







The Scottish Parliament  
Pàrlamaid na h-Alba

## Welfare Reform Committee

### 1st Report, 2012 (Session 4)

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The Scottish Parliament  
Pàrlamaid na h-Alba

## **Welfare Reform Committee**

### **Remit and membership**

#### **Remit:**

To keep under review the passage of the UK Welfare Reform Bill and monitor its implementation as it affects welfare provision in Scotland and to consider relevant Scottish legislation and other consequential arrangements.

#### **Membership:**

Margaret Burgess  
Annabelle Ewing  
Jamie Hepburn (Deputy Convener)  
Alex Johnstone  
Michael McMahon (Convener)  
Drew Smith  
Kevin Stewart

#### **Committee Clerking Team:**

##### **Clerk to the Committee**

Simon Watkins

##### **Senior Assistant Clerk**

Roz Wheeler

##### **Assistant Clerk**

James Drummond





The Scottish Parliament  
Pàrlamaid na h-Alba

**Welfare Reform Committee**

**1st Report, 2012 (Session 4)**

**Stage 1 Report on the Welfare Reform (Further Provision) (Scotland) Bill**

The Committee reports to the Parliament as follows—

EXECUTIVE SUMMARY

**The General Principles of the Bill**

1. The Committee supports the general principles of the Welfare Reform (Further Provision) (Scotland) Bill (paragraphs 8 to 9).
2. The decision having been taken by the Scottish Parliament to reject elements of the Legislative Consent Memorandum on the UK Welfare Reform Bill, the Welfare Reform (Further Provision) (Scotland) Bill is necessary to allow the Scottish Government to take powers to implement its responsibilities under welfare reform. This is the first time that the Scottish Parliament has rejected elements of a legislative consent memorandum (paragraph 10).
3. This is universally supported by stakeholders. The motivation of stakeholders for this view is firstly the necessity for a Bill, but also the opportunity that this path creates for the Scottish Government to mitigate some aspects of the UK welfare reform legislation (paragraphs 11 to 12).
4. The Committee has grave concerns about aspects of the UK Welfare Reform Act 2012<sup>1</sup>. This includes the impact that its implementation will have on some of the poorest and most vulnerable in Scottish society. This view was shared by those giving evidence to the Committee (paragraph 13).
5. The Committee calls on the Scottish Government to use the powers offered by this Bill to mitigate, in so far as is possible within the powers of the Scotland Act 1998<sup>2</sup>, and within its fixed budget, the negative impacts of the UK Welfare Reform Act 2012<sup>3</sup> (paragraph 14).

<sup>1</sup> Alex Johnstone MSP dissented from this sentence

<sup>2</sup> This includes the use of Section 30 orders as detailed in paragraphs 100 to 105.

<sup>3</sup> Alex Johnstone MSP dissented from this paragraph

## **Universal Credit**

6. The Committee supports the powers in regard to Universal Credit (UC) that the Scottish Government is proposing to take on under the Welfare Reform (Further Provision) (Scotland) Bill (paragraphs 15 to 21).

7. The Committee has concerns about, amongst other things, the impact in Scotland of changes proposed to housing benefit, which will be subsumed in the new Universal Credit in the UK legislation. It anticipates significant problems for local authorities and housing associations both in transition and through reduced income and increased costs of borrowing. The Committee plans to look at this further as part of its on-going scrutiny of welfare reforms (paragraphs 22 to 30).

8. The Committee believes that there is a responsibility on the DWP to provide full and proper advice services to help claimants make the adjustments. However, it would also be appropriate for the Scottish Government to examine whether it requires to support bodies whom claimants are likely to turn to for independent advice and assistance. The Committee notes that Citizens Advice Scotland has said that in England and Wales additional resources have been given to advice agencies, although it is less than clear in England whether the money has been passed on from local authorities to advice agencies<sup>4</sup> (paragraphs 31 to 34).

## **Personal Independence Payments**

9. The Committee supports the powers in regard to Personal Independence Payments (PIPs) that the Scottish Government is proposing to take on under the Welfare Reform (Further Provision) (Scotland) Bill (paragraphs 35 to 42).

10. The Committee believes that it would be useful for the Scottish Government to continue its analytical work on welfare reform, to also look at the wider economic and social impacts of welfare reform, as the Welsh Government has been doing<sup>56</sup> (paragraphs 43 to 49)

11. The Committee believes that it is necessary to undertake extensive modelling to understand the impacts of welfare reform in Scotland and the policy responses to it, for example in establishing criteria for passported benefits. The Committee considers that it is primarily the responsibility of the DWP to undertake this work and to provide the Scottish Government with full access to this information. The Committee supports the work that the Scottish Government is undertaking and urges it to make the results public (paragraph 50).

## **Regulations**

12. Stakeholders appreciate the necessary time constraints that the Scottish Government faces in developing regulations stemming from the Bill and want to

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<sup>4</sup> Matt Lancashire, Citizen's Advice Scotland, Official Report, Welfare Reform Committee, 13 March (col 24)

<sup>5</sup> 'Analysing the impact of the UK Government's welfare reforms in Wales – stage 1 analysis' Welsh Government February 2012.

<sup>6</sup> Supplementary submission from the Cabinet Secretary for Health, Wellbeing and Cities Strategy dated 14 May 2012

ensure that there is no delay in the process of enacting the legislation as a whole, including the regulations. Understandably, within these time constraints, stakeholders want the fullest involvement in the development of regulations and the opportunity for comment (paragraphs 51 to 53).

13. The Committee notes the views of the Subordinate Legislation Committee, to the effect that the powers contained within the Bill are appropriate given the current level of uncertainty and notes<sup>7</sup> the proposal that they be time-limited (paragraphs 54 to 58).

14. The Committee recommends that, given the important policy to be included in them, instruments produced under the provisions of this Bill be consulted on with stakeholders in such a way that stakeholders have an opportunity to actively engage with the process of finalising these instruments, including proposing amendments based on their expertise (paragraphs 59 to 61).

15. The Committee very much welcomes the commitment from the Cabinet Secretary to consult, especially given the timescales available for the passage of this subordinate legislation. There is no doubt that involving those with such considerable expertise from the wider policy community can only be a positive step. As the Cabinet Secretary stated ‘the involvement of stakeholders lies at the very heart of the bill process’<sup>8</sup> (paragraphs 62 to 63).

16. The Committee encourages the Scottish Government to be as active as possible in its consultation on passported benefits, including interactive events, to gather ideas for the new passported benefit structure, and to use the time in advance of the laying of the equivalent UK regulations (likely to be the Autumn) to ensure valuable perspectives are gathered on the approach to these benefits (paragraph 64).

17. The Welfare Reform Committee notes the Subordinate Legislation Committee conclusion on this issue (paragraphs 65 to 67)—

‘In conclusion, the Committee agrees that regulations which amend primary legislation should be subject to the affirmative procedure as the Bill currently provides. The Committee recommends that regulations which do not amend primary legislation should be capable of being made under either affirmative or negative procedure. The Committee’s expectation would be that affirmative procedure would be adopted where the subject matter of those regulations is considered to be significant.’<sup>9</sup>

18. The Committee very much welcomes the Cabinet Secretary’s commitment to ‘fully consider all the Subordinate Legislation Committee’s recommendations,

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<sup>7</sup> Jackie Baillie MSP and Michael McMahon MSP support the recommendation from the Subordinate Legislation Committee, as whilst the powers in the Bill are wide-ranging they believe these powers are appropriate when balanced by the proposal that they be time limited.

<sup>8</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Official Report, Welfare Reform Committee, 1 May (col 191)

<sup>9</sup> Subordinate Legislation Committee 2nd Report, 2012 (Session 4): Welfare Reform (Further Provision) (Scotland) Bill, paragraph 45

including that one.' In doing so, the Committee invites the Cabinet Secretary to reflect on the evidence heard by this Committee from stakeholders throughout Stage 1<sup>10</sup> (paragraphs 68 and 69).

19. The Committee notes the request from the Finance Committee that the subordinate legislation should be accompanied by information on the likely financial implications of each instrument to allow that Committee to scrutinise this information (paragraphs 70 and 71).

### **Passported benefits**

20. The Committee believes that the main aim of the Scottish Government in implementing the new welfare system should be, in so far as is possible, to maintain eligibility to passported benefits as they are at present (paragraphs 72 to 76).

21. The Scottish Government can ensure that continuity in eligibility for passported benefits is achieved for the transitional phase by making those who were eligible under the old system eligible under new interim arrangements (paragraphs 77 to 84).

22. In the longer-term a new system will be required, defining eligibility for new claimants. Stakeholders would not appear to have a common or articulated view on how eligibility should be defined. The Committee will return to this issue, following enactment of the Bill, when it examines the content of the regulations which will set the rules for eligibility (paragraphs 84 to 87).

### **Financial issues**

23. It is not possible, given the lack of information available, for the Committee to make much comment on the overall financial implications of the Welfare Reform (Further Provision) (Scotland) Bill (paragraphs 88 to 93).

### **Welfare reform implementation issues**

24. This Committee would appreciate regular updates from the Scottish Government on this and other initiatives which are being negatively impacted upon by welfare reform (paragraphs 94 to 107).

### **Conclusion**

25. The Committee brings the collective concerns from stakeholders highlighted in this report, to the attention of the Scottish Government to inform its future work to mitigate the negative impacts of welfare reforms under the terms of the Bill as

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<sup>10</sup> Jackie Baillie MSP and Michael McMahon MSP have reflected on the view of stakeholders in evidence at Stage 1 which indicated a clear desire for consultation and scrutiny, and agrees with the majority of stakeholders that the content of the regulations is substantial. Accordingly, they are of the view that the Committee should recommend the use of the affirmative procedure to ensure the appropriate level of scrutiny.

far as is practicable, within the powers of the Scotland Act 1998<sup>11</sup>, and within its fixed budget<sup>12</sup> (paragraphs 108 to 117).

26. The Committee looks forward to engaging further with stakeholders in its future work, and ensuring they can continue to make their voice heard to the DWP (paragraph 118).

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<sup>11</sup> This includes the use of Section 30 orders as detailed in paragraphs 100 to 105.

<sup>12</sup> Alex Johnstone MSP dissented from this paragraph.

