
To: Leadership Board

On: 16 September 2015

Report by: Chief Executive

Heading: **Call For Evidence: Welfare Reform Committee – Smith Agreement Inquiry**

1. Summary

- 1.1 On 27 November 2014, a report by The Smith Commission was published, titled 'Report of the Smith Commission for further devolution of powers to the Scottish Parliament.' This report outlined an agreement reached between all of Scotland's main political parties to devolve more powers to the Scottish Parliament.
- 1.2 In January 2015, the UK Government published its report, 'Scotland in the United Kingdom: An enduring settlement' This paper presented draft clauses in response to the Smith Agreement which would form part of a future 'Scotland Bill'
- 1.3 The Scotland Bill 2015 was introduced to Parliament on 28 May 2015 and includes the proposed devolution powers across a number of sectors including the welfare system.
- 1.4 The devolution of some aspects of the welfare system continues to be debated during the passage of the Scotland Bill. The Scottish Parliament's Welfare Reform Committee has opted to focus on the practical implementation of the social security schemes outlined in the Smith Agreement.
- 1.5 The Committee has invited all interested individuals and organisations to submit written evidence on the Smith Agreement and how the proposed devolved powers to better deliver benefits in Scotland. (Please refer to Appendix 1)

1.6 Attached to this report at Appendix 2 is a proposed Council response which has been developed at the request of and in consultation with the Council's Administration Group.

1.7 The deadline for receipt of written evidence was 28 August, 2015 and a draft response, as detailed in appendix 2, has been submitted on behalf of the Council, subject to approval by this Board.

2. **Recommendations**

2.1 It is recommended that the Board approves the contents of the proposed response

3 **Background**

3.1 The Committee broke down its enquiry into four 'work-streams' (please refer to Appendix 1) and seeks view on:

How the new welfare powers proposed by the Smith Agreement should 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.

1.4 The Committee particularly welcomes:

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

Implications of the Report

1. **Financial** – n/a
2. **HR & Organisational Development** – n/a
3. **Community Planning – Community Care, Health & Well-being** – the Scottish Welfare Fund provides a very clear support mechanism to vulnerable families and individuals in times of acute financial need
4. **Legal** - none
5. **Property/Assets** – n/a
6. **Information Technology** – n/a
7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – n/a
9. **Procurement** – n/a
10. **Risk** – n/a
11. **Privacy Impact** – n/a

List of Background Papers –

1. Report of the Smith Commission for further devolution of powers to the Scottish Parliament. (published by The Smith Commission)
2. Scotland in the United Kingdom: An enduring Settlement (published by HM Government)

Author Emma Shields, Operational Services Manager ext 6880

Welfare Reform Committee
Smith Agreement Inquiry

Call for Evidence

Whilst the devolution of some aspects of Social Security continue to be debated during the passage of the Scotland Bill, the Welfare Reform Committee has opted to focus on the practical implementation of the social security schemes outlined in the Smith Agreement.

The Committee invites all interested individuals and organisations to submit written evidence on the Smith Agreement and how we can use the proposed devolved powers to better deliver benefits in Scotland. The Committee is tackling 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 would particularly welcome:

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

The deadline for the receipt of written evidence is Friday 28 August.

Submitting written evidence to the Committee

Submissions should ideally be no more than 4 pages of A4. Responses should be sent, wherever possible, electronically and in MS Word format to the following email address: WelfareReformCommittee@scottish.parliament.uk

APPENDIX 1

Before submitting your evidence please read the [Parliament's Policy on Treatment of Written Evidence by Subject and Mandatory Committees](#)

Responses can also be sent by post to: Clerk to the Welfare Reform Committee, Room TG.01, Scottish Parliament, Edinburgh, EH99 1SP

Background

1. The Smith Agreement, setting out a proposed set of new powers – including over social security – was published on 27 November 2014. In January 2015, the UK Government published a set of draft clauses for a Scotland Bill and now the Scotland Bill itself – largely reflecting the draft clauses – has been introduced to the Houses of Parliament and is currently being considered. However the Devolution (Further Powers) Committee, which reported in May, flagged up some differences as it saw it between the Smith Agreement proposals and the draft clauses.
2. The Scotland Bill is now being considered in the Commons and may of course be subject to amendment. For this reason it is proposed to continue to focus the inquiry on the Smith proposals rather than what is currently proposed in the Bill, which may of course change during its passage.
3. The Committee aims to keep the focus of the evidence, and the inquiry, on the practical implementation and operation of the welfare schemes once devolved, as opposed to the details of the powers. The Devolution (Further Powers) Committee will be continuing to examine the Scotland Bill during its passage.
4. The Committee's intention is to work closely with the Scottish Government and other partners as it progresses through the inquiry. The aim of this is to attempt to build a broad consensus on the arrangements for a Scottish social security system that can be both fair and humane.

