

## **SUBMISSION FROM CHILDREN 1<sup>ST</sup>**

### **Views on the Bill as a whole**

#### **1. Are you generally in favour of the Bill and its provisions?**

CHILDREN 1ST welcomes the Welfare Reform (Further Provision) (Scotland) Bill and acknowledges the need to pass and enact the bill as quickly as possible. This will allow the introduction of the secondary legislation which is required to ensure provision is in place for the implementation of measures from the UK Welfare Reform Act from 2013.

Moreover, we welcome the Scottish Government's commitment to work closely with the committee and indeed, other stakeholders in relation to the bill process and in particular, sharing information and analysis of the impact of the changes. Given that most of the 5000 vulnerable children, young people and families we work with every year will be directly affected by many changes, CHILDREN 1ST is keen to support the Scottish Government and the Scottish Parliament through information sharing and collaborative working.

We would draw the committee's attention once more to our discovery that take-up of council tax benefit (and indeed, housing benefit) is low, particularly among two parent families. Using the Department of Work and Pensions' own data and analysis, we have estimated that Scots on low incomes may be missing out on up to £340 million annually. Increasing take-up in the next twelve months would provide much needed additional income (or at least offset household costs) for many families who are struggling financially. It would have the additional benefit of ameliorating the 10% cut in council tax benefit monies which forms part of the devolution of this benefit. CHILDREN 1ST would urge the Scottish Government, the committee and indeed, all MSPs to do all they can to increase take-up of council tax and housing benefit in the coming year.

#### **General Principles Underlying the Bill**

The Bill proposes that the Scottish Government be given powers to introduce regulations under the UK Welfare Reform Act and amend other Scottish legislation that relates to it. This would allow the Scottish Government to make the link between the devolved welfare matters for which it has responsibility and the reserved welfare matters which have been amended by the UK Welfare Reform Act. The Bill is necessary because in December 2011 the Scottish Parliament voted to take responsibility for these aspects rather than agreeing that the Westminster Parliament do so.

#### **2. What are your views on this principle?**

The Bill does not include provisions to devolve responsibility for replacement of council tax benefit and administration of elements of the Social Fund (Community Care Grants and Crisis Loans). Yet, the briefing session held by the committee teased out that such primary and/or secondary legislation will be required. While we

acknowledge the need to act urgently in relation to passported benefits, we would encourage the Scottish Government to include provision for these two devolved areas of welfare in this bill. To create a separate legislative process for this seems to be an unnecessary duplication of Parliamentary resources. CHILDREN 1ST would welcome amendments to this bill in this regard.

### **Universal Credit**

Section 1 of the Bill contains provisions relating to the introduction of Universal Credit. It gives the Scottish Government powers to introduce regulations and amend existing legislation in relation to the introduction of Universal Credit in April 2013.

#### **3. What are your views on the proposed powers in relation to Universal Credit?**

#### **4. Do you have any other comments on the introduction of Universal Credit? Personal Independence Payments**

Section 2 of the Bill contains provisions relating to the introduction of Personal Independence Payments. It gives the Scottish Government powers to introduce regulations and amend existing legislations in relation to the introduction of Personal Independence Payments in April 2013.

#### **5. What are your views on the proposed powers in relation to Personal Independence Payments?**

#### **6. Do you have any other comments on the introduction of Personal Independence Payments?**

### **Subordinate Legislation**

Subordinate Legislation is legislation below the level of Parliamentary Bills – often regulations. Section 4 of the Bill contains provisions relating to subordinate legislation. It gives the Scottish Government powers to make regulations that relate to the UK Welfare Reform Act directly or indirectly.

Sections 1-3 of the Bill also include new subordinate legislation powers for the Scottish Government. Under these sections it may make regulations which amend Acts as well as old regulations.