## 1. INTRODUCTION

1. The Welfare Reform (Further Provision) (Scotland) Bill ('the Bill') was introduced on 22 March 2012. The newly established Welfare Reform Committee was referred the Bill by the Parliamentary Bureau for Stage 1 scrutiny. Stage 1 usually involves analysis of the general principles of a bill and an assessment of the alternative approaches to those policies proposed in a bill. Bills are generally introduced by the Scottish Government and are based on Scottish Government policy. In Stage 1 recommendations a Committee normally focuses on how the Government could strengthen the proposals in a bill, or whether the bill should not be taken forward at all because of the policy upon which a bill is based. This includes an assessment of whether the financial implications of the bill are such to deem implementing it financially worthwhile, when the budget for the bill could be used for other purposes. A committee report on all of this is then considered by the Parliament and informs the Parliament's decision on whether or not to vote in favour of the general principles of the bill.

2. Should the Parliament agree to the general principles, a bill then moves to the amendment stages, with Stage 2 taking place in committee and Stage 3 being the consideration of proposed amendments by Parliament as a whole. Committees, and the stakeholders making representations to them, seek the maximum period of time possible for scrutiny of bills to ensure the resulting legislation is as detailed and thought through as possible.

3. The Welfare Reform Committee's scrutiny of this Bill, and therefore the contents of this report, is distinct from the norm in a number of ways—

- This Committee already has a very clear indication from Parliament that it approves of this Bill, as the Parliament has already agreed a legislative consent motion that requires it.
- This Bill is not based on Scottish Government policy, rather it is being introduced by the Scottish Government to enact (and to seek to mitigate, as far as is possible, the impacts of) the UK Government's Welfare Reform Act 2012.
- Stakeholders are unanimous that this Bill should be passed swiftly, so that the secondary legislation stemming from it can be in place well before the start of the new welfare system in April 2013, ensuring that individuals and families continue to receive what can be lifeline benefits.
- The Bill has very little detail in it, as it is a short enabling bill and therefore there are few policy intentions on the face of the Bill to be scrutinised,
- A large amount of the evidence received by the Committee has related to the UK Government's actions thus far on welfare reform, as opposed to the contents of this Scottish Government bill.
- There is virtually no information on the financial implications of the Bill beyond the current costs of passported benefits and the knowledge that

the UK Government is reducing the DWP budget spent in Scotland by £2.5 billion.

- The vast majority of the evidence has related to concerns on the negative impacts of the UK Government reforms, whereas for most bills submissions tend to be a mixture of those in favour and those against the proposals.

4. The report is divided into three elements—

- Comment on the contents of the Bill, including its potential financial implications and the status of the subordinate legislation stemming from it;
- Issues that the Scottish Government should take into account when developing the subordinate legislation stemming from this Bill; and
- Issues highlighted to the Committee on the impact of UK Government reforms that the Committee intends to pursue once the Bill is passed.

5. The Committee wants to thank all of those who made submissions on this Bill and all those who gave evidence to the Committee. The policy community for welfare reform, be it service providers or advocacy organisations, have impressed the Committee throughout this process. They are facing changes that will cause a huge surge in workloads as vulnerable individuals turn to support mechanisms as a result of welfare reforms. Helpfully they have not only painted a very clear picture to the Committee of their concerns, based in part on research that they have funded themselves, but they have made clear how determined they are to support those in need as it is 'the right thing to do'<sup>13</sup>. In this it is clear that they are prepared to collaborate with each other and think of new approaches to their work wherever beneficial. The Committee commends the work of organisations appearing before it. The importance of the input of stakeholders in informing this report is reflected by the prominence given to their evidence throughout. For ease of reference all quotes are highlighted in text boxes.

6. Annexe A of this report contains the report of the Subordinate Legislation Committee and the correspondence from the Finance Committee on the Bill. Annexe B contains the minutes of the Welfare Reform Committee, which includes details of all those giving evidence to the Committee at Stage 1. Annexe C, available in full online, includes all written submissions and the substantially verbatim record of meetings in the *Official Report*.

7. The Committee also wishes to thank all those who wrote in to share personal experiences and anxieties in relation to reforms. The letters received have shared often very personal information relating to health conditions, personal circumstances and levels of financial support. This correspondence has been extremely moving but also a very articulate reflection of the complexities of families and individuals' situations and the complex interactions between benefits payments.

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<sup>13</sup> Dr Stephen Carty, Black Triangle Campaign, Official Report, Welfare Reform Committee, 1 May 2012 (col 189)

## 2. THE GENERAL PRINCIPLES OF THE BILL

### **8. The Committee supports the general principles of the Welfare Reform (Further Provision) (Scotland) Bill.**

9. On 22 December 2011 the Scottish Parliament agreed the following motion–

‘That the Parliament supports the principle of a welfare system that is simpler, makes work pay and lifts people out of poverty but regrets that this principle, insofar as it is reflected by the introduction of universal credit and personal independence payments, is being undermined by the UK Government’s deep and damaging cuts to benefits and services that will impact on some of the most vulnerable people in Scotland; on the matter of legislative consent, agrees that the relevant provisions of the Welfare Reform Bill, introduced in the House of Commons on 16 February 2011, in respect of data sharing, Industrial Injuries Disablement Benefit and the Social Mobility and Child Poverty Commission, so far as these matters fall within the legislative competence of the Parliament, or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament; further agrees that the provisions in the Bill that give the Scottish Ministers the power to make consequential, supplementary, incidental or transitional provisions, by regulations, in relation to the introduction of universal credit and personal independence payments, so far as these matters fall within the legislative competence of the Parliament, or alter the executive competence of the Scottish Ministers, should not be considered by the UK Parliament but that the necessary provision should be made instead by an Act of the Scottish Parliament; also agrees that an ad-hoc welfare committee should be convened and that this committee should continue to meet for the duration of the current parliamentary session; while agreeing the above position, urges the UK Government to reconsider the Welfare Reform Bill and, more broadly, its welfare reform agenda, which the Parliament considers will adversely affect vulnerable people across Scotland’<sup>14</sup>.

**10. The decision having been taken by the Scottish Parliament to reject elements of the Legislative Consent Memorandum on the UK Welfare Reform Bill, the Welfare Reform (Further Provision) (Scotland) Bill is necessary to allow the Scottish Government to take powers to implement its responsibilities under welfare reform. This is the first time that the Scottish Parliament has rejected elements of a legislative consent memorandum.**

**11. This is universally supported by stakeholders. The motivation of stakeholders for this view is firstly the necessity for a Bill, but also the opportunity that this path creates for the Scottish Government to mitigate some aspects of the UK welfare reform legislation.**

12. Some of the supportive remarks of stakeholders are captured below–

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<sup>14</sup> Scottish Parliament Minutes of Proceedings Vol 1, No. 42 Session 4.

**Citizens Advice Scotland (CAS)** – We all agree that the bill is absolutely necessary and we would all like it to get through the process quickly - by the summer, if possible. We are more interested to see the subordinate legislation and regulations, because they are where all the information and detail will be.<sup>15</sup>

**Poverty Alliance** - We are in favour of the Bill in general because having voted to reject parts of the Legislative Consent Motion it is clear that the Scottish Parliament must now bring forward legislation which is required to introduce various legislative changes to areas of devolved competency, which will inevitably flow from the implementation of the UK Welfare Reform Act in 2013<sup>16</sup>.

**Inclusion Scotland** - We believe this bill is necessary but insufficient alone to address the devolved aspects of the Welfare Reform Act 2012. We eagerly await the details that will be necessary in the secondary legislation and regulations to this bill, including clear guidance for Local Authorities and Public Bodies and for those people impacted<sup>17</sup>.

**The Scottish Women's Convention** - SWC is in favour of the Welfare Reform (Further Provision) (Scotland) Bill. The Scottish Parliament is to be commended for its recognition of the impact of UK Coalition Government Welfare Reform and how this will affect the people of Scotland. Creating primary legislation to mitigate the changes put in place by Westminster is a positive step<sup>18</sup>.

**Unison** - ...in relation to the Welfare Reform (Further Provision) (Scotland) Bill, UNISON Scotland is generally in favour of this bill and its attempts to mitigate some of the changes proposed within the UK Act – not least the impact on passported benefits in Scotland<sup>19</sup>.

**Carers Scotland** - Carers Scotland welcomes this opportunity to respond to the Bill at Stage 1. In the first instance we recognise the necessity of the Bill and the need to provide Ministers with the relevant powers before comprehensive information is available on Universal Credit and Personal Independence Payment. We believe this is necessary to ensure that families, particularly those with disabled people and carers are not further disadvantaged through losing out on other “passport” benefits by delays beyond the control of the Scottish Parliament.<sup>20</sup>

**Scottish Federation of Housing Associations (SFHA)** - At the time of the Legislative Consent Motion debate in December 2012, SFHA lobbied MSPs to withhold consent given that there had been insufficient opportunity for scrutiny of the implications of this legislation for Scotland and for Scottish public and social policy. We were therefore pleased to see the Scottish Parliament take the unprecedented step of withholding consent on parts of the Welfare Reform Act, as it sent a strong message about the need for the work of the Scottish Parliament

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<sup>15</sup> Jeanette Campbell, CAS, Official report, Welfare Reform Committee, 17 April 2012 (col 93)

<sup>16</sup> Poverty Alliance written submission

<sup>17</sup> Inclusion Scotland written submission

<sup>18</sup> Scottish Women's Convention written submission

<sup>19</sup> Unison written submission

<sup>20</sup> Carers Scotland written submission

and the Scottish Government to be properly taken into consideration by the UK Government in the framing of their new welfare policy. SFHA therefore welcomes the Welfare Reform (Further Provision) (Scotland) Bill.<sup>21</sup>

**13. The Welfare Reform Committee has grave concerns about aspects of the UK Welfare Reform Act 2012<sup>22</sup>. This includes the impact that its implementation will have on some of the poorest and most vulnerable in Scottish society. This view was shared by those giving evidence to the Committee—**

**Long Term Conditions Alliance Scotland** People who are disabled and/or living with long term conditions are already far more likely than others to be living in poverty, experiencing debt and be unemployed or in low paid, less secure employment. There is a wealth of evidence demonstrating the higher cost of living associated with being disabled.

The welfare reforms are resulting in a significant drop in income for many people who are disabled/living with long term conditions, accompanied by greater compulsion to enter work. This is compounded by the current context in which cost of living generally is rising, the labour market is becoming more competitive and much of the support and services upon which people rely are being cut (or eligibility criteria and charges raised<sup>23</sup>).