Simon Watkins
Clerk
Welfare Reform Committee
17 June 2015

1.0 Background

Renfrewshire Council welcomes the opportunity to respond to the Welfare Reform Committee on the future use of the devolved powers resulting from the Smith Agreement.

The Council shares the view of the Smith Report that devolution should not stop at the Scottish Parliament but should be extended further with the transfer of powers from Holyrood to local communities. We believe the consultation on welfare reform should form part of a wider consultative process with the Scottish Local Government Partnership, COSLA and civic Scotland on where powers and responsibilities should rest.

A key priority for the Council is tackling the causes and impacts of poverty and it has been leading efforts to tackle poverty through the establishment of the Renfrewshire Tackling Poverty Commission. The Commission's recommendations focus on local service delivery changes, on national policy changes and on putting how people feel at the heart of how organisations respond to poverty. It is in this context that the council responds to this call for evidence.

1.1 Summary

It is the Council's view that the delivery of welfare provision should be efficient, simple to access and must help people with the greatest need most. Any new benefits must simplify and enhance existing support mechanisms or completely replace existing benefits.

If Local Authorities are to undertake an expanded remit i.e. responsibility for delivering any new or expanded functions, then full consideration of how these functions would be designed, managed and funded must be undertaken.

The Council fully supports the Smith Report recommendation that the Scottish Government 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 advocates strongly the use of these powers.

The Council has recognised in its responses to the ‘work stream’ related questions (detailed below) that there will ultimately be a need for trade-offs; where funding is required to support one area there will be arguably, a detrimental impact on others. As a result, schemes developed must be designed to interact with other areas of social policy and must respond to changing demographics in Scotland.

2.0 Responses to work stream scenarios- How should the new welfare powers proposed by the Smith Agreement be used to improve or change:

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

The Council wishes to make the benefit application and assessment process for people with disabilities easier to ensure that the number of applicants losing disability benefits unnecessarily is kept to a minimum and entitlement is maximised.

The change from DLA to PIP is negatively affecting people previously in receipt of DLA. Those most adversely impacted are those who received care component (particularly low rate) as they are now less likely to qualify for PIP.

Customers who lose DLA and do not qualify for PIP are entitled to less Housing Benefit /Council Tax Reduction and also as a result lose benefits, such as winter fuel payments, free disabled bus passes and blue badges.

The impact of this change ultimately is financial strain, potential loss of independence, isolation and possible ill health.

The consequence for Local Authorities and charities will be an increase in applications to the DHP and Scottish Welfare Funds (already budget pressured) and a likely increased demand for advice services.

It is therefore the Council's view that:

Any new disability related benefit should prioritise those with greatest need and they should receive the greatest level of support. In addition, what are recognised as the positive elements of 'PIP' should be retained. e.g. the changes to 'High Mobility' which has made it easier, in some cases, for those with mental health conditions and those with hearing and visual impairments to qualify.

Attendance Allowance should be retained in its current form, but should be reviewed regularly to ensure alignment with long term health and social care objectives and long term plans for an increasingly aging population.

In relation to Carers Allowance (CA), recognising that there would be budgetary implications, it is suggested that the basic rate should be at least same as Job Seekers Allowance. It should also be considered whether CA could be payable for lower care levels and some mobility recipients depending on level of care needed. It is suggested that the earnings limit should be increased and students to be eligible to apply.

With regards to the Access to Work Scheme, the council questions the introduction of a proposed cap on the level of workplace assistance and whether this would potentially place a glass ceiling on the career aspirations/opportunities of people with disabilities.

Other considerations which the Council suggests are:

- Review the extension of the eligibility for disability benefits while in hospital, beyond 28 days.
- Undertake a review of medical assessments. There should be a more transparent process for assessing benefits and the guidance given to decision makers and medical professionals.
- Create clearer guidance on the benefits of working while receiving appropriate disability benefits as a supplement rather than sole reliance on disability benefits
- Consider more scope for transition periods to allow customers to settle into the most appropriate job, before reducing the level of financial support.

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

2b.1 Universal Credit

2b.1.1 Direct Payment

The Smith Report recommends that the Scottish Government 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.**” The Council fully supports this recommendation; since the introduction of the Universal Credit concept, the Council has had serious concerns about payment of all housing cost support direct to customers. It was recognised immediately that it could lead to increased arrears and in certain cases dissuade some housing providers from offering accommodation to customers in receipt of benefits.

A particularly serious concern is that vulnerable tenants would be placed under additional pressure by a single monthly payment being paid to one member of the household; this payment then requiring to be allocated to a range of expenditure.

