important distinction. We know that the UK Government's approach to welfare, and in particular to welfare reform, has a significant negative impact on the most vulnerable people. The Scottish Government's analysis in [The Impact of Welfare Reform in Scotland - Tracking Study](#) provides evidence of this.

The Scottish Government believes that everyone has a stake in a system of social security, because everyone may well need it at some point, and everyone should have confidence that if they need it, support will be there. Where some people in our society face additional challenges and costs in their daily lives – e.g. because of ill health or disability – then it is right that society as a whole helps to meet those costs. And the people who need that support are entitled to dignity and respect: both in the way they are treated and supported, and in the way politicians and others talk about that support.

We are not starting with a blank sheet of paper. Discussions and thinking in the lead up to the independence referendum, the reports of the Expert Working Group on Welfare last year, and the public interest in the recommendations developed by the Smith Commission, have all helped to shape our thinking to date. The Welfare Reform Committee in the Scottish Parliament is taking forward valuable work to consider how the powers being devolved can best be used in Scotland. We are keen to work with the Parliament because taking on new powers and developing a new approach will take time to get right.

We have a track record of success in the areas of social security where we already have some control – for example, in the establishment of the Scottish Welfare Fund, and our ongoing commitment to mitigating the impact of the bedroom tax on people in Scotland.

One of the key opportunities in devolution is ensuring that we integrate our approach to social security with other areas of devolved responsibility, where we know people in receipt of benefits are also accessing other public services – e.g. in housing, in health and social care, and through the powers being devolved in relation to employment programmes. Lots of the discussion and feedback we have heard so far has focused on the importance of integration, and this will shape our thinking about how to use the new powers.

This work is not without its challenges. The Scotland Bill as currently drafted falls short of providing the powers recommended by the Smith Commission. Alongside the Scotland Bill, we also need a well-designed, agreed fiscal framework that gives the Scottish Government flexibility to use the powers distinctly and effectively to boost the economy and create a fair and prosperous country. The financial resources available to fund the elements of social security that are being devolved will impose limitations on the scope of what we can do, and there will be important decisions to be made in ensuring we use those limited resources in the best way.

This paper, and our work to develop it, focuses on making the best use of the powers that will be devolved, but that is not the end of the story. It is clear from our discussions that there are areas where there is an important case to press for additional powers. We will continue to make that case to ensure that the support we can offer to people in Scotland is coherent, and meets our ambitions for a fairer Scotland.

The Story So Far – the Smith Commission

On 19 September 2014, following the outcome of the Referendum on Scottish independence, the Prime Minister announced that Lord Smith of Kelvin had agreed to oversee the process to take forward commitments made during the Referendum campaign on further devolution to the Scottish Parliament. The Smith Commission convened cross-party talks and facilitated an engagement process across Scotland to produce, by no later than November 30, Heads of Agreement with recommendations for further devolution. [Its report](#), published 27 November 2014, detailed a number of recommendations in relation to social security. These are:

- Powers over benefits for carers, disabled people, and those who are ill (currently Attendance Allowance, Carer's Allowance, Disability Living Allowance and a range of others);
- Devolution of the Regulated Social Fund (Winter Fuel Payments, Cold Weather Payments, Sure Start Maternity Grants, and Funeral Payments);
- Powers to vary housing cost elements of Universal Credit;
- Administrative powers to change payment arrangements for Universal Credit;
- Power to create new benefits and to top up benefits in reserved areas; and
- Powers over Discretionary Housing Payments.

The Smith Commission also said that the Scottish Parliament should have 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). Underpinning these new powers was the expectation that the Scottish and UK Governments would work much more closely together in these areas in the future, for example through co-location and the establishment of more formal mechanisms to govern the Jobcentre Plus network in Scotland. Thus far the UK Government's pace of progress has been slow, but we will continue to pursue the ambitions described by Smith in a collaborative spirit in order to ensure smoothness of delivery for Scottish people.

The UK Government published its draft legislative clauses on 22 January 2015 and the Scotland Bill was introduced following the UK General Election on May 28 2015.

The Scottish Government believes that the new powers that have been proposed by the UK Government in [Scotland in the United Kingdom: An enduring settlement](#) fall short of what was promised to the people of Scotland. Scottish Ministers will continue to demand that the promises made during the Referendum campaign are delivered.

The Smith Commission recommendations did not provide the Scottish Parliament with control over key elements of the social security system such as tax credits and out of work benefits. Even if the Smith Commission recommendations are implemented in full, 86% of welfare spending in Scotland will remain in the control of Westminster.

Short of independence, the Scottish Government's preferred approach is full fiscal autonomy. We believe this would provide the maximum financial and democratic accountability within the United Kingdom, enabling the Scottish Government to increase economic growth while allowing Scotland to continue to contribute to the United Kingdom as a whole. But at the same time we are acting with pace and creativity to be ready to use the limited powers that are proposed, and we will do so in consultation with others. In particular, we plan to use those powers to address weaknesses in Universal Credit and abolish the bedroom tax. A proposed Social Security Bill will set out more detail on the policies we will pursue.