**Barnardo's Scotland** – Barnardo's Scotland believes that there is a real danger that the UK welfare changes could impose an unmanageable burden on the poorest and most vulnerable children and their families. Whilst we are supportive of many of the principles that sit behind the UK Government's welfare reform agenda - in particular proposals to improve work incentives through the introduction of Universal Credit - we believe that some of the planned changes could have huge unintended consequences that will mount even greater pressure on vulnerable families who are already struggling to make ends meet.<sup>24</sup>

**Shelter Scotland** - At Shelter Scotland we work primarily with families to prevent homelessness having a long term impact on their children's life chances. We know how important benefits in kind such as free school meals and cash entitlements such as educational maintenance allowances are to parents and children rebuilding their lives. Any interruption to these critical programmes would have a deeply debilitating impact on the household budgets of the most vulnerable households in Scotland and longer term could lead to a financial burden for local authorities greater than the existing cost of these schemes.<sup>25</sup>

**One Parent Families Scotland** - Lone mothers will be hardest hit by the government's programme of benefit cuts and tax rises, according to an analysis conducted by the Institute for Fiscal Studies. It estimates they will lose an average

<sup>21</sup> Scottish Federation of Housing Associations written submission

<sup>22</sup> Alex Johnstone MSP dissented from this sentence

<sup>23</sup> Long Term Conditions Alliance Scotland written submission

<sup>24</sup> Barnardo's Scotland written submission

<sup>25</sup> Shelter Scotland written submission

8.5% of their income after tax by 2015. This compared with 6.5% for couples with children and 2.5% for couples without children. As a result of the changes being introduced between January 2011 and April 2014 non-working lone parents lose more than 12% of their income on average – equivalent to £2,000 per year. Such a steep drop for lone parents is of very real concern; in order to find work they will have to confront the dual challenges of finding a flexible job in a highly uncertain labour market and meeting the costs of childcare.<sup>26</sup>

**Enable Scotland** - We are concerned that the range of changes being introduced will be extremely difficult for disabled people to sustain. At present, disabled people across Scotland face a “perfect storm” of increased charges for social care services, reductions to social care services, tightening eligibility criteria and fewer employment opportunities. This is alongside on-going reforms to the benefits system, such as the roll out of Employment Support Allowance.

Broadly, ENABLE Scotland agrees that certain aspects of the welfare benefits system may need reform. However, we reject the assertion that Disability Living Allowance is no longer fit for purpose and in particular, we do not accept that there are huge incidences of fraud within the benefits system as portrayed in the mass media.<sup>27</sup>

**14. The Committee calls on the Scottish Government to use the powers offered by this Bill to mitigate, in so far as is possible within the powers of the Scotland Act 1998<sup>28</sup>, and within its fixed budget, the negative impacts of the UK Welfare Reform Act<sup>29</sup>.**

### 3. UNIVERSAL CREDIT

#### Provisions of the Bill

15. Universal Credit is a new benefit which will be introduced from April 2013 and will be payable to those out of work and those in work, but on low incomes. It will abolish council tax benefit and also replace a range of other existing benefits–

- Income Support
- Jobseeker’s Allowance (income based)
- Employment and Support Allowance (income related)
- Child Tax Credit
- Working Tax Credit
- Housing benefit<sup>30</sup>

<sup>26</sup> One Parent Families Scotland written submission

<sup>27</sup> Enable Scotland written submission

<sup>28</sup> This includes the use of Section 30 orders as detailed in paragraphs 100 to 105.

<sup>29</sup> Alex Johnstone MSP dissented from this paragraph.

<sup>30</sup> Scottish Government Policy Memorandum

16. Under the Bill the Scottish Government will take powers to create regulations that relate to Universal Credit. In practice this will be to create the eligibility criteria for passported benefits that were previously triggered by eligibility for the benefits now subsumed into Universal Credit.

17. Broadly speaking, at present, passported benefits are received as a result of benefits such as those outlined above, or as a result of receiving allowances based on disability, impairment or other health related matter. The appendix reproduces information provided by the Scottish Government which provides a breakdown of some of the existing devolved passported benefits and the income support or other payments an individual needs to receive in order to be eligible for each passported benefit.

18. SCoWR also provided details of other passported benefits<sup>31</sup>. The Committee notes that there are two categories of passported benefits, mandatory passported benefits and those allocated by local authorities at their discretion. The Scottish Government submission details the mandatory passported benefits.

**19. The Committee supports the powers in regard to Universal Credit (UC) that the Scottish Government is proposing to take on under the Welfare Reform (Further Provision) (Scotland) Bill.**

20. This view is supported by stakeholders, and their reasoning is the same as that for the general principles of the Bill, it creates the potential for the Scottish Government to mitigate some of the impacts of the UK welfare reform legislation, including in relation to criteria for passporting benefits.

21. One Parent Families Scotland (OPFS) for example explained in evidence that this was an opportunity for the Scottish Government to take a distinct, more inclusive, approach to passporting benefits associated with the Universal Credit—

**One Parent Families Scotland (OPFS)** - ...[this is ] an opportunity for the Scottish Government to improve the protection offered by passported benefits such as free school meals, school clothing grants and the energy assistance package. Such support can and does play an important part in helping meet Scottish child poverty objectives.<sup>32</sup>

### **Other issues**

22. A selection of concerns relating to this policy change, and the areas where stakeholders are encouraging the Scottish Government to act, are reflected below.

23. SAMH raised concerns in relation to under occupancy charges, or the 'bedroom tax', which can reduce the benefits of those with what is deemed to be excess space in their homes. This is in part aimed at encouraging individuals or families to move to smaller accommodation, assuming that appropriate housing stock is available.

<sup>31</sup> SCoWR written submission

<sup>32</sup> One Parent Families Scotland written submission

**Scottish Association for Mental Health (SAMH)** - ...Changes to housing benefit, especially in terms of sanctions for 'overhousing', could also have serious implications for people experiencing mental ill-health, who may be forced to move or spend more money than they do not have supplementing their housing benefit. Furthermore, the changes do not necessarily take into account the lack of available single bedroom housing stock in parts of Scotland, especially in rural areas.<sup>33</sup>

24. Another concern associated with Universal Credit (and also for Personal Independence Payments ('PIP')) is the complexity of the system that people need to engage with in order to apply and receive benefits.

**SAMH** - SAMH has concerns about various aspects of Universal Credit and the way it may impact upon people experiencing mental ill-health. In particular, we have raised concerns in relation to sanctions, as Universal Credit will bring increased conditionality. This raises the prospect that people with mental health problems may face sanctions when their condition has meant that they are unable to understand or comply with the various demands placed on them.<sup>34</sup>

25. These concerns include the requirement for individuals to apply online, with the UK Government requiring 80% of applications to be completed online<sup>35</sup>.

**ECAS** - Having only online application will not work for my clients. If they had a computer, they could not use it, for numerous reasons. Despite advances in technology, a lot of people are still, unfortunately, unwilling or unable to tackle simple e-mails and logging on, let alone filling in a form online. I have concerns about that. I have heard too often the answer that people can go to their local library. That assumes that a person can get to the library, that it is accessible for them to get into and that, once they are plonked in front of a computer, they can use it. I am afraid that that is often not the case on all three of those points. There must be another system. We do not have connectivity at a decent speed throughout Scotland anyway.<sup>36</sup>

26. In addition a number of organisations have raised issue with the proposal to pay individuals directly into a bank account. It is estimated that hundreds of thousands of those on benefits do not currently have a transactional bank account and therefore there will be a big transition to enabling these individuals to receive these payments<sup>37</sup>. There is clearly a huge new role for banks and credit unions, which they are understandably keen to discuss with the DWP<sup>38</sup>.

<sup>33</sup> Scottish Association for Mental Health written submission

<sup>34</sup> Scottish Association for Mental Health written submission

<sup>35</sup> David Ogilvie, SFHA, Official Report, Welfare Reform Committee, 13 March 2012 (col 46).

<sup>36</sup> David Griffiths, ECAS, Dr Stephen Carty, Black Triangle Campaign, Official Report, Welfare Reform Committee, 24 April (col 153)

<sup>37</sup> Owen Kelly, Scottish Financial Enterprise, Official Report, Welfare Reform Committee, 1 May 2012 (col 176).

<sup>38</sup> Owen Kelly, Scottish Financial Enterprise, Official Report, Welfare Reform Committee, 1 May 2012 (col 175)

27. A further concern in relation to this is the strong likelihood that benefits paid into these bank accounts will not then be used for their intended purpose such as paying landlords where an individual or family has other bills to pay or needs to pay for basics like food and heating<sup>39</sup>. Receiving payments monthly instead of weekly presents further challenges as the gap between receiving benefits and last month's money running out could be notable<sup>40</sup>. Finally, as stressed by the credit unions<sup>41</sup>, the system will involve being paid a month in arrears meaning it is very likely there will be a 'cash emergency' for the first four weeks of the new system being implemented, increasing the likelihood of individuals needing to make use of loan sharks or other high interest options.

28. All of this starkly increases the likelihood of rent arrears and evictions and creates issues about security of income for social landlords. The Scottish Federation of Housing Associations reported that the cost of borrowing for housing associations is already increasing as a result of fears about security of income.

29. The concerns of the social housing sector are well summed up by the Scottish Federation of Housing Associations—

**Scottish Federation of Housing Associations (SFHA)** - we are seriously concerned about the impact that the introduction of Universal Credit will have upon the way that tenant households manage their finances and live their lives, as well as the serious business and financial challenges it will present to landlords...

...In light of these concerns therefore, SFHA is supportive of any measures (be they via subordinate legislation or other regulations) which the Scottish Government can adopt in order to mitigate the outcomes of the Welfare Reform Act upon Scotland.<sup>42</sup>

**30. The Committee has concerns about, amongst other things, the impact in Scotland of changes proposed to housing benefit, which will be subsumed in the new Universal Credit in the UK legislation. It anticipates significant problems for local authorities and housing associations both in transition and through reduced income and increased costs of borrowing. The Committee plans to look at this further as part of its on-going scrutiny of welfare reforms.**

31. The Committee is also aware that there is likely to be a significantly increased need for advice from agencies during the transition to the new welfare system. This includes advising people of changes to eligibility criteria, supporting them during appeals and assisting them in applications online.

