

WELFARE REFORM COMMITTEE

THE FUTURE DELIVERY OF SOCIAL SECURITY IN SCOTLAND

WRITTEN SUBMISSION FROM RIGHTS ADVICE SCOTLAND (RAS)

Rights Advice Scotland (RAS) is the organisation representing Welfare Rights Officers employed within Scottish Local Authorities. RAS aims to be a key player in the field of Social Welfare Law and to promote the excellent work and breadth of knowledge of its members and campaign for the uptake of benefits and for benefit reform. Rights Advice Scotland works in partnership with other organisations to ensure the delivery of high quality advice, providing information and training on benefit related matters to its own members and to advisers in other organisations throughout Scotland. RAS has more than 400 members drawn from 28 local authorities in Scotland.

Executive summary:

RAS suggests six general principles that it believes must be included in any new devolved welfare delivery. These are:

1. Benefit should be paid on a national basis of entitlement; in cash, to an individual recipient ;
2. No claimant should be left financially worse off when receiving benefits from the Scottish system than under the current UK model. The UK system should constitute the floor of welfare payments, with the Scottish System the ceiling;
3. All devolved benefits should retain the same appeal rights, via the devolved Scottish tribunal service, as current UK benefits;
4. Consideration should be given to merging the administration and decision making of the Scottish Welfare Fund, Discretionary Housing Payments (DHPs) and the Regulated Social Fund. Challenges to decisions should be overseen by an independent body;
5. Carers in Scotland, who are students or in remunerative employment, should not be treated any differently from other carers;
6. Reform is required to Disability Living Allowance (DLA), Personal Independence Payments (PIP) and Attendance Allowance (AA) to adopt a more social model of disability. Eligibility criteria should be extended to consider the effects of a disability on all aspects of daily living. The element of PIP that allows for enhanced rate of care without night time needs and enhanced mobility when not virtually unable to walk, should be included in a reformed DLA. AA should be merged with the reformed DLA and the mobility criteria raised from 65 years to pension age.

Work streams

A) How should the new welfare powers proposed by the Smith Agreement be used to improve or change Personal Independence Payments, Disability Living Allowance Attendance Allowance and Carer's Allowance (plus Industrial Injuries Disability Benefit)?

- Adopt a more social model of disability. Eligibility criteria should be extended to consider the effects of a disability on all aspects of daily living and not be confined to personal care needs.

- The element of PIP which allows for enhanced rate of care without night time needs and enhanced mobility when not virtually unable to walk, should be included in a reformed DLA.
- More emphasis should be placed on obtaining relevant information from professionals that work with claimants rather than a short “assessment” by a health profession for a reformed DLA.
- Many disabled people with poor mobility are excluded from the mobility component of DLA/PIP due to the age restrictions (must be claimed before age 65). This issue should be addressed to ensure that people are not excluded due to mobility problems just because they happen to be 65. We believe that entitlement to mobility should be extended to claimants of working age. We recommend a reformed DLA for all age groups.
- Immediately halt further roll-out of Personal Independence Payments. The disparity between working age, childhood and pension-age claimants serves to create inequality where different criteria are applied between age groups. The mobility component should be aligned with working age rather than 65 years to assist the working age population. PIP claimants should be transferred to the equivalent rate of a reformed DLA. AA should be merged with the reformed DLA. We believe that one benefit and one claim will save on administration and decision costs and make a more streamlined service for claimants.
- Severe Disablement Allowance transfer creates an opportunity to improve the financial position of some of Scotland’s most vulnerable people but can only be achieved with the careful use of this power and that an early consultation should be carried out with interested parties with a view to using it for that purpose.
- Carers Allowance (CA) should remain a discrete benefit, separate from Universal Credit (UC), and without means-testing. Moving it to a means-tested model would financially penalise customers who would otherwise not be entitled to UC (e.g. in a relationship where joint income would exceed the threshold for eligibility) and de-values the effort and role carers play in reducing the burden on health and social care services. CA should be paid at a much increased rate in recognition of the amount of work that is actually done by carers.
- An amendment is required to the Smith proposals to allow the Scottish Government to extend Carers Allowance to students and those in employment. We believe this removes a barrier to work. If no amendment is possible the Scottish Government should give consideration to creating a benefit for this group.
- Any administrative function or decision making responsibility devolved from the Scottish Government to Local Authorities (LAs) must be accompanied by ring-fenced funding. The Scottish Social Security System must be rights based. Where delivered by LAs the Scottish Government must underwrite and guarantee that the need will be met from central resources and not LA budgets, financial risks should be borne centrally.
- In addition some consideration should be given to Industrial Injuries Disability Benefit (IIDB). IIDB is a non-contributory, non means-tested benefit paid to compensate those injured at work. It is not an income replacement benefit but a compensatory benefit so should not be counted as income in the calculation of means tested benefits. While many of these, such as JSA and ESA, remain reserved to Westminster, the Scottish Parliament should exclude IIDB from the income calculation for those means-tested benefits devolved to it. Reduced Earnings Allowance should be re-established as part of the scheme or at least the principles of disablement assessment should be extended to include an element for loss of earning power. This might help to offset the iniquitous 365 day

rule in respect of contribution based ESA as well as the planned withdrawal of the WRA component of that benefit.