The Story So Far – The Scotland Bill

The Scotland Bill 2015-16 was published on 28 May 2015. The Bill provides for the devolution to the Scottish Parliament and Scottish Government of a range of new powers, including new tax raising powers, social security powers and powers over Scottish Parliament and local government elections in Scotland. In addition, the Bill provides for a new fiscal framework for Scotland, consistent with the overall UK fiscal framework.

The Scotland Bill, when enacted, will set out the parameters within which the Scottish Government's approach to social security in Scotland can develop, so it is very important that the provisions of the Bill are right. On the Bill's introduction, there were some major areas which were either unclear or which did not go far enough. In particular, there were several areas in which the drafting would effectively provide the UK Government with a "veto" over decisions by Scottish Ministers about the devolved benefits, and no power to create new benefits in areas of devolved competence.

The Scottish Government published proposed alternative draft clauses for those areas. We have been working with the UK Government to discuss these amendments. The aim of the Scottish Government is to secure a Bill, and an accompanying fair financial agreement with the UK Government, that it can recommend to the Scottish Parliament.

To oversee the work on social security, we have established a Joint Ministerial Working Group on Welfare (JMWGW) between the two Governments. The JMWGW provides a forum for discussion and decision-making to ensure the implementation of the welfare-related aspects of the Smith Commission Report, and:

- To promote the exchange of information required for the transfer of powers between relevant Government Departments;
- To ensure a smooth transition of the new responsibilities to the Scottish Government and that they are delivered in a way that is coherent from the perspective of those who seek to benefit from them;
- To discuss policy and operational practice in areas where responsibility is due to transfer, all in the context of respecting the principle of "no pre-emptive action";
- To work cooperatively to deliver the transfer of powers in relation to the spirit of the Smith agreement and to ensure that the emerging Bill is fit for purpose; and
- To allow for open discussions that seek to provide a resolution of contentious and challenging issues.

The JMWGW includes, for the Scottish Government:

- the Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy
- the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights (co-Chair)
- the Cabinet Secretary for Fair Work, Skills and Training

And for the UK Government:

- the Secretary of State for Scotland (co-Chair)
- the Chief Secretary to the Treasury
- the Minister of State for Employment

In addition, the Welfare Reform and Devolved (Further Powers) Committees within the Scottish Parliament continue to provide scrutiny of the Scotland Bill's content as it progresses through the UK Parliament.

The Story So Far – Our Programme Of Engagement

The wider Fairer Scotland discussions launched on 19 June. A week later more than 50 stakeholders gathered together to discuss what new social security powers might mean for their organisations. You can see a visual record of that event [here](#).

From the start of our deliberations we have been clear that the views of those who are affected by the powers – primarily those who will receive the new benefits, and groups which represent their interests – to be devolved should drive our approach to developing our policies. This is consistent with the distinctive Scottish approach to government: actively drawing on the knowledge, skills and experience of people who use, deliver and commission services, and working together with them on an equal basis to achieve positive change and improve lives and outcomes.

We have already met with a wide range of interested parties to discuss how the new powers might work, what could be done differently, how existing powers and new powers might work to better effect and how to ensure a better, more person-centred approach. Our work has also been informed by a series of discussions with academics to tease out policy propositions and the practicalities of how they might be used to better effect in Scotland.

In order to shape discussions we have published a set of questions on new powers. You can find them [here](#). We have also been looking to encourage people to contribute to the discussions through Dialogue App.

Social security powers feature strongly in the discussions about what would make a Fairer Scotland. We continue to promote discussions on new powers through the Fairer Scotland website and social media channels. In August, we held a Fairer Scotland social security themed week, with a range of contributions and blogs setting out the opportunities and challenges that come from new powers.

It is not too late to have your say on the issues that matter to you. Our engagement process is a continuous one. This is the first phase in the journey to the implementation of the new social security powers. We want this to be an inclusive and collaborative process and are committed to establishing meaningful engagement with all interested parties.

Events are still ongoing and will be held until early October; our website and newsletter contain regularly updated information about upcoming events – you can find the website [here](#). This paper is intended to summarise progress to date but also encourage any further contributions. You can also submit your views to futurewelfarepowers@gov.scot

We will bring forward in the first year of the new Parliament a Social Security Bill to give effect to our new social security powers and establish the infrastructure for delivery of devolved welfare powers. The discussions we are having now, and the themes set out in this paper, will inform the development of that legislation, but we will again seek views to ensure that what goes before the Scotland Parliament reflects the distinct needs of a what we need in Scotland, reflects the views of people and is consistent with the Smith Commission proposals.

What We Have Done So Far

Listening to the views of people who receive the benefits that are being devolved, and the organisations that support and represent them, is a crucial part of developing our approach. Alongside that engagement, we have been gathering a wide range of evidence to support our thinking and the development of options.

We are working with DWP to map out the current landscape – both to inform our thoughts about the possibilities for changes and improvements for the devolved benefits, and to ensure that we understand the interactions between the benefits being devolved and those that will remain reserved. Throughout the development and the transition to the devolved benefits, close working with DWP will be essential to ensure that the change is smooth for the people in Scotland who will be affected.

We have also been learning from COSLA, local authorities, the NHS and a wide range of other policymakers within the Scottish Government, to understand the links between the benefits that are being devolved and existing services. We realise we can't deliver our aspirations alone so will continue to work with those organisations in the road ahead.