32. This wave of welfare reform brings with it huge changes in the benefits system and the way people receive benefits. It is likely to result in a very big increase in the demand for support from advice agencies. As Citizens Advice Scotland reported—

<sup>39</sup> Dr David Bell, BMA Scotland, Official Report. Welfare Reform Committee. 1 May 2012 (col 175)

<sup>40</sup> Dr David Bell, BMA Scotland, Official Report. Welfare Reform Committee. 1 May 2012 (col 175)

<sup>41</sup> Dermot O'Neil, Scottish League of Credit Unions, Official Report, Welfare Reform Committee, 1 May 2012 (col 171)

<sup>42</sup> Scottish Federation of Housing Associations written submission

**Citizens Advice Scotland** - with every change to the benefits system, the number of people seeking advice increases. For example, since the introduction of the employment and support allowance, there has been a 33 per cent increase in the number of people seeking advice about it in the past year and last year there was a spike when people who were already on incapacity benefit - not new claimants - migrated to the new benefit.<sup>43</sup>

33. **The Committee believes that there is a responsibility on the DWP to provide full and proper advice services to help claimants make the adjustments. However, it would also be appropriate for the Scottish Government to examine whether it requires to support bodies that claimants are likely to turn to for independent advice and assistance. The Committee notes that Citizens Advice Scotland has said that in England and Wales additional resources have been given to advice agencies, although it is less than clear in England whether the money has been passed on from local authorities to advice agencies.**<sup>44</sup>

34. This report seeks to separate out issues that can reasonably be addressed in subordinate legislation introduced by the Scottish Government and implications of UK Government policies which need to be pursued directly with the UK Government. The housing, online application, direct payment and modelling issues outlined above all fall into the latter category. However, it is useful to consider them alongside concerns on Universal Credit passported benefits, to provide detail of the context within which the Scottish Government is seeking to mitigate impacts. The Committee has every intention of pursuing these issues in its wider work following passage of this Bill.

#### 4. PERSONAL INDEPENDENCE PAYMENTS

##### **Provisions of the Bill**

35. Personal Independence Payments (PIPs) are a new benefit for those with disabilities, which will replace Disability Living Allowance (DLA). Those currently on DLA, who will be eligible for PIP, will require to undergo an assessment to qualify. Overall funding will be reduced by 20% on introduction of PIP<sup>45</sup>. The Bill would allow the Scottish Government to define the means by which individuals receive passported benefits which are currently linked to DLA.

36. **The Committee supports the powers in regard to PIPs that the Scottish Government is proposing to take on under the Welfare Reform (Further Provision) (Scotland) Bill.**

37. This view is supported by stakeholders, and their reasoning is the same as that for Universal Credit, it creates the potential for the Scottish Government to

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<sup>43</sup> Jeanette Campbell, Citizens Advice Scotland, Official Report, Welfare Reform Committee, 1 May 2012 (col 97)

<sup>44</sup> Matt Lancashire, Citizens Advice Scotland, Official Report, Welfare Reform Committee, 13 March 2012 (col 24)

<sup>45</sup> Inclusion Scotland written submission

mitigate some of the impacts of the UK welfare reform legislation, including in relation to criteria for passporting benefits.<sup>46</sup>

### Other issues

38. It is worth stressing that there are serious concerns amongst stakeholders about the move from DLA to PIPs, in part drawn from their experience of the move from Incapacity Benefit to Employment and Support Allowance.

39. The number of people receiving PIP is anticipated to be markedly lower than the number currently receiving DLA. In part this is due to a change in criteria for the receipt of payments. The PIP assessment is not yet in place, however the draft assessment was viewed by witnesses as having 'a striking resemblance'<sup>47</sup> to the work capability assessment which has received much criticism.

**BMA Scotland** - The work capability assessment that will use computer algorithms is inadequate, particularly in respect of mental health problems, for which it does not really cater. We are also concerned that the one year cap on benefits is too short for many physical and mental problems.

We know from experience that claimants, particularly those who have prolonged issues and comprehension difficulties, are often distressed when they are called in...and we think that the system is insensitive to the feelings of individuals.

The frequency of successful appeals seems to us to demonstrate the mechanism's shortcomings. There would not be a 60-plus per cent success rate with appeals if the system worked properly in the first place.<sup>48</sup>

40. There is an appeals system for ESA and there will likewise be an appeals system for those who wish to contest not being deemed eligible for PIP at all or to contest the level of their awarded benefits. The Black Triangle Campaign told the Committee that 330,000 people are currently within the appeals process for other benefits<sup>49</sup>, and as stated above a high proportion of appeals are successful, pointing at flaws in the initial assessment.

41. As Inclusion Scotland made clear in evidence, the loss of overarching benefits can remove your right to passported benefits, meaning ineligibility for PIP can then impact on other sometimes lifeline benefits<sup>50</sup>. One Parent Families Scotland described the situation of one of their clients, which clearly demonstrated the complex relationship between different benefits, and how removing one can have a snowball effect on often vulnerable families.

<sup>46</sup> Poverty Alliance written submission, Citizens Advice Scotland written submission

<sup>47</sup> Dr Stephen Carty, Black Triangle Campaign, Official Report, Welfare Reform Committee, 1 May 2012 (cols 170-1)

<sup>48</sup> Dr David Bell, BMA Scotland, Official Report, Welfare Reform Committee, 1 May 2012 (col 167)

<sup>49</sup> Dr Stephen Carty, Black Triangle Campaign, Official Report. Welfare Reform Committee. 1 May 2012 (col 185)

<sup>50</sup> Bill Scott, Inclusion Scotland, Official Report, Welfare Reform Committee. 13 March 2012 (col 26)

**One Parent Families Scotland** - I will share an example with you. Lucy is a single parent with a 16-year-old son who has cerebral palsy. He has been in receipt of the highest rate of the care component and the higher rate of the mobility component since he was a small boy. Lucy received carer's allowance and income support as Mark's full-time carer. He has been reassessed for DLA and it was found that he is no longer entitled to either the care or the mobility components, despite the fact that his condition remains unchanged. Lucy has lost her carer's allowance and income support and she has to go on to JSA, so she will have to be actively seeking employment. The type of care that she needs for her son is not available, and she has had a drastic drop in her income, which means that she is struggling financially.<sup>51</sup>

42. Given the underlying concern about the more limited application of the PIP compared to DLA, a number of stakeholder groups have argued to the Scottish Government and this Committee, that the criteria for passporting benefits should not link directly to the receipt of PIP, but rather some other criteria should be found that better assesses, or identifies, need for these benefits<sup>52</sup>. However there is no magic bullet in relation to this situation, especially given limited budgets in the current financial climate. A few options for passporting benefits were explored with witnesses on 24 April, including the flaws of each option. The Committee will return to examine the issue of criteria in its on-going scrutiny of welfare reforms.

**ECAS** - I do not think that [*retaining existing eligibility*] is the best system. I said that because people come and go with these benefits. Some people will no longer be entitled to them and, as Ken Reid said, given that the number of people whose sight deteriorates increases daily in Scotland, new people will become entitled to them. The list that is used on day 1 will be out of date on day 2.

We are saying that somebody has to draw a line and decide that people on one side of the line get the benefit, whereas people on the other side do not...

[*in establishing new criteria or retaining existing criteria*] you will have to create another assessment to decide whether people meet your criteria in addition to the UK Government deciding whether people meet its criteria. One way of approaching that is for the Scottish Government to continue to use the DLA assessment—you would implement the current DLA assessment yourself. However, that will involve the cost, pain, stress and time of another assessment. I do not have a better answer—I wish that I did.<sup>53</sup>

43. The Committee has heard that the modelling of impacts of the introduction of PIP by the DWP will be vital in enabling the Scottish Government to identify those most in need. Organisations such as Inclusion Scotland have undertaken valuable modelling for a particular client base highlighting particular age groups that may be most affected.

<sup>51</sup> Satwat Rehman, One Parent Families Scotland, Official Report, Welfare Reform Committee, 17 April 2012 (col 120)

<sup>52</sup> SAMH written submission and Michael McClements, Official Report, Welfare Reform Committee, 17 April 2012 (col 100)

<sup>53</sup> David Griffiths, ECAS, Official Report, Welfare Reform Committee, 24 April 2012 (col 145)

44. Inclusion Scotland has for example identified disabled people between 45 and 65 as those likely to be most affected. The lower rate of care payments to disabled people will be removed under PIP and 2/3 of people on this rate are over 45. In addition, it estimates, 55% of those affected by the 'bedroom tax' will be disabled people over 45.<sup>54</sup>

45. The Committee appreciates the efforts of organisations such as Inclusion Scotland. Modelling by small organisations with limited funding is of course localised to their client base. Given the complex interdependence between benefits and also the various requirements of different individuals in a family (such as in the OPFS example above) there is a clear requirement for central comprehensive modelling including for families with complex circumstances.

46. The burden for this modelling work should lie with the DWP, as the department proposing reforms. In the absence of such work, the Scottish Government has undertaken some initial modelling and is undertaking further analysis, as far as is possible in the absence of certain pieces of information from the DWP<sup>55</sup>.

47. The Committee wishes to highlight that it wrote to Lord Freud, the UK Government Minister with responsibility, on this matter on 13 April 2012 and received the reply on 14 May. The Committee considers that the response received lacks substance, including the lack of any details of an assessment of cumulative impacts.<sup>56</sup>

48. In addition to DWP modelling the Committee considers that some scoping work specific to Scotland is required and doubtless local authorities will have a role to play in this going forward. Indeed the Committee is encouraged to learn from CoSLA that a number of local authorities have initiated modelling to ascertain how local services require to change and also that most local authorities have established welfare reform working groups to consider the local implications of changes.<sup>57</sup>

49. **The Committee believes that it would be useful for the Scottish Government to continue its analytical work on welfare reform, to also look at the wider economic and social impacts of welfare reform, as the Welsh Government has been doing.**<sup>5859</sup> For example, work assessing the impact on social care would be of interest to the Committee, having heard in evidence that services such as mental health services and requirements for aids and adaptations will increase.<sup>60</sup> The Black Triangle Campaign also confirmed that there would 'undoubtedly' be an impact for those being discharged from hospital

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<sup>54</sup> Inclusion Scotland supplementary written submission

<sup>55</sup> Chris Boyland, Scottish Government official, Official Report, Welfare Reform Committee, 1 May 2012 (col 203) – and summarised in the letter to Lord Freud, Minister for Welfare Reform, DWP, dated 13 April 2012.

<sup>56</sup> Letter from Lord Freud, Minister for Welfare Reform, dated 14 May 2012.

<sup>57</sup> Michael McClements, CoSLA.

<sup>58</sup> 'Analysing the impact of the UK Government's welfare reforms in Wales – Stage 1 analysis' Welsh Government February 2012.

<sup>59</sup> Supplementary written submission from the Scottish Government dated 14 May 2012

<sup>60</sup> NHS Lanarkshire written submission

who would, at present, receive a 'passport' social care package, no longer being eligible for the core benefit.<sup>61</sup>

**50. The Committee believes that it is necessary to undertake extensive modelling to understand the impacts of welfare reform in Scotland and the policy responses to it, for example in establishing criteria for passported benefits. The Committee considers that it is primarily the responsibility of the DWP to undertake this work and to provide the Scottish Government with full access to this information. The Committee supports the work that the Scottish Government is undertaking and urges it to make the results public.**

## 5. REGULATIONS

### **Powers contained in the Bill**

51. The format of the regulations that will be brought forward under provisions of the Bill emerged as an issue during the Committee's evidence taking. As stated above, stakeholders are unanimous that this Bill should be passed swiftly, so that the secondary legislation stemming from it can be in place well before the start of the new welfare system in April 2013. This is to ensure that individuals and families continue to receive what can be lifeline benefits.