It is the Council's view that the Housing Cost element of Universal Credit should be paid directly to housing providers in the social sector. This would allow those providers in the social sector to budget and plan for the future with a greater certainty of revenue being received. There is also a strong argument for keeping the administration of the Housing Costs element of UC with Local Authorities who have the extensive experience and expertise.

2b.1.2 Bedroom Tax

Immediately following the UK Government's announcement to implement the Bedroom Tax Renfrewshire Council recognised the severe impact that this piece of welfare reform would have on social sector tenants. Fully cognisant of the ceiling on

DHPs (which was in place at that point) the Council was compelled to devise and introduce a 'Council Tenants Assistance Fund' which was designed to ensure that no tenants of Renfrewshire Council would be at risk of losing their home due to being affected by the bedroom tax.

Implementation of the bedroom tax also had a significant impact on local authority resources as a result of additional administrative processes/procedures.

The Council would therefore strongly advocate the removal of the Bedroom Tax

2b.1.3 Local Housing Allowance

With regards to the Local Housing Allowance rates, currently paid to private sector tenants, the reduction in Housing Benefit in real terms due to cost of living/rent increases must be considered with a view to reducing financial hardship in this sector. This issue is raised as tenants may not have a choice but to rent privately as there is a lack of social housing available. It should be noted that in relation to customers receiving Local Housing Allowance, currently there is additional support available in the form of DHP (see section 2b3 below), however this is not available to all customers, as it is a cash-limited fund.

2b.2 UC Administrative Arrangements

If Local Authorities are to undertake an expanded remit i.e. taking responsibility for delivering any new Scottish benefits administrative arrangements then the design, management and funding of any new mechanism must be fully considered. There must be detailed analysis of the cost of delivering and administering any new responsibilities.

The areas which would require careful consideration would be:

- The design of flexible joined up processes which have customers' needs as the focal point.
- How any new administrative arrangement can work in tandem with the Scottish Welfare Fund and Council Tax Reduction Scheme
- How an arrangement can facilitate the efficient administration of Discretionary Housing Payments (DHP) or indeed negate the need for them.
- How changes can be facilitated by an appropriate IT system. (The DWP UC IT System, already significantly delayed, may not be flexible enough to allow alterations without costing millions to reconfigure)
- Whether any changes to benefits discussed under section 'a' (above) would result in further devolved administrative responsibility.
- The mass migration of Housing Benefit claims to Universal Credit to enable Local Authorities to plan, recruit and maintain existing HB/CTR expertise.

2b.3 Discretionary Housing Payments (DHP)

DHP Regulations require full review and update clarifying on points raised by notable Case Law.

Any wholesale DHP changes will need impact assessments and Equality and Human Rights Risk Assessments completed by both Scottish Government and Local Authorities.

The Council's view is that Local Authorities should continue to have the flexibility to develop local policy; based on national guidelines as this ensures that the approach is consistent with appropriate demographics and circumstances. This methodology has already been demonstrated successfully with the work carried out by individual Local Authorities to mitigate the impact of the bedroom tax.

Other practical considerations in relation to DHPs should include

- DHP funding and the approach to allocation for specific purpose e.g. to support a specific welfare reform effect like the benefit cap.
- Basis of distribution for funding i.e. separate or linked into the annual financial settlement.
- Whether Local Authorities should have the power to augment DHP funding
- How DHP policy and guidance can be implemented without 'fettering' discretion (often cited at tribunal hearings) Consideration of the current DWP DHP Guidance and its suitability would need to be undertaken
- Defining financial hardship and what should be classed essential and non-essential expenditure from a customer's perspective.
- Whether increased DHP funding has a negative impact on rents decreasing/freezing both in the social and private sectors. Analysis should be undertaken to establish whether or not the current Scottish Government policy as using DHP to mitigate the bedroom tax has had any effect on increased building of one bedroom properties, changing allocation policies, promoting mutual exchanges etc.
- Alignment with any new benefit provision introduced.

By definition, DHPs are designed as short term assistance and not to mitigate the long term impact of Welfare Reform. It should be considered whether DHP is the most appropriate vehicle for mitigating the effect of the bedroom tax. As previously stated it is the Council's view is that the rules should be removed.

Finally relating to DHPs, steps should also be taken in the context of addressing the causes of hardship and consequential demand on DHPs e.g. the challenge of

balancing housing allocation policies with welfare provision, employment and training opportunities, debt and budgeting education.

2c) The Work Programme and Work Choice

The landscape for supporting people to enter or re-enter the labour market is complicated with a range of funding streams and providers across the public, private, independent and voluntary sectors. This makes the available support systems difficult to understand, expensive to administer and almost impossible to navigate for those for which they are designed to support. The Smith Agreement provides an opportunity to simplify these systems, bring funding streams together and provide a more joined-up service to people who require this support.