All of this development takes place against a backdrop of reductions in public expenditure. In parallel with the development of the Scotland Bill, we are discussing with the UK Government the appropriate fiscal framework – for the Scotland Bill overall, with social security as a key aspect of it.

Agreement on this fiscal framework will be an important boundary for the decisions we can make about the devolved benefits. The framework must give the Scottish Parliament the freedom and flexibility to pursue its own distinct policies and, above all else, must be fair and equitable to Scotland.

Evidence and Analysis

Data and other evidence are central to the development of our new powers. [Social Security in Scotland](#) presents data about each benefit on a single page and has been updated twice since the original publication in March 2015. Since then, our analysis team has had a continued role in promoting Scotland's interests in the context of UK welfare reform, producing an annual report for the Scottish Parliament on the impacts of welfare changes, publishing papers on sanctions and on the tax credit changes announced in the UK Emergency Budget, June 2015. An analytical programme of social security work will be published shortly setting out our plans for further work in the coming months.

Equality and Impact Assessments

Equality remains at the heart of our ambitions. It informs our spending decisions and is integral to the way the Scottish Government does business. Devolving new social security powers to Scotland brings a range of equality challenges with it, not least because some of the most vulnerable people in Scotland depend upon these benefits to be able to afford basic daily needs. It is therefore essential that our new social security powers forms the basis for further action to meet our equality duties: help to reduce poverty levels, to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

Scottish Ministers are clear that the policies and systems developed to exercise these new powers need to be developed with meticulous care and consideration across the protected characteristics – age, gender, disability, ethnicity, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, and civil partnership and marriage. This will

ensure that they are conscious of the impacts of the decisions they are making and that vulnerable people have appropriate access to the new services, which will support them to achieve the best possible outcomes. Engagement is already taking place as part of the Fairer Scotland discussions; 'user panels' of those already in receipt of the benefits are being set up to offer the Scottish Government detailed advice based on their experience; and discussions are underway with disabled people's organisations and with representative groups from across the protected characteristics. We are also beginning a formal process of equality impact assessment.

The range of impact assessments are beginning to shape the development of policy options – so alongside equality, there will be assessments on poverty, privacy, human rights, children's rights and wellbeing, and health, amongst others. Early thinking is that an integrated impact assessment (as indicated in the [Programme for Government 2014-15](#)) would enable the integrity of the individual assessments to be retained, while maximising the synergies from the overlaps across the different areas, so we are exploring this option fully although no final decision on this has yet been taken. Progress will be reported in the Vision Paper to be published in December. We say more about that paper later at page 24.

What We Have Heard From Stakeholders So Far

We are very grateful for the contributions to date that so many people across Scotland have made to the discussion. The next few pages set out some of the key messages that we have taken from those discussions so far – firstly, relating to the social security powers overall, and then in relation to each of the benefits that are being devolved.

Principles and General Views on Social Security

One of the engagement sessions held so far was an event hosted jointly by the Scottish Government and the Scottish Council for Voluntary Organisations (SCVO). The report from that event included the table below, which summarises the views of participants on the principles that should underpin the Scottish approach to social security. Many of these themes have been echoed across other events and responses.

<i>Principles of social security</i>	<i>How will this be manifested? (Features)</i>
Based on dignity and respect	<ul style="list-style-type: none"> • Compassionate. • Respectful. • Friendly and supportive. • A humane system which empowers people. • More carrot, less stick. • Compassionate, not vindictive.
Rights based	<ul style="list-style-type: none"> • Empower people to achieve full rights. • Based on right to income adequacy. • Based on clear entitlements. • People understand their rights/know what to expect.
Aspirational	Offers people options and opportunities and helps them to achieve sustainable outcomes.
Person-centred	<ul style="list-style-type: none"> • Based around people. • Done “with them” not “to them”. • Empowering - not punitive or stigmatising. • Focus on needs, not labels. • Help build resilience - not destroy or diminish it.
Social investment	<ul style="list-style-type: none"> • Everyone benefits – all citizens are enabled to play a fuller part in society. • We invest in people, we don’t pull the rug out from under them.

Adequacy	<ul style="list-style-type: none"> • Income adequacy for all who are part of it – a proper safety net. • Levels of benefit help with additional costs e.g. arising from disability. • No need for emergency charitable support – state safety net sufficient to avoid need for crisis support.
Simple but complex!	<p>Recognition that for a more responsive system, some complexity may be necessary. Where possible though, benefits/new system must be:</p> <ul style="list-style-type: none"> • Simple – clear point of access. • Complex enough to meet diversity of needs. • Transparent and accountable to the public and to service users.
Choice	<ul style="list-style-type: none"> • People have choice in support available and when/where they can access it. • Access to a range of services, in a range of ways - free, local, face to face and digital.
Accessibility	<ul style="list-style-type: none"> • Clear communication with claimants. • The system and how it operates is understandable - to wider public as well as claimants.
Universal welfare system	<p>Open, accessible, and encourages people to participate, live full lives and contribute to their communities – an end to “us and them”.</p>
Flexible, responsive, sensitive	<ul style="list-style-type: none"> • Recognises and responds to people’s life journey/life course. • Aware of the specific barriers people face; sensitive to their situations - individualized support. • Experienced staff who are sympathetic and understand these barriers. • Staff are empowered to assist people, not bound by inflexible regulations and conditionality. • Proactive - not reactive. Prevention at the heart.
Common sense	<p>Doesn’t make people’s lives more difficult; easy to understand and navigate.</p>
Trusted/honest	<ul style="list-style-type: none"> • Trusted by claimants and wider public. • Honest about what it can do, and people should always be at the heart. • Accountable to claimants. • Trusting people and believing in them.