52. As stated in the Committee's first letter to Lord Freud—

“...the timetable that the Scottish Government must abide by, is of course not of the Scottish Government's making, but rather is driven by the UK Government's reforms.”<sup>62</sup>

**53. Stakeholders appreciate the necessary time constraints that the Scottish Government faces in developing regulations stemming from the Bill and want to ensure that there is no delay in the process of enacting the legislation as a whole, including the regulations. Understandably, within these time constraints, stakeholders want the fullest involvement in the development of regulations and the opportunity for comment.**

**Scottish Federation of Housing Associations** - Whilst we are broadly in support of the general principles underlying this Bill, we would be keen to establish the basis upon which future changes to regulations would be made. We feel it is imperative that the Scottish Parliament ensures that any changes to regulations that Scottish Ministers make or wish to make should be subject to affirmative procedure and the full scrutiny of the Scottish Parliament. We are therefore slightly concerned by the proposals under Section 1 of the Scottish Bill which suggest under Section 1 (3)(a) that some changes – if they do not add to, replace or omit any part of the text of an Act – would be subject to negative procedure. However, our concerns here are borne mainly by the desire to see as open, transparent and accountable a process as possible, so it may well be that forthcoming clarification

<sup>61</sup> Dr Stephen Carty, Black Triangle Campaign, Official Report, Welfare Reform Committee, 1 May 2012 (col 185)

<sup>62</sup> Letter to Lord Freud from Deputy Convener, 13 April 2012

in the form of guidance from the Scottish Government would allay these concerns.<sup>63</sup>

**CoSLA** - CoSLA understands that the Scottish Government is dependent on further information from the UK Government on how Universal Credit and Personal Independence Payments (PIP) will operate in practice, before it is able to finalise the regulations governing passported benefits. However we would be concerned if sufficient time is not allowed to adjust operational arrangements and to be able to communicate changes. CoSLA will however seek to work with the Scottish Government as necessary to ensure the necessary arrangements are put in place timeously.<sup>64</sup>

**Citizens Advice Scotland** - The whole process will have to be very carefully managed and co-ordinated and we hope stakeholders will engage in this fully and in a timeous manner.<sup>65</sup>

**Poverty Alliance** - We also note that the Bill intends that regulations which will amend subordinate legislation under Part 1 and Part 2, 3 (b) are subject to the negative procedure. We are mindful of the fact that the Parliament has only partial information at this stage about the structure of UC and PIP. However, given that much of the important detail about the new criteria for passported benefits will be in such amendments, we would want to know what plans the Committee has to ensure that such regulations receive adequate scrutiny.<sup>66</sup>

**Children 1<sup>st</sup>** - 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 1<sup>ST</sup> recommends that the bill is amended accordingly.<sup>67</sup>

54. The Committee notes the timetable for the consideration of the Scottish legislation is not entirely within the Scottish Government's control, as it relies upon information being released by the DWP on the parent UK legislation and policy.

#### *Range of powers*

55. The Subordinate Legislation Committee also gave consideration to this and a number of other issues regarding the regulations. That Committee reported three major concerns—

- the proposed powers go further than those originally proposed in the UK Act;

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<sup>63</sup> Scottish Federation of Housing Associations written submission

<sup>64</sup> CoSLA written submission

<sup>65</sup> Citizens Advice Scotland written submission

<sup>66</sup> Poverty Alliance written submission

<sup>67</sup> Children 1<sup>st</sup> written submission

- the powers are not directly linked to the provision of (devolved) passported benefits; and
- the use of a negative instrument procedure for regulations that are likely to have a significant impact may not be appropriate.

**Subordinate Legislation Committee** - First, the powers in the Bill go further than those which were originally proposed in the bill for the UK Act and which were not consented to by the Parliament. The Bill does not seek solely to deal with the immediate consequences of the UK Act for devolved matters. The Bill also seeks to use the general powers to allow for the “future-proofing” of changes made in consequence of the UK Act...

Second, much of the discussion on the exercise of the powers conducted to date has focused on the primary policy objective of ensuring continued access to devolved benefits which currently accrue to those who receive welfare benefits (the devolved benefits are commonly described as “passport benefits”). However, the bill does not restrict the exercise of the powers to delivery of this objective. The powers conferred allow any provision to be made within devolved competence as Ministers consider appropriate provided there is a link back to the consequences of the UK Act or a link to matters which themselves arose in consequence of that Act. The powers are therefore extensive in their potential effect, which goes beyond the task of embedding the changes to the UK welfare system properly within the current sphere of passported benefits.’

In light of this, and the concerns clearly expressed by stakeholders, it therefore does not appear to the Committee to be appropriate to make a distinction as to the scrutiny to be applied solely on the basis of whether the regulations amend primary legislation or not.<sup>68</sup>

56. On the first two concerns the Subordinate Legislation Committee ultimately accepted that it was necessary to draw the powers widely in order to cope with the current level of uncertainty—

**Subordinate Legislation Committee** - The Committee accepts that in the current circumstances it is not possible to draw the powers to be conferred more narrowly without the risk of possibly impeding the primary objective of ensuring the continued availability of passported benefits with effect from 1 April 2013 and making other necessary consequential changes. Therefore, so far as the powers are necessary to enable the UK Act to be fully embedded with devolved matters, the Committee is content with the scope of the powers.<sup>69</sup>

57. However, the Committee did suggest that these powers be time limited—

**Subordinate Legislation Committee** - The Committee therefore considers that serious consideration should be given to whether the delegated powers should

<sup>68</sup> Subordinate Legislation Committee 22nd Report, 2012 (Session 4): Welfare Reform (Further Provision) (Scotland) Bill

<sup>69</sup> Subordinate Legislation Committee 22nd Report, 2012 (Session 4): Welfare Reform (Further Provision) (Scotland) Bill

continue to be available indefinitely. The Committee is not in a position to identify a specific period after which the powers should no longer be available. The Committee would expect that a reasonable period should be allowed to ensure full implementation and that some further adjustments may be required beyond 2013 to ensure the system operates effectively and as intended. The Committee therefore recommends that the justification for the continued availability of general powers should be reviewed by the Parliament after the implementation period is complete and that provision to this effect should be included in the Bill.<sup>70</sup>

**58. The Welfare Reform Committee notes the views of the Subordinate Legislation Committee, to the effect that the powers contained within the Bill are appropriate given the current level of uncertainty and notes<sup>71</sup> the proposal that they be time-limited.**

*Form of regulations: consultation*

59. The Subordinate Legislation Committee did however maintain its concerns regarding the need for draft regulations to be published and the use of negative instruments for the regulations under this Bill. It concluded—

**Subordinate Legislation Committee** - The Committee considers that in these particular circumstances the pragmatic and collaborative approach already adopted by the Scottish Government, stakeholders and the Welfare Reform Committee is likely to deliver a better solution than a formal requirement for consultation or additional procedure. The Committee encourages all parties to continue to work together in this manner.<sup>72</sup>

60. The main priority of stakeholders in evidence to the Committee was to ensure their involvement in the development of these instruments before they are laid before Parliament. This reflects the significance of the impact of the regulations on passported benefits.

**61. The Committee recommends that, given the important policy to be included in them, instruments produced under the provisions of this Bill be consulted on with stakeholders in such a way that stakeholders have an opportunity to actively engage with the process of finalising these instruments, including proposing amendments based on their expertise.**

62. In evidence to the Committee on 1 May Nicola Sturgeon MSP, Cabinet Secretary for Health, Wellbeing and Cities Strategy ('the Cabinet Secretary') made the following commitment—

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<sup>70</sup> Subordinate Legislation Committee 22nd Report, 2012 (Session 4): Welfare Reform (Further Provision) (Scotland) Bill

<sup>71</sup> Jackie Baillie MSP and Michael McMahon MSP support the recommendation from the Subordinate Legislation Committee, as whilst the powers in the Bill are wide-ranging they believe these powers are appropriate when balanced by the proposal that they be time limited.

<sup>72</sup> Subordinate Legislation Committee 22nd Report, 2012 (Session 4): Welfare Reform (Further Provision) (Scotland) Bill

**Cabinet Secretary for Health, Wellbeing and Cities Strategy** - It might also help the committee to know that we intend to consult publicly on passported benefits later in the year, probably over the summer and into the autumn.<sup>73</sup>

63. **The Committee very much welcomes this commitment, especially given the timescales available for the passage of this subordinate legislation. There is no doubt that involving those with such considerable expertise from the wider policy community can only be a positive step. As the Cabinet Secretary stated ‘the involvement of stakeholders lies at the very heart of the bill process’<sup>74</sup>.**

64. **The Committee encourages the Scottish Government to be as active as possible in its consultation on passported benefits, including interactive events, to gather ideas for the new passported benefit structure, and to use the time in advance of the laying of the equivalent UK regulations (likely to be the Autumn) to ensure valuable perspectives are gathered on the approach to these benefits.**

*Scrutiny of regulations: negative/affirmative*

65. Of those giving oral and written evidence to the Committee, when asked for a preference as to whether the regulations should be under the affirmative procedure or the negative procedure, the majority of those who responded intimated support for the affirmative procedure. The reason highlighted by stakeholders was the importance of maximising scrutiny of these instruments<sup>75</sup>.

66. It is worth noting that the basic difference between negative and affirmative procedures is that negative instruments come into force unless the Parliament takes action to annul an instrument, whereas an affirmative instrument must be actively approved by the Parliament. Negative instruments can therefore come into force during parliamentary recesses and affirmatives cannot (unless approved prior). This is the only difference in the timing of the passage of instruments. No amendments can be made to the instruments regardless of whether the negative or the affirmative procedure is followed.