It is agreed that any support provided by the Scottish Government for those at risk of long term unemployment must be available to assist the claimant for at least one year in order to ensure a robust approach to tackling unemployment (although it is recognised that some will progress before the end of a one year programme).

As major providers of local employability services, local authorities are very conscious of their inability to support those already referred to the Work Programme and Work Choice and the inferior levels of service, and support, that these programmes provide. In the council's view this clearly exemplifies the complicated landscape described above.

It has been frustrating that clients who are progressing well on a local authority programme are then mandated onto the Work Programme when they reach a certain stage of unemployment. The general rule of thumb for Council employability services is that it cannot provide any support to those on Government programmes and this can cause real inequalities. For example, the council operated a comprehensive wage subsidy programme for unemployed people being supported to look for work. The subsidy was considerably better than that offered by the Work Programme providers so local employers were then offered a good subsidy for short term (up to 9 months unemployed) unemployed people and a much lower subsidy for the much longer term unemployed clients through the Work Programme. This was happening across Scotland and clearly created inequalities and pushed employers towards the shorter term unemployed.

Renfrewshire Council took action locally to provide an "employer guarantee" which would top up the lower level wage subsidy (directly to the employer) so that the longest term unemployed would not be penalised through a lower wage subsidy option. It is Renfrewshire Council's understanding that it was the only local authority to do this but it was strongly felt that long term unemployed residents should not miss out on employment opportunities because of an inferior support programme.

A more localised service which is developed and delivered in partnership with the existing programmes of employability support would allow for more tailored approaches, greater partnership and co-ordination of services. This will result in better outcomes for clients.

It is noted that, as stated in the Smith Commission Agreement, conditionality and sanctions will remain reserved, including the ability to make mandatory referrals to Scottish Government employability programmes. While any mandatory programme will cause concern to local government there is some current practice which shows that working in partnership can overcome some of these issues:

An example of this is the current City Deal programme “Working Matters” which will be delivered by all 8 local authorities in the Glasgow City Region in partnership with DWP. The programme offers long term support (up to 3 years) to long term unemployed people with significant health conditions. Initially it appeared that this programme, delivered by local authorities, would have to be mandatory however, through close working with DWP an agreement was reached whereby any mandatory elements sat before the start of the programme with DWP and the local authorities then worked with those who agreed to go onto the programme.

The “Working Matters” programme is a good example of a new Scottish scheme coordinating with the UK-wide system of employment support (as currently delivered by Jobcentre Plus, which the Smith Commission Agreement recommended remain a reserved matter) and pulling working groups from UK wide and local employability services together to ensure that Claimants can transition smoothly from one system to the other.

In summary, a devolved employability service operating in Scotland could have significant benefits to local people and local organisations and, with the right partnership conditions, would significantly improve on the current levels of service and outcomes for local people.

2d) The Regulated Social Fund, new benefits, top-ups and delivery of benefits overall.

As previously stated, the delivery of benefits must be efficient and simple to access for claimants and stakeholders. Any new benefits must simplify and enhance existing benefits or completely replace existing benefits. Over complicating the system will be costly and create confusion resulting in inefficiency. There is acceptance that there are unclaimed benefits already within the current system, therefore any new benefit be considered in the context of is simple to administer, simple to promote and simple to claim.

Rather than short term changes, detailed planning should be undertaken for a welfare system which not only helps the most vulnerable in society but also meets the needs of the taxpayer minimising fraud and error.

Consideration should be given to the lessons learned on the current welfare system when examining any new prospects. For example in relation to Council Tax Reduction, the original regulations were drafted and passed through Parliament with no agreed plan for the whole dispute process resulting in amended Regulations.

Any new benefit provision should have aim to have a well-designed administration framework agreed and established prior to starting, work to design this framework should have considered the following points:

- Whether the planned devolved benefits have an additional impact on those experiencing financial crisis, which may lead to increase in health inequalities
- Methods of Data gathering/sharing (Data sharing across systems and consent levels are a significant issue, therefore leadership to enable effective communication is essential.)
- Any negative/unintended consequences for customer.
- Accessibility/simplicity for customers which decrease the confusion when they are in receipt of multiple benefits.
- The risk of confusion where customers are in receipt of a variety of benefits would some be administered by UK Government and some devolved to Scottish Parliament.
- Appropriate joint working partnerships. (Cross government working has been highlighted as still proving challenging - NHS Health Scotland Policy Review, 2012).
- The design of a clear monitoring regime with associated key performance indicators, both detailing responsibilities for local and national government with detailed timelines.
- The development of multi agency training delivered via a partnership approach, to ensure consistent messages are being delivered. (As a large proportion of devolved spending will be on health related benefits –this would be an opportunity to tackle the issue of unclaimed benefits referred above).
- IT implications, which are often the areas of most expense and challenge in launching new regimes.