Preventative	Supports people at appropriate points and isn't based only on crisis/basic safety nets. It should be much more than this.
Joined up	<ul style="list-style-type: none"> Clearly linked with other policies/services (e.g. health, social care, transport); clearer customer journey with people at the centre. Clear, considered and holistic approach which takes account of the people, services and systems involved.
A system for everyone - not based on "them and us".	<ul style="list-style-type: none"> We tackle negative attitudes towards claimants. Narrative crucial - recognises that route out of poverty is not always paid work. Lifts those who cannot work and enables them to feel valued and contribute.
Clear outcomes	<ul style="list-style-type: none"> Measuring success easy; smarter objectives built into the system. Test and learn approach - stop making the same mistakes! Live up to best international practice and standards.
Tackling poverty and inequality	<ul style="list-style-type: none"> Level of benefits meet costs and recognize extra costs faced some groups. Look at eligibility (e.g. expansion of groups covered in current system). Support people to live a life free from poverty, in or out of work.

Other key messages about social security

A wide range of comments were received about the overall purpose of social security, and what might be achieved through the devolved social security powers. The list below summarises some of the key messages from those discussions and contributions. Many of these chime with the principles and themes identified above from the SCVO event.

Fairness, dignity and respect

- Fairness needs to be central to what we do, enabling trust, not just the trust of those in receipt of benefits but that of wider society.
- The general culture, language and ethos is important, designed around entitlement.
- People should not be stigmatised because they are in receipt of a benefit.
- Social security should be supportive, not punitive.
- Social security should be designed to help people move into employment, and to get out of poverty.
- Decent benefits are required for those who genuinely cannot work for reasons of disability or mental health.
- There is frustration and concern about the impact of UK Government cuts to welfare budget, particularly on young people.

- A holistic social security system should treat everyone with dignity and respect. Everybody needs a safety net.
- A balance should be struck between the needs of those who receive support and the rights of those who contribute to its provision.

Universality and take-up

- There are great advantages in universal provision in terms of simplicity, transparency, reducing the stigma of receipt of benefits and helping everyone believe that they have a stake in the system. However, with a limited budget, those with the greatest need must be given highest priority.
- Awareness of some DWP benefits is low and there is significant un-met need.
- The budgets for new benefits will necessarily be limited and cannot mitigate the full impacts of recent changes to the UK welfare system. We can look at how we target the resources and link to other services to improve impacts and outcomes.

Service Design

- The way that a service is provided has a very significant impact. We need to design accessible services that do not present barriers to applicants.
- Personalisation and flexibility in services will help them meet the varying needs of applicants. Good communication is key.
- The system must take better account of fluctuating, invisible conditions.
- The powers to be devolved in the Scotland Bill are limited and give limited scope for manoeuvre; flexibilities may come with either an IT or a transactional cost to be managed.
- There is a perception /assumption that where existing flexibilities are utilised costs should be low.
- There is a tension between simplicity/transparency and personalisation, we will have to make some choices about which to prioritise when we design new services.
- Accessible services are likely to be more costly so we will want to work with stakeholders and benefit recipients to make sure that we are targeting resource in the best way possible.
- Systems and processes must be secure against fraudulent activity – both in terms of individuals who deliberately set out to defraud the system and to larger type cyber fraud which is an increasing concern as benefits are digitalised.

Disability Living Allowance, Personal Independence Payments, Attendance Allowance and Severe Disablement Allowance

What is being devolved?

The Scotland Bill 2015 proposes to devolve powers over social security benefits for disabled people and people that are ill. These are currently delivered through Disability Living Allowance (DLA), the Personal Independence Payment (PIP), Attendance Allowance (AA), and Severe Disablement Allowance (SDA)

These are tax-free and non-means tested benefits, which are intended to help cover the additional costs of living with a disability. Entitlement varies with the age of the claimant. For example, AA only provides help with personal care for individuals aged 65 or over.

A gradual process to phase DLA out for people of working age and replace it with PIP started in April 2013. At present all new applications in Scotland are for PIP, and the process of migrating existing DLA recipients to PIP should be completed by 2018. DLA will continue to be available for new claims for under 16s and AA will continue for new claimants over state pension age.

What stakeholders have told us so far

Fairness needs to be built into the system, enabling trust, not just for those in receipt of benefit but for wider society as a whole. The general culture, language and ethos is important. These benefits should be viewed around entitlement. People should not be stigmatised because they are in receipt of a benefit.

It is clear that there is a desire to retain a national approach, with national eligibility criteria and benefit levels.

Disability benefits should not be dependent on a person's income. Retaining the universality of these benefits is important, not least because it reduces stigmatisation of claimants.