67. **The Welfare Reform Committee notes the Subordinate Legislation Committee conclusion on this issue—**

**‘In conclusion, the Committee agrees that regulations which amend primary legislation should be subject to the affirmative procedure as the Bill currently provides. The Committee recommends that regulations which do not amend primary legislation should be capable of being made under either affirmative or negative procedure. The Committee’s expectation would be that affirmative procedure would be adopted where**

<sup>73</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Official Report, Welfare Reform Committee, 1 May 2012 (col 192)

<sup>74</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Official Report, Welfare Reform Committee, 1 May 2012 (col 191)

<sup>75</sup> For example Children 1<sup>st</sup> written submission, Poverty Alliance Scotland written submission, SFHA written submission, David Griffiths ECAS, Carolyn Roberts, SAMH, Gordon Macrae, Shelter Scotland, Official Report, Welfare Reform Committee, 24 April 2012 (col. 155 and 156)

**the subject matter of those regulations is considered to be significant.<sup>76</sup>**

68. The Committee also notes the Cabinet Secretary's comments on the form of subordinate legislation—

**Cabinet Secretary for Health, Wellbeing and Cities Strategy** - I also want to say something about what will happen when we bring our subordinate legislation to Parliament, particularly with regard to the parliamentary procedure that will apply. Like me, the committee will have seen the Subordinate Legislation Committee's report, which says that it should be possible to make regulations that do not amend primary legislation under either the affirmative or the negative procedure. I intend to fully consider all the Subordinate Legislation Committee's recommendations, including that one, and to discuss the matter further with it. I am also happy to keep the committee informed of those discussions.

Nevertheless, I should say something about my current thinking because we need to be clear about what will happen and when it will happen. For that reason, I think that it makes sense for the bill to set out the parliamentary procedure that will apply to the instruments that we introduce. The advantage of such an approach is that it provides clarity ahead of a process for which the timetable will necessarily be tight. Doing anything else will risk delay and, as we and a number of stakeholders have made clear, the overriding interest is to ensure that there is no risk to the provision of these important passported benefits.

I know that concerns have been expressed on the scrutiny that will be carried out on these changes. All I can say is, first, that we have undertaken to have regard to the Scottish Parliament's need to scrutinise and consider the detail of the changes. Indeed, we make that commitment in the policy memorandum and I have also made clear our intention to consult publicly.

Secondly, we have looked at the original procedure for making the subordinate legislation that we will have to review and perhaps change. That research is not yet complete, but I have been advised that only two of the 120 or so pieces of legislation that we have identified as perhaps to be reviewed were subject to the affirmative procedure when originally introduced.<sup>77</sup>

**69. The Committee very much welcomes the Cabinet Secretary's commitment to 'fully consider all the Subordinate Legislation Committee's recommendations, including that one.' In doing so, the Committee invites**

<sup>76</sup> Subordinate Legislation Committee 2nd Report, 2012 (Session 4): Welfare Reform (Further Provision) (Scotland) Bill, paragraph 45

<sup>77</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Official Report, Welfare Reform Committee, 1 May 2012 (col 192)

**the Cabinet Secretary to reflect on the evidence heard by this Committee from stakeholders throughout Stage 1<sup>78</sup>.**

*Regulations: financial information*

70. The Finance Committee did not produce a report on the Bill due to the lack of information provided in the Financial Memorandum on the financial implications of the Bill. This is understandable given the early stage of policy development of the secondary legislation, from which all costs of the Bill will stem. The Finance Committee wrote to this Committee requesting that the issue of financial implications of the secondary legislation be raised with the Scottish Government.

**71. The Committee notes the request from the Finance Committee that the subordinate legislation should be accompanied with information on the likely financial implications of each instrument to allow that Committee to scrutinise this information.**

### **Regulations following the passage of the Bill: Passported benefits**

72. The main intention that the Scottish Government has in introducing this legislation is to establish the link to 'passported benefits' under the new welfare system. Passported benefits are additional benefits that are received because an individual is already receiving a 'core' benefit. There is a huge range of these passported benefits, including free schools meals, concessionary travel, blue badge permits, free NHS dental treatment, optical vouchers, educational maintenance allowances, legal aid and individual learning accounts. They are an important and valued means of support for those receiving benefits.

73. Indeed for some claimants, passported benefits are crucial—

**BMA Scotland** - The effect on families of the removal of, or reduction in, benefits - even temporarily - can be catastrophic, and the knock-on effects on passported benefits can exaggerate that effect<sup>79</sup>.

**Capability Scotland** - ...I simply want to highlight the value of passported benefits and that, in many cases, they are more valuable than the original benefit. For example, the eligibility criteria that the Department for Work and Pensions has released for the PIP indicate that someone who can walk up to only 50m without the use of a wheelchair might lose their entitlement to the higher-rate PIP. If the PIP is substituted for DLA as the passporting benefit, such a person might well lose their blue badge. That could mean that somebody with cerebral palsy who can just about walk 50m without a wheelchair would lose their blue badge. What if the nearest car park was more than 100m walk from their office? It could be

<sup>78</sup> Jackie Baillie MSP and Michael McMahon MSP have reflected on the view of stakeholders in evidence at Stage 1 which indicated a clear desire for consultation and scrutiny, and agrees with the majority of stakeholders that the content of the regulations is substantial. Accordingly, they are of the view that the Committee should recommend the use of the affirmative procedure to ensure the appropriate level of scrutiny.

<sup>79</sup> Dr David Bell, BMA Scotland, Official Report, Welfare Reform Committee, 1 May 2012 (col. 167)

devastating if they could not get to work. There is a need to sit down and look at what the knock-on effects of losing such benefits would be for people<sup>80</sup>.

**Citizens Advice Scotland** - For the people who currently access passported benefits, they are a necessary and a vital means of support. They are often an important part of a household's overall income or budgeting and removal would cause hardship. Access to passported benefits such as school meals and those associated with health and education are relied on by hundreds of thousands of individuals and families. Equally passported benefits for areas such as legal aid and court exemption fees are important to ensure people have access to justice.

The new eligibility criteria which will be set up by the Scottish Government is important to ensure that those who were in previous receipt of passported benefits remain eligible under the criteria established within the new Universal Credit benefit and PIP benefits. The most important aspects of the new eligibility system will be to ensure that it is simple, clear and easy to access.

74. The knock-on effects of the removal of benefits, and the limited support available when individuals are in a crisis situation was also covered in evidence.

**ECAS** – Many people will be in crisis. Planning how to deal with that will be required, as will finance for it. I mentioned in previous evidence - it is still true - that increasing numbers of people who would normally have been supported through community care grants are applying for grants from the third sector. That increase is not sustainable. At the moment, the gap is being filled, but I do not see how that can continue - especially if 50 per cent of community care grant applicants are turned down.<sup>81</sup>

**75. The Committee believes that the main aim of the Scottish Government in implementing the new welfare system should be, in so far as is possible, to maintain eligibility to passported benefits as they are at present.**

76. There is considerable support for this approach from stakeholders---

**Citizens Advice Scotland** - We want all citizens who currently access passported benefits to remain franchised in the new system. Passported benefits play an important role in meeting education, health and anti-poverty objectives and targets. In considering how passported benefits fit with the new Universal Credit we hope that such considerations and outcomes will be taken into account. CAS also wants to ensure that the replacement eligibility criteria do not impact on work incentives or impoverish people who want to move into work from welfare.

Therefore, as this new criteria is developed, we would argue that a big picture view be taken. CAS suggests that establishing eligibility be done in conjunction with other policy areas – or at least have a role in recommendations for other policy

<sup>80</sup> Hanna Mcculloch, Capability Scotland, Official Report, Welfare Reform Committee, 24 April 2012 (col.140)

<sup>81</sup> David Griffiths, ECAS, Official Report, Welfare Reform Committee, 24 April 2012 (col.137)

areas. For example, if local authorities were to roll out free school meals for P1-3 as a minimum, then what is currently a passported benefit for those children with parents who meet the current criteria, would be an entitlement for all (also reducing the perceived stigma of such benefits). Equally providing accessible and affordable childcare in early years and wraparound care in school years, would help lone parents and parents on low incomes in the workplace – including entering the workforce. We can see already how this would work: as Scotland now has free prescriptions, there will be no need to establish the criteria for eligibility for prescriptions, therefore also no need to see if anyone would be disenfranchised through new eligibility rules under the new Universal Credit.<sup>82</sup>

**Scottish Campaign on Welfare Reform (SCoWR)** - With passporting benefits - as opposed to saying that benefits that were previously passported on DLA will now be passported on the PIP - there is an opportunity to mitigate the effect on the people who will be left out of the PIP by ensuring that households that are in need of passported benefits are not disqualified from them as a direct result of the changes to disability living allowance.<sup>83</sup>

**Scottish Federation of Housing Associations** – ...we recognise that the Welfare Reform Committee has already indicated that their primary focus for action must be on passported benefits – since they are the area of welfare policy where the Parliament feels it can most readily make a positive difference. We support the Committee wholeheartedly in taking steps to ensure that households in Scotland who currently receive essential passported benefits (many of whom will be households living in social rented properties as Council or Housing Association tenants) do not lose access to them as a result of the switchover to Universal Credit. Our concern for the financial wellbeing of the households in our sector is well-recorded and well recognised, and Housing Associations and Co-operatives will continue to support financial inclusion, anti-poverty and tenancy sustainment activities, but much of that work is dependent on continued access to existing government assistance. There will need to be a considerable rethink of qualifying eligibility criteria for devolved passported benefits as a result of the Welfare Reform Act and the introduction of Universal Credit – as being in receipt of Housing Benefit, Income Support or Job Seekers' Allowance will no longer be viable qualifying criteria.<sup>84</sup>

**Inclusion Scotland** – We reiterate that there needs to be some far reaching changes to the way people qualify for the devolved passported benefits as to have a disabling condition or impairment alone may no longer be sufficient for a large number of people who have (or would have) previously been entitled to DLA.<sup>85</sup>

77. The Committee has also received evidence reflecting the complexity of the current system of passported benefits. Indeed Scottish Government officials have had to spend a long time mapping passported benefits provided in Scotland. In addition, the way in which some passported benefits are allocated, and can be utilised, can vary from local authority to local authority. The Cabinet Secretary

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<sup>82</sup> CAS written submission

<sup>83</sup> SCoWR written submission

<sup>84</sup> SFHA written submission

<sup>85</sup> Inclusion Scotland written submission

noted in evidence that the passported benefit system in Scotland was somewhat ad-hoc and that there may be differences in application between authorities<sup>86</sup>.

78. The provisions in the Bill to replace existing passported benefits can therefore be seen as an opportunity to consolidate the current system and ensure consistency in provision of benefits as far as is possible. The Cabinet Secretary spoke positively of discussions on this with CoSLA and the Committee supports this collaborative approach to the development of regulations. The Committee has written to all local authorities requesting information on its approach to passporting benefits and will ensure that any best practice gleaned from their responses will be shared with CoSLA and the Government to aid this process.