#### **7. What are your views on the proposed subordinate legislation powers in the Bill?**

Given the extent, scope and importance of these regulations, it is essential that they receive proper and extensive parliamentary scrutiny. CHILDREN 1<sup>ST</sup> therefore recommends that a super-affirmatory procedure is used when these regulations are first introduced. This would allow for drafts to be considered by the secondary legislation and welfare reform committees before the final regulations are laid for approval, allowing for detailed consideration and potential changes to be made. CHILDREN 1ST recommends that the bill is amended accordingly.

## **8. Do you have any other comments on regulations that would follow this Bill on 'passport' benefits and eligibility for them?**

A number of MSPs in the bill briefing session held on 29 March 2012 asked about eligibility criteria and the use of income thresholds. CHILDREN 1ST was concerned to note the Scottish Government's focus on income being the primary factor in the provision of passported benefits, which suggests a shift from the current universal nature of some passported benefits and also does not acknowledge the very particular needs of some groups, especially families with dependent children, which current criteria fail to acknowledge.

This bill and regulatory process should be driven by two objectives. The first is to make transitional provision on passported benefits so that no one currently receiving one loses out in April 2013. CHILDREN 1ST recognises the urgency required here and supports wholeheartedly the Scottish Government's intentions in this regard.

The second should be to use the opportunity welfare reform presents to fundamentally review our approach to passported benefits - what they are, what their purpose is, to whom they are available, how people qualify for them, how they are accessed and also administered. CHILDREN 1ST has a particular interest in ensuring that all vulnerable families with dependent children are receiving additional supports that help to address poverty but also acknowledge their – like kinship care families – particular needs.

We are concerned to note from the report on the briefing session that the Scottish Government seems minded to limit eligibility criteria to future passported benefits to an income threshold alone and also that there is some indication that people in work on low incomes might be excluded from eligibility. CHILDREN 1ST considers that we need a much wider debate and review involving all stakeholders with an interest in these issues before reaching conclusions on such details. We would hope that the committee will seek assurance from the Scottish Government that this wider review and debate will be conducted with a view to future proofing passported benefits to better meet the needs of vulnerable children and young people, and their families, in Scotland.

## **Financial Memorandum**

The Financial Memorandum accompanying the Bill outlines the costs associated with this Bill and summarises them in a table at the end. However, as the Scottish Government states in the Memorandum 'the timetable being pursued by the UK Government presents limits to the Scottish Parliament's ability to assess the financial implications of legislation it considers.'

## **9. Do you have any views on the assumptions and calculations contained in the Financial Memorandum?**

The financial memorandum that accompanies the Bill states "*it is expected that the provision of passported benefits will be retained at the current level and that costs*

*will be met from within existing budgets*<sup>1</sup>. As the bill manager indicated, it is impossible to gauge currently the full financial impact of changes occasioned by the shift to universal credit. Yet, the very fact that some people currently entitled to passported benefits under existing benefits and criteria will no longer receive universal credit and therefore, fall out of eligibility for some passported benefits, suggests that current expenditure will be affected.

Moreover, while finance is obviously a key driver in the current climate, CHILDREN 1ST is concerned that existing budgetary provision informs the approach to be taken to future provision of passported benefits, rather than designing the system to best meet need. The Scottish Government's commitment to share modelling – hopefully this will include passported benefits implemented by local authorities and health boards, as well as nationally – will assist the consideration of financial issues greatly

### **Effects on Equal Opportunities, Human Rights, Island Communities and Sustainable Development**

The Policy Memorandum accompanying the Bill (para 21-25) outlines the assessments made by the Scottish Government on the potential impact of the Bill on equal opportunities, human rights, island communities and sustainable development. It notes that Equalities Impact Assessments will be published when it introduces subordinate legislation later in the year.

**10. Are you satisfied in the assessments that have taken place in regard to these matters and in the conclusions reached by the Scottish Government?**

**CHILDREN 1ST**

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<sup>1</sup> Paragraph 33, Financial memorandum to the Welfare Reform (Further Provision) Scotland Bill