The use of face-to-face assessments should be reviewed, ideally with better use of medical evidence and sharing of information with professionals who support an individual. Above all, those who claim for ill health and disability benefits should be treated with respect and dignity.

What we want to reflect back

We want to grasp the opportunity and adopt a fairer approach. We must ensure that everyone understands the financial constraints and limitations of the powers being devolved.

There is an opportunity to simplify the system and make it more effective. There could be interventions and changes at relevant ages, but it does not need to mirror the current system. There is an opportunity to better align disability benefits with health and social care, and other devolved services.

People claiming disability benefits should be treated with dignity, with appropriate advice and support available as they go through the process.

We are looking at the potential to better align disability benefits with other devolved services, such as free personal care, social care support, and housing.

We are reviewing how people are treated all the way through their application. We want to see how we can make them fairer and simpler. For example, we are discussing with stakeholders how to improve assessments.

We have heard uncertainty and mistrust of PIP. This is understandable due to the focus on public expenditure cuts which accompany the policy, the quality of the assessment process, and fears that some will lose out. However, the Scottish Government is acutely aware that people will be going through a reassessment from DLA to PIP over the next three years and we do not want to introduce further change and uncertainty. We have requested the roll-out be halted however the UK Government refused. We recognise that the PIP rollout is in its early stages and will not conclude until 2018 after which time we will have assumed responsibility for it. Until then we will continue to work with stakeholders and claimants of PIP to identify opportunities for improvement and ensure matters are handled with care.

Carer's Allowance

What is being devolved?

Carer's Allowance is provided to help an individual look after someone with substantial caring needs. To be eligible the individual must be 16 or over and spend at least 35 hours a week caring for them. There are also limits on earning and studying.

What stakeholders have told us so far

Although Carer's Allowance gives recognition to the important role that carers have in society, this is heavily caveated by the fact that the amount paid is insufficient. Benefits for carers should continue to be non-means tested. The fact that it is paid directly to the carer is important, as is the fact that the carer need not be in the same household as the person being cared for.

The assessment process for Carer's Allowance is reasonably clear and simple. If you are caring for a recipient of a disability benefit, and meet the basic criteria, you are entitled to the benefit. However, some people highlighted that Carer's Allowance does not currently recognise the additional burden of caring for more than one disabled person, and only provides for one carer per disabled person.

There are very negative views of the overlapping benefits rules. This is where an individual cannot receive more than one "income replacement" benefit, so Carer's Allowance cannot be paid for example alongside the state pension. This is particularly an issue for pensioners.

Stakeholders are very clear that the current arrangements for Carer's Allowance limit their capacity to study or work. For many, this limits their quality of life and earning capacity. It also means that the wider economy misses out on their skills and experience.

What we want to reflect back

We will consider how we can better recognise the contribution of carers through the benefits system. We will ensure that a new benefit for carers provides better integration with carer support in Scotland. This is currently being reformed by the Carers (Scotland) Bill.

We would like to structure benefits for carers in a way that allows carers to more effectively participate in education and the labour market. However, the Scotland Bill currently sets out that a carer must:

- be 16 years old or above
- not be gainfully employed
- not be in full time education
- be caring for a recipient of a disability benefit

The Scottish Government is seeking to have these clauses changed to allow more flexibility. If these clauses remain as they are, we will be limited in what we can do to help those carers who want to work more or study full time.

We may be similarly limited on the overlapping benefits rule, as the UK Government will continue to administer other income replacement benefits.

Industrial Injuries Disablement Benefit

What is being devolved?

The Industrial Injuries Scheme was established for individuals who are ill or disabled as a result of an accident or disease caused by work.

What stakeholders have told us so far

Views of the scheme vary, but there is widespread agreement that the scheme could benefit from review.

The current approach to payments is perceived as unfair. People with terminal conditions can receive much less than people with minor injuries that do not prevent them from working.

We have been told that employers and insurers should play their part in funding the scheme.

There is uncertainty whether the scheme's eligibility criteria can accommodate the different employment models found in the modern workplace, such as subcontracted work and zero hours contracts.

Some stakeholders would like to see greater integration of the Industrial Injuries scheme with other services such as the Blue Badge Scheme.

What we want to reflect back

It is vital that people who suffer work related accidents and ill health are appropriately compensated. No fault compensation is an important part of this.

Awards should be equitable and proportionate. The scheme's purpose and its interactions with disability benefits should be more clearly defined, and any future role of employers and insurers should be considered.

Housing-related Benefits

The Housing Element of Universal Credit

What is being devolved?

The housing element within Universal Credit covers all or part of a claimants rent, depending on their circumstances. Under the Scotland Bill, Scotland will have more control over how the housing element of Universal Credit is calculated with the power to vary the under-occupancy reduction, local housing allowance rates, eligible rent and deductions for non-dependents.

What stakeholders have told us so far

There has been widespread opposition to the bedroom tax since it was introduced in 2013. It is opposed by the majority of Scottish MPs, the majority of MSPs, the Welfare Reform Committee and the House of Commons Scottish Affairs Select Committee as well as those across the housing sector. There is concern about the impact on some of the most vulnerable households in Scotland, particularly those with disabilities.