79. The Committee is clear that if the same approach to passporting benefits is adopted as at present, namely linking it to the core benefit, then there is a risk that large numbers of people currently receiving passported benefits may no longer receive them. The situation is particularly acute with PIPs, where (if the experience of the transfer from Incapacity Benefit to Employment and Support allowance is repeated) large numbers of people who qualify for Disability Living Allowance may not qualify for PIPs. They would then also fail to qualify for passported benefits.

80. Inclusion Scotland's evidence explained that the loss of disabled status under PIP leads to the loss of passported benefits that can be crucial in maintaining independence<sup>87</sup>. It anticipates that between 60,000 to 74,000 disabled people in Scotland will lose some or all of the mobility component of their benefits under PIP<sup>88</sup>. Loss of the higher rate of DLA leads to the loss of an automatic entitlement to benefits such as 'blue badge' disabled parking. A member of public, Craig Tucker, highlights in his submission the importance of mobility benefits.

**Craig Tucker** - I am concerned with the Government's plans to replace DLA with a new benefit, PIP. Having done the practice 2nd draft assessment questionnaire, I may not qualify for the standard rate of the care component of PIP. This would be bad news for me, as having it enables me to get help for things in the house. I also fear that I wouldn't qualify for the enhanced rate of PIP, only standard rate. If this were to happen, then I risk losing my Motability car. This would be devastating for me. I could then lose my job as I would have no form of transport to get to work. I also worry I would lose the other passported benefits i.e. Blue Badge, Free bus pass, Free Road tax. I would also lose my independence.

I think the Scottish Government need to be aware of the implications of the UK Government's plans to change DLA. Thousands of disabled people are going to lose some or all of their benefits. Without essential support, disabled people risk being housebound, losing their independence, and their quality of life.<sup>89</sup>

81. There are three cohorts of people to consider when assessing the various alternative approaches to passporting benefits. The first is those currently in

<sup>86</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Scottish Government, Official Report, Welfare Reform Committee, 1 May 2012 (col.197)

<sup>87</sup> Bill Scott, Inclusion Scotland, Official Report, Welfare Reform Committee. 13 March 2012 (col 26)

<sup>88</sup> Inclusion Scotland supplementary written submission

<sup>89</sup> Craig Tucker written submission

receipt of benefit who will most likely continue to receive over-arching benefits, the second are those who previously received an over-arching benefit but will not be eligible, or assessed as requiring the benefit, under the new system, and the third cohort are those who do not require benefits at present but will require to enter the benefits system in the future.

82. As detailed above, the Committee explored alternative approaches to passporting benefits with witnesses. Of course when it comes to the benefits system there are no easy answers. RNIB highlighted in evidence, in relation to PIP, that interim arrangements whereby the Scottish Government could continue to provide benefits to those currently eligible would be out of date almost immediately. Individuals become eligible for benefits every day, and others move away from needing benefits to support them. These changes would not be captured by static interim arrangements.

83. Another suggestion - keeping the assessment for passported benefits the same as at present for Disability Living Allowance - would, ECAS pointed out, require individuals to be assessed under a Scottish system to receive passported benefits and then also under the UK system for personal independence payments. The Committee is aware that beyond the bureaucracy that this suggestion would create, the anxiety that this would cause to those being assessed on a regular basis could in itself have a detrimental impact on the health of claimants<sup>90</sup>.

**84. The Scottish Government can ensure that continuity in eligibility for passported benefits is achieved for the transitional phase by making those who were eligible under the old system eligible under new interim arrangements. In the longer-term a new system will be required, defining eligibility for new claimants. Stakeholders would not appear to have a common or articulated view on how eligibility should be defined<sup>91</sup>. The Committee will return to this issue, following enactment of the Bill, when it examines the content of the regulations which will set the rules for eligibility.**

85. The Cabinet Secretary suggested in evidence that there was definitely merit in removing the link between PIP and Universal Credit and the receipt of passported benefits—

Cabinet Secretary - When I talked earlier about the consultation on passported benefits, I deliberately said two things: it is an opportunity to look at the range of passported benefits and to look at the hook for eligibility to see how we can mitigate for people who will lose eligibility for passported benefits because they are losing their headline benefit- in other words, people for whom we have already budgeted to provide passported benefits. I deliberately addressed that point; I hope that that gives the committee some indication of my thinking and direction of travel.<sup>92</sup>

<sup>90</sup> Tanith Muller, Parkinson's UK, Official Report, Welfare Reform Committee, 24 April 2012 (col. 140)

<sup>91</sup> Although evidence received from Disability Agenda Scotland seems to indicate that this thinking is being developed.

<sup>92</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Scottish Government, Official Report, Welfare Reform Committee, 1 May 2012 (col. 206)

86. The Committee very much welcomes these comments by the Cabinet Secretary and, on this basis, awaits the public consultation on passported benefits with interest.

87. The Committee looks forward to engaging with the Cabinet Secretary throughout this process and assessing the overall policy intent whenever new information becomes available.<sup>93</sup>

## 6. FINANCIAL ISSUES

88. As noted above, the Finance Committee examined the Financial Memorandum accompanying the Bill. It took evidence on 18 April from Scottish Government Officials and requested written input from a number of bodies. Given the level of uncertainty concerning the arrangements for the new welfare system, the Financial Memorandum covers existing costs for passported benefits but says very little about future costs. This was reflected in the evidence session on 18 April, which the Convener concluded by saying—

Finance Committee Convener - That appears to have exhausted our questions, given the fairly limited information that we have on which to base our questions and the limited answers that the witnesses can give.<sup>94</sup>

89. One of the other difficulties that the Finance Committee faced was that there was a lack of consistency in the assessment of impact from the bodies that submitted written evidence. Of the 15 responses, 7 were from local authorities, and 3 from NHS boards.

90. The submission from Clackmannanshire Council reflected the range of cost impacts that the bill could have on local authorities—

- Increased demand for advocacy, welfare and money advice due to the above changes and moves to replace DLA with PIP. As the implications of the welfare cuts take effect, Local Government will face increased pressure to provide these services which are already under severe pressure. I cannot estimate in my current role the potential increase in total costs.
- Increase in other collection costs due to those on welfare having less disposable income so the costs to collect other debt streams are likely to increase and the collection rates for these streams are likely to decrease.
- For Scottish Government and Local Government there is the prospect of decreases in Non Domestic Rates income as local businesses fail due to the spending power of those on Welfare diminishes.

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<sup>93</sup> Jackie Baillie MSP and Michael McMahon MSP wished to add to this paragraph the following wording 'The Committee believes, however, that it would be helpful to the process of the development of the Scottish welfare reform legislation as a whole, if the Cabinet Secretary for Health, Wellbeing and Cities Strategy were to make a policy statement in relation to the regulations, setting out the overall policy intentions of the Scottish Government.'

<sup>94</sup> Kenneth Gibson MSP, Finance Committee Convener, Official Report, Finance Committee, 18 April 2012 (col.978)

- Increase in administration of changing concessionary Schemes.
- Increases in payroll costs as a result on introduction of PAYE online system to report to HMRC payroll details in real time.<sup>95</sup>

91. Whereas the submission from NHS Greater Glasgow and Clyde reflected the uncertainty that currently prevails prior to the full design of the new welfare system becoming apparent:

**NHS Greater Glasgow and Clyde** - Both the move to universal credit and the final agreed eligibility criteria for passported benefits could have significant implications for uptake, either upwards or downwards. We note the lack of information currently available on eligibility criteria for passported benefits and the triggers within universal credit; this is essential to make a full assessment of costs, and we welcome the stated intention to provide a full assessment of the financial impact once this further detail is known.<sup>96</sup>

92. **It is not possible therefore for the Committee to make much comment on the overall financial implications of the Welfare Reform (Further Provision) (Scotland) Bill.** Given the limited information available, the Committee also does not have any specific conclusions on the Policy Memorandum.

93. The Committee does note however, that the Scottish Government has held back around £20 million of Resource DEL consequentials available in 2012-13 in view of risks presented by the current economic and financial climate including, in particular, those presented by UK welfare reform and the unpredictability surrounding the eurozone. Although as the full extent of the implications of the UK Welfare Reform Bill is still unknown it cannot confirm, at this stage, how much of the available consequentials will be allocated in response to the impact of the bill.<sup>97</sup>

## 7. WELFARE REFORM: IMPLEMENTATION ISSUES

### Role of the Committee

94. During the course of its consideration of the Bill the Committee has received considerable evidence on the on-going implementation of welfare reform generally, including implementation of previous legislation. This has included some unrelentingly depressing evidence on the likely impact of reforms.

95. The Committee has many roles. It is a forum in which these concerns can be expressed, but it also has a role in seeking out ways in which it can aid the process of mitigating some of the impacts of reforms. The Committee sees this very much as a common effort. The Committee needs to be kept informed of what

<sup>95</sup> Clackmannanshire Council written submission to Finance Committee (Annexe A)

<sup>96</sup> NHS Greater Glasgow and Clyde written submission to Finance Committee (Annexe A)

<sup>97</sup> Written Answer SW4-05984, John Swinney MSP, Cabinet Secretary for Finance and Sustainable Growth, 8 March 2012.

is happening on the ground by organisations and individuals with practical experience of the impact of reforms. It also needs to work with the Scottish Government wherever possible, for example commissioning research or case studies which will also provide valuable information on the impacts of reforms on specific areas and groups.

### **Information from the Department of Work and Pensions**

96. The Committee considers that the Department of Work and Pensions has an over-arching role to play in the provision of information as the UK Government Department responsible for developing the policies behind the Welfare Reform Act 2012. Stakeholders, the Scottish Government and the Scottish Parliament can only fulfil their roles if the DWP provides the detail on how its reforms are to be implemented.

97. Current examples of a lack of important information include–

- information on entitlement criteria, the income taper, and capital disregards for Universal Credits, without which the Scottish Government is not in a position to draw up criteria for passported benefits<sup>98</sup>;
- modelling of the cumulative impacts of benefits to identify which groups would be hardest hit by the combined effect of changes to support payments, raised by Inclusion Scotland;<sup>99</sup>
- whether accommodations would be made for those with special needs who would not otherwise be in a position to apply using a computer, raised by ECAS;<sup>100</sup>
- ‘significant policy issues’ to be addressed by the DWP before banks and credit unions could seek to develop and provide products suitable for those who do not currently have transactional bank accounts, raised by Scottish Financial Enterprise<sup>101</sup>;
- whether any assessment of the opportunity cost to the NHS of medical professionals providing information for work capability assessments appeals will be undertaken, raised by the BMA Scotland<sup>102</sup>; and
- what helpline and other advice services will be provided by the DWP in advance of the changes to the benefit system, raised by Citizens Advice Scotland and Parkinson’s UK<sup>103</sup>.