IIDB's two supplements, Constant Attendance Allowance and Exceptionally Severe Disablement Allowance should be retained.

Consideration should be given to extending the scheme to the self-employed especially where "self-employment" is a scam perpetrated on workers by contractors. The role of the Industrial Injuries Advisory Council (IIAC) would have to be revised to take account of the fact that it is now advising two different parliaments and governments whose expectations of the scheme might be quite different. This could mean a purely Scottish Council or a rewriting of the existing Council's role to take account of the new devolved settlement.

The cost of the scheme should reduce progressively over time through robust implementation of Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) and improving workplace health and safety policies.

B) How should the new welfare powers proposed by the Smith Agreement be used to improve or change Universal Credit (housing element and administrative arrangements arrangements) and Discretionary Housing Payments?

- Consideration should be given to amalgamating the Scottish Welfare Fund, DHPs and the Regulated Social Fund to allow a single point of access for claimants. Guidance on these matters should be issued nationally and specify specific circumstances where payment must be made. Having a unified access fund for LA will be cost effective and allow better customer outcomes. The cost of the service must be ring-fenced and guaranteed by the Scottish Government and not met from LA resources.
- Enable LAs to award DHPs without the need for application by the claimant. LAs will know when the bedroom tax is appropriate and under current Scottish Government and local policies there is a commitment to meet this shortfall. This will ensure the relevant people will receive the DHP. There is currently a risk that people, especially with mental health problems, may not actually apply for a DHP.
- Set the default payment of Housing Costs of Universal Credit to payment to landlords. Claimant should however, be able to opt to pay their own rent if they so wish.
- Where landlords change during the UC assessment period the responsibility of paying two separate landlords for two time periods should fall to the DWP.
- Ensure robust management of rent accounts to identify at the earliest stage where a problem may exist or be getting worse and ensure sufficient local resources to assist tenants who fall into difficulty.
- Revision of the Claimant Commitment (CC) and sanctions. The CC should be more structured and take on board the individuals' actual circumstances and abilities. This should, in theory, then automatically reflect on less inappropriate, or any, sanctions being deemed necessary.
- Whilst the UC delivery model envisages monthly benefit payments, it is suggested that this should only apply to those claimants who are in work, or have a partner who is in work, where the claimant group will be more accustomed to monthly payments; other claimant groups should retain fortnightly payments, with the option to move to monthly payments when they are confident in managing household budgeting.

C) How should the new welfare powers proposed by the Smith Agreement be used to improve or change the Work Programme and Work Choice?

- There must be a recognition that not everyone is able to work. The public narrative around benefits must change and the first presumption should be that everyone wants to work but some are prevented from doing so.
- Support should be focused on those people close to the labour market with additional resources available for those who require additional support on a voluntary basis.
- Claimants found to have limited capability for work, single parents with children under five and carers should not be required to take part in the Work Programme unless they volunteer to do so.
- Support in helping the unemployed finding work should be carried out by Jobcentre Plus (JCP). We believe that the Work Programme has proved to be costly and has delivered limited results. Reallocating the funding towards JCP and focusing on those close to the Labour Market will be cost efficient and more effective.
- The Claimant Commitment should be removed for all but the unemployed. A Claimant Commitment must be bespoke and relevant to a claimant's aspirations, skills, history and ability. The provision of support must also be bespoke with greater use of FE colleges, community resources and other agencies.
- The Claimant Commitment should have appeal rights in order to avoid sanctions arising.
- Sanctions should never be applied to non-JSA claims and we should return to the previous sanction procedures or abolish them altogether.

D) How should the new welfare powers proposed by the Smith Agreement be used to improve or change the Regulated Social Fund, new benefits, top-ups and delivery of benefits overall?

- Payments made for Funeral Grants under the Regulated Social Fund are woefully insufficient to meet the costs of even a very basic funeral. This puts the poorest people into an automatic debt situation. There should be agreement between funeral directors and the Scottish Government for an agreed cost of a basic funeral and this should be available through the Funeral Grant. If this matter is devolved to LAs funding must be guaranteed by the Scottish Government.
- The Scottish Government should give consideration to a Carers Benefit for students and the employed. Consideration should also be given to the creation of a benefit to recognise the different environment of Scotland for example, heating costs and travel cost in rural areas.
- We would recommend that the Cold weather Payment be abolished and the funds transferred to other welfare provisions.
- A Scottish Social Security Review Committee should be established to provide independent advice and expertise on welfare reform. There should be a statutory obligation to consult the Committee on the establishment of new benefits or the restructuring of existing rules.