Landlords have highlighted the negative impact on levels of arrears not just as a result of the bedroom tax but of welfare reforms more widely as households come under increasing financial pressure.

A shortage of available one bedroom properties prevents many tenants from downsizing to a smaller property. But for some, moving home is not practical due to family commitments or reliance on friends and neighbours living nearby for day to day support.

What we want to reflect back

The Scottish Government remains strongly opposed to the bedroom tax and is committed to using the new powers to vary the housing element of Universal Credit to effectively abolish the bedroom tax. We will ensure that Scottish claimants will not see a reduction in their benefit for housing costs and at the same time, Discretionary Housing Payments can be used to continue to help households affected by the bedroom tax who will remain on housing benefit for some time to come.

Discretionary Housing Payments

What is being devolved?

Discretionary Housing Payments (DHPs) are available to people who are in receipt of Housing Benefit or the housing element of Universal Credit. They provide an additional sum of money to support those who are having difficulty in meeting their housing costs. DHPs are administered by local authorities on behalf of the DWP.

Under the Scotland Bill, Scotland will have responsibility for all DHP funding and for providing guidance to LAs on the administration of the funds.

What stakeholders have told us so far

DHPs are an effective means of providing direct financial support to tenants. Social landlords have welcomed the additional funding from the Scottish Government which has limited the negative impact on their rental income. There are some concerns over the sustainability of full bedroom tax mitigation in the longer term as other welfare cuts (including

the Benefit Cap and changes to Local Housing Allowance) could result in an increasing number of households requiring assistance with their housing costs.

What we want to reflect back

The Scotland Bill gives Scotland more flexibility in supporting people in meeting their housing costs. The devolution of DHPs along with the power to vary the housing element of Universal Credit presents further options for ensuring that the bedroom tax is, in effect, abolished in Scotland. The Scottish Government remains committed to abolishing the bedroom tax.

We plan to work closely with a range of stakeholders over the coming months to develop proposals for making use of the new powers in a way that is cost effective, sustainable in the longer term and supports those most in need.

The Regulated Social Fund

What is being devolved?

The Regulated Social Fund comprises four elements. Funeral Payments (FP) are for individuals on low incomes who need help to pay for a funeral they are arranging. Sure Start Maternity Grants (SSMG) are a one-off payment of £500 to help toward the costs of having a first child for individuals who are in receipt of certain benefits. Cold Weather Payments (CWP) are payments for individuals on certain benefits when the temperature is either recorded as or forecast to be an average of zero degrees Celsius or below over seven consecutive days. Winter Fuel Payments (WFP) are tax-free payments to help pay for heating bills for individuals born on or before 5 July 1952 (current State Pension Age for women).

What stakeholders have told us so far

Funeral Payments

Funeral Payments are vital to bereaved families but there are significant problems with the current funeral payments system, including:

- Wide spread lack of awareness of the payments.
- That the level of the payment does not meet the cost of a funeral, resulting in debt for bereaved families and bad debt for funeral directors, in turn pushing prices up further.
- Complexity in how the payment is made up, what you can apply for and difficulty in predicting what you might be awarded.
- A perceived un-fairness in the rules on who can receive a payment, particularly since relationships in modern families are more fluid.
- Relatively low success rates (around 52% of applications result in awards) mean a lot of wasted effort on the part of applicants and processing staff.
- Delays in processing cause anxiety at a very difficult time.
- That costs of burial or cremation vary significantly depending on which Local Authority you live in.

Sure Start Maternity Grant

In general, the Sure Start Maternity Grant is recognised by stakeholders as an important source of support. The recent narrowing of entitlement so that a grant is not made where there is another child under 16 in the household has not been well received and is seen as unfair, as people are not in a position to plan ahead and keep equipment for that long.

Limiting grants to one child is considered to disadvantage larger families (more likely to be ethnic minorities), people who have re-partnered, people with chaotic lifestyles and teenage mothers who still have siblings at home.

The window for application is short, given the stresses on new mothers during pregnancy and early years. This is particularly the case where mothers qualify due to receipt of tax credits which are based on previous year's income.

Winter Fuel Payments and Cold Weather Payments

WFPs and CWPs are badged as fuel poverty-related benefits, though there are issues with the current policy and delivery of both that undermine this.

Whilst older households are more likely to be in fuel poverty, Winter Fuel Payments are not targeted in any way and there is no guarantee that eligible households will use the income to reduce fuel bills.

Whilst Cold Weather Payments are more targeted on households that are likely to be in need of support to pay their fuel bills, payments are only made when temperatures reach (or are forecast to reach) zero or below for seven days in a row. In many remote areas (especially islands), wind and other weather conditions can mean extended heating periods even though temperatures haven't reached zero.

Paying the benefit in retrospect also means that people in rural areas who incur fuel costs on delivery cannot plan ahead.

What we want to reflect back

We have found that there is an on-going need for the support provided by both Sure Start Maternity Grants and Funeral Payments, whether in their current or a different form.

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

Maternal and infant health and early years policy in Scotland is well developed and it will be important to make sure that the new grant is well embedded with existing support.

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

Motability

What is being devolved?

Motability is a scheme that enables disabled people to spend the mobility component of their DLA and PIP to lease a new car, powered wheelchair or scooter. Customers choose a vehicle from Motability's portfolio through a local car dealer participating in the scheme. The customer's weekly mobility element is then transferred directly to Motability rather than to the customer. The lease usually runs for three years and full package including insurance, road tax, servicing, tyres and breakdown cover.

What stakeholders have told us so far

Customers are overwhelmingly positive about the Motability Scheme: overall satisfaction figures are extremely high at 98%, 92% of customers renew their lease after three years, and 97% of customers would recommend the scheme to a friend.

Disability groups and disability motoring groups are also very enthusiastic both about value for money offered and about customer service. Motability is seen as an unusually responsive service provider. Concerns centre on the impact of PIP reassessments on people's eligibility, rather than on the scheme itself. The transition package Motability offers customers leaving the scheme following reassessment for PIP is largely regarded as generous.

There are limited funds available for adaptation grants through the Specialised Vehicle Fund: some of the most severely disabled customers often still have to pay the upfront costs of adapting their vehicles themselves – often many tens of thousands of pounds per lease.

Stakeholders also point out that DLA and PIP recipients can have other mobility needs which are not met by having access to a vehicle, and whether other groups – such as Attendance Allowance recipients – also have unmet mobility needs.

Motability is seen as a highly valued partner among car dealers and is a very major player in the motor trade, accounting for over 11% of new car sales in Scotland.

What we want to reflect back

Motability offers disabled people mobility solutions, quality customer service and excellent value for money.

Discussions are ongoing with Motability and we want them to continue to offer an outstanding service to disabled people in Scotland. We will explore areas identified by stakeholders in order to build on the many successes of the scheme.

Universal Credit flexibilities

What is being devolved?

Universal Credit, which remains reserved to the UK Government, merges housing benefit and five other in and out of work benefits (Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Income Support, Working Tax Credit, Child Tax Credit and Housing Benefit) into one single, monthly welfare payment. Universal Credit is being phased in over a number of years and is not yet fully operational.

The Scotland Bill will give Scotland new powers to make changes over how Universal Credit is paid, which will eventually affect over 700,000 households across the country. These changes include powers to change the frequency of payments, varying plans for single household payments, and paying landlords direct for housing costs in Scotland. Overall, these powers could enable us to ensure that the implementation of Universal Credit will be better suited to the needs of Scottish people.

What stakeholders have told us so far

Registered Social Landlords (RSLs) can already ask DWP to put claimants onto direct payment of housing costs subject to certain conditions. This is called an Alternative Payment Arrangement (APA) and is seen by DWP as a temporary measure until the claimant is provided with Personal Budgeting Support and can manage their own rent payments.

Landlords and their representative bodies have told us that by ensuring the rent payment goes direct to them it more closely mirrors the current arrangements for paying Housing Benefit direct to landlords. Landlords have told us they want this to continue under Universal Credit as it provides a valuable safeguard for both the landlord and the claimant. Stakeholders have suggested this should be the default position for claimants with a social landlord but that claimants should be asked to agree to this.

Many people in Scotland, both in and out of work, are used to budgeting their money more frequently than monthly. Many people have told us that moving to monthly payments under Universal Credit is a worry for them and that fortnightly payments would make it easier for them to manage their household budgets.

What we want to reflect back

Scottish Government has reflected on the views from stakeholders and has decided that Universal Credit claimants should be given the choice of having their payments made twice a month rather than once a month, as DWP plans.

We have also decided that payment of the housing element should usually be made direct to landlords, for all new Universal Credit claims, where the claimant is renting from a social landlord.

These decisions were announced by Alex Neil, Cabinet Secretary for Social Justice, Communities and Pensioners Rights on 12 August – you can read the announcement [here](#).

We are now working with DWP on the introduction of these flexibilities. The aim is to build them into the new digital system which DWP is planning to roll out during 2016.

We are continuing to engage with a wide range of representative bodies, third sector organisations and claimants to test the detail of these proposals and ensure that the new policies will deliver a better, more flexible approach for Scottish people.

Next Steps – Vision Paper and Social Security legislation

As noted above, we have a range of further events and discussions planned with stakeholders which will help to further inform our consideration of the benefits to be devolved. This paper is not the end of the discussion; it simply draws together what we have learned so far. Your continuing participation in the process of discussing the powers to be devolved, and the best way to use them for the people of Scotland, are important in shaping our approach.

We intend in December 2015 to publish a paper setting out our vision for the Scottish approach to social security. This will draw on all of the information and feedback we have gathered, and set out the principles against which we will develop our work on new social security powers.

Much of this paper has focused on the policy decisions associated with the devolution of each of the benefits; we are well aware from discussions with stakeholders that the operational management of, and administrative processes for, the benefits are of crucial importance. This will become a greater focus of the work, and our ongoing discussions with stakeholders, as we develop the vision and move into the introduction of legislation.

Further Ahead – Future Devolution

This paper has focused on the issues and decisions we need to consider to make best use of the social security powers that are expected to be devolved through the Scotland Bill; but those powers are not comprehensive. The bulk of expenditure and responsibility for benefits will remain with the UK Government.

The Scottish Government published (15 June 2015) “*Beyond Smith – Scottish Government proposals for more powers for the Scottish Parliament*” which was submitted in a letter from the Deputy First Minister, John Swinney MSP to David Mundell, the Secretary of State for Scotland. The paper outlined the Scottish Government’s priorities for devolution *beyond* the Smith proposals. These build on existing devolved powers and the Smith proposals to enable the Scottish Government and Parliament to take an integrated approach to a range of issues, such as support for employers and those seeking employment, business taxation, and tackling in work poverty and inequality.

The Scottish Government is clear that only responsibility for the whole social security system would allow the Scottish Parliament to meet Scottish priorities, and to fit with the delivery of other services in Scotland, based on prevention and early intervention, responding to individual needs and tackling inequalities. Such a system could also ensure greater coherence with devolved policy related to, for example, children’s services, employment support programmes, and tackling poverty and inequalities.

More powers over working age benefits would allow the Scottish Government to achieve greater coherence with the Scottish Welfare Fund (SWF). The SWF can be the only source of financial help during the claim process for DWP’s working age benefits and where benefits are stopped for some reason, so it is affected by the operation of these benefits. Devolved powers over benefits for disabled people, people with a limiting health condition and their carers provides a range of opportunities to better integrate services, care and budgets on welfare, health and social care. This would provide a coherent and responsive service that reduced the number of assessments, agencies and requests for information, and create a comprehensive and focussed package of personalised care.

The Scottish Government’s priorities for devolution are:

- Benefits relating to children (Child Benefit & Guardian’s Allowance).
- Full devolution of working-age benefits and flexibilities in Universal Credit, including conditionality and sanctions.

Full devolution of social security and employability policy would ensure policy coherence in Scotland and provide coordinated support to those out of work, as well as responsiveness to local circumstances and Scottish priorities. Full devolution of social security was strongly supported by the third sector in Scotland during the Smith Commission.

Continuous Engagement

Building on the high level of engagement - and momentum and expectation - created during the referendum campaign, the Scottish Government is committed to encouraging continuous engagement and participation in the democratic process in Scotland. The Smith Commission undertook to engage civic Scotland and the public in its work, but the time available meant that the opportunity for meaningful consultation on the Commission’s proposals, and the Scotland Bill, was inadequate.

The Scottish Government is clear that the development of the Scotland Bill would have benefited greatly from the insight and experience brought by the public and civic Scotland.

Again, the opportunity for meaningful consultation was constrained by the timetable set by the UK Government, but, within that, the Scottish Government has worked to involve the public as much as possible and will continue to press the UK Government to make the changes required to deliver the full intent and spirit of the Smith Commission Report.

ANNEX A

The following organisations have helped to develop our thoughts either through their attendance at events or wider discussions.

Age Scotland
Allied Mobility Glasgow
Apex Scotland
Barnados
Bemis
Bereavement Services
Capability Scotland
Carers Scotland
Carers Trust Scotland
Chambers of Commerce
CIH
Citizen Advice Scotland
Coalition of Carers in Scotland
CoSLA
CPAG
Deaf Action
Disability Agenda Scotland
Disabled Motoring UK
Enable Scotland
Engender
Equality and Human Rights Commission
Faith in the Community
Federation of Small Businesses
Glasgow Disability Alliance
Health and Social Care Alliance
Health Boards
Housing Option Scotland
IFS
Inclusion Scotland
Industrial injuries Advisory Council
Joseph Rowntree Foundation
MacMillan
Minority Ethnic Carers of Older People Project
Money Advice Services
Motability
Motability Operations
National Association of Funeral Directors
NHS Scotland
One Parent Families Scotland
Oxfam
Penumbra
People First

Poverty Alliance
Poverty Truth Commission
Prince's Trust Scotland
Rights Advice Scotland
Royal National Institute of Blind People (RNIB)
Scotland
Save the Children
SACRO
SAMH
SBC
Scottish Business in the Community
Scottish Campaign for a Fair Society
Scottish Campaign on Welfare Reform
Scottish Leaders Welfare Benefits Group
Scottish Legal Aid Board
Scottish Motor Trade Association
Scottish Womens Aid
Scottish Young Carers Services Alliance
Scottish Young Carers Services Alliance
Scottish Youth Parliament
SCVO
SFHA
Shaw Trust
Shelter
SLAB
STAJAC
Social Security Advisory Committee
SOLACE
SOPA
STUC
The Alliance
The Reid Foundation
Welfare Reform Scrutiny Group

Work commissioned	Date
Poverty Alliance	10 events planned until end of September
Engender	5 events planned until October
Women Convention	Conference event 5 September
CEMVO	2 events planned
Introductory stakeholder event	24 June
Welfare Reform Scrutiny Group	20 May
Scottish Leaders Welfare Benefits Group	27 May
NHS Scotland	1 September
CoSLA conference	3 September
SCVO	2 July
Inclusion Scotland	3 July 1 September
Coalition of Care and Support providers	25 August
The Alliance	14 September
Age Scotland/ Pensioner Forum/ Scottish Senior Alliance	17 August
CPAG	12 June
Scottish Campaign on Welfare Reform	11 September
CIH Scotland	2 September
SFHA	3 June
Academic sessions	Sessions on Role of social security (15 June) Disability (23 June) Universal Credit & Active Labour Market (Sept)



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