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<sup>98</sup> Beverly Francis, Scottish Government official, Official Report, Welfare Reform Committee, 29 March 2012 (col. 77)

<sup>99</sup> Bill Scott, Inclusion Scotland, Official Report, Welfare Reform Committee, 17 April 2012 (col. 115-116)

<sup>100</sup> David Griffiths, ECAS, Official Report, Welfare Reform Committee, 24 April (col 153)

<sup>101</sup> Owen Kelly, Scottish Financial Enterprise, Official Report, Welfare Reform Committee, 1 May 2012 (col.175)

<sup>102</sup> Dr David Bell, BMA Scotland, Official Report, Welfare Reform Committee, 1 May 2012 (col. 189)

<sup>103</sup> Parkinson’s UK written submission, CAS written submission

98. The Committee sees itself as having a role in seeking information from the DWP to aid it in scrutinising welfare reforms, as well as sending clear messages to the UK Government to ensure it is properly informed concerning the impacts in Scotland.

The Committee wishes to highlight that it wrote to Lord Freud, the UK Government Minister with responsibility, on this matter on 13 April 2012, and again on 26 April 2012 and received replies to both letters on 14 May. The Committee wishes to challenge the assertion in Lord Freud's letter of 14 May to the Deputy Convener that the required information to establish criteria has been provided to the Scottish Government and is disappointed to note that much of the detail requested by the Committee will not be made available until mid-June.

99. Another key role for the Committee is to monitor the implementation of Scottish Government regulations, and also of policies being introduced by the Scottish Government, separate to those in the Bill, that are intended to mitigate negative impacts of reforms. Two such policies that the Scottish Government is progressing relate to Council Tax Benefit and a Social Fund.

### **Council Tax benefit**

100. The Scottish Government has announced a joint-funded proposal to maintain discounts to council tax at current council tax benefit levels by providing £23m, bolstered by £17m from local authorities<sup>104</sup>. The expectation is that this will continue to operate substantially as at present for a year based on this funding.

101. The announcement comes at a time when both Scottish Government and local authority funding is limited. The Committee will keep itself informed of funding pressures over the coming years as a result of welfare reforms, and as a result of any policies put in place in Scotland to seek to ease the impact of reforms.

102. The Committee notes that the Cabinet Secretary is intending to undertake activity on council tax discounts using existing legislation - the Local Government Finance Act 1992<sup>105</sup>. The Committee would welcome updates on the progress of this initiative, including what is intended beyond the first year arrangement with CoSLA.

### **Social Fund**

103. In its early consideration of the Bill the Committee harboured some concerns about the absence from it of powers in relation to the discretionary elements of the Social Fund, which have been devolved.

104. The Committee also received written evidence from Professor Paul Spicker, Grampian Chair of Public Policy at the Robert Gordon University. In his evidence Professor Spicker contends that there are legal competence issues for the

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<sup>104</sup> Scottish Government announcement 19 April 2012

<http://www.scotland.gov.uk/News/Releases/2012/04/counciltax19042012>

<sup>105</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Scottish Government, Official Report, Welfare Reform Committee, 1 May 2012 (col. 201)

Scottish Government in undertaking some aspects of welfare reform, including the discretionary elements of the social fund that have been devolved:

**Professor Paul Spicker** - There needs in particular to be a residual power to promote welfare and to give financial assistance to any person – the same power currently possessed by English local authorities. As things stand, the promotion of welfare, and payments of financial assistance to individuals by way of benefits, are ultra vires.<sup>106</sup>

105. In her evidence to the Committee on 1 May, the Cabinet Secretary explained that the Scottish Government will put in place interim arrangements using the general power of wellbeing that local authorities possess, along with a section 30 order to facilitate that<sup>107</sup>. In the longer term the proposal is to introduce a social fund bill in 2013-4, coming into force in 2015. The Committee welcomes the clarification from the Cabinet Secretary on interim arrangements for council tax discounts and the social fund and looks forward to assessing these arrangements and contributing to their development in due course.

### Impact on Scottish Government policies

106. In addition to Scottish Government policies directly intended to mitigate welfare reforms, witnesses have alerted the Committee to a number of existing Scottish Government policies and initiatives that welfare reform will impact upon and potentially undermine to an extent. An example is the Scottish Government homelessness policy. The Infrastructure and Capital Investment Committee reported on the Scottish Government homelessness target<sup>108</sup> set against the likely impacts of the then UK Welfare Reform Bill. It found that—

**ICI Committee** - ...during this evidence-taking of the likely negative impact of the Bill's provisions on the ability of local authorities to meet the 2012 target. This view has been repeated in evidence-taking on the 2012 commitment and supported in a number of written submissions. CoSLA considers that "Welfare Reform alone could lead to up to an additional 3000 homeless presentations in Scotland."<sup>109 110</sup>

107. This Committee would appreciate regular updates from the Scottish Government on this and other initiatives which are being negatively impacted upon by welfare reform.

### Other issues

108. As detailed above, in its consideration of the Bill the Committee has unearthed a number of related issues that raise serious concerns. It is hard to know where to begin in prioritising areas to focus on in the future. The Committee

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<sup>106</sup> Professor Paul Spicker written submission

<sup>107</sup> Cabinet Secretary for Health, Wellbeing and Cities Strategy, Scottish Government, Official Report, Welfare Reform Committee, 1 May 2012 (col. 200)

<sup>108</sup> Scottish Government Homelessness target – that all unintentionally homeless households have a right to settled accommodation by the end of 2012

<sup>109</sup> Infrastructure and Capital Investment Committee, 2<sup>nd</sup> Report 2012 (Session 4) Homelessness in Scotland: the 2012 commitment

<sup>110</sup> A Johnstone dissented from this recommendation in the ICI Committee's report

has every intention of pursuing these issues further in the Autumn once the bill has completed its passage.

109. One of the Committee's key concerns and therefore priorities going forward, is the significant impacts on services such as the NHS, banks and credit unions, training providers and advice and support services, and the knock-on effect of these pressures on vulnerable individuals.

110. BMA Scotland and the Black Triangle Campaign also raised concerns that the reduction in funding for community care grants would result in bed-blocking as individuals would not have the support to return home or be cared for outwith hospital. This in turn would impact on the delivery of frontline services to those who would require a hospital bed as part of their recovery<sup>111</sup>.

111. In addition, became clear from the oral evidence from Scottish League of Credit Unions and Scottish Financial Enterprise (on behalf of the banks) that the method of paying Universal Credit (monthly, in arrears) will create a big demand for low cost bank accounts for those receiving benefits amongst the 1.5 million people in the UK who do not have an account, as well as the need for budgeting help. The financial institutions in particular are looking for further information from the DWP before they are able to develop products and services that will address these needs (see paragraphs 26 to 27 above).

112. Another key issue is undoubtedly housing, regardless of which vulnerable group an individual is in, the underlying concern for those already struggling to make ends meet is the possibility of losing not just their independence but their home. The SFHA has highlighted that their prime concern is the under occupancy charge commonly known as the 'bedroom tax'. Their concern is that the policy does not take into account the net impact of the shortage of supply of one-bedroomed properties in Scotland. There is also a shortage of alternative private rented accommodation, particularly in rural and remote areas including parts of Inverness-shire. The SFHA has described the policy as 'fanciful', highlighting that it will also increase housing benefit spend because private sector rents are higher<sup>112</sup> (see paragraphs 23 to 30 above).

113. Thirdly, the Committee is very concerned about the nature of the assessments for benefits and the appeals system. The Committee considers that there is a real possibility that individuals will decide not to apply for much needed benefits as a result of issues with these assessments. Parkinson's UK, amongst others, has highlighted practical difficulties with the delivery of work capability assessments, an assessment that may be the basis for the PIP assessment<sup>113</sup>. BMA Scotland, whose representative described welfare reforms as 'inhumane' in evidence highlighted the stress and anxiety that such assessments can cause<sup>114</sup>. The frequency of such assessments and the requirement to be re-assessed to appeal will only exacerbate such stress. A recent report on 100

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<sup>111</sup> Dr Stephen Carty, Black Triangle Campaign, Official Report, Welfare Reform Committee, 1 May 2012 (col. 184-185)

<sup>112</sup> David Ogilvie, SFHA, Official Report, Welfare Reform Committee, 13 March 2012 (col. 28)

<sup>113</sup> Parkinson's UK written submission

<sup>114</sup> Dr David Bell, BMA Scotland, Official Report, Welfare Reform Committee, 1 May 2012 (col. 170-171)

general practices serving the most socio-economically deprived populations in Scotland entitled 'GPs at the Deep End' stated on existing Work Capability Assessments, that PIP assessments will most likely resemble 'Practices described an "endless cycle of appeals" during which time the patients' benefits are reduced. One GP calls this "completely unnecessary [and] completely avoidable"; another felt that the WCA were ill-matched to the clinical reality.'<sup>115</sup>

114. The Black Triangle Campaign also suggested that the company hired to deliver assessments, ATOS Healthcare, are a cause for concern.

**Black Triangle Campaign** – [ATOS] seem to be actively obstructing people from appealing and getting the benefits to which they are entitled, by not including information on what they should apply for instead and by using criteria for rejecting applications that are not in the legal criteria...People who lack support are trying to navigate the system without any help from the agencies that are rejecting claims, and we expect that to get worse.

115. During its final evidence session on this Bill, the Committee was interested to hear that ATOS has achieved preferred bidder status by the DWP for PIP assessments following delivery of existing work capability assessments<sup>116</sup>.

116. This is not an exhaustive list, rather a sample of the key concerns that the Committee will be undertaking work on in the coming years.

## **Conclusion**

**117. The Committee brings the collective concerns from stakeholders highlighted in this report, to the attention of the Scottish Government to inform its future work to mitigate the negative impacts of welfare reforms under the terms of the Bill as far as is practicable, within the powers of the Scotland Act 1998<sup>117</sup>, and within its fixed budget<sup>118</sup>**

**118. The Committee looks forward to engaging further with stakeholders in its future work, and ensuring they can continue to make their voice heard to the DWP.**

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<sup>115</sup> GPs at the Deep End:GPs experience of the impact of austerity on patients and general practices in very deprived areas, David Blane and Graham Watt March 2012  
[http://www.gla.ac.uk/media/media\\_232766\\_en.pdf](http://www.gla.ac.uk/media/media_232766_en.pdf)

<sup>116</sup> Dr Stephen Carty, the Black Triangle Campaign, Official Report, Welfare Reform Committee, 1 May 2012 (col. 170-171)

<sup>117</sup> This includes the use of Section 30 orders as detailed in paragraphs 100 to 105.

<sup>118</sup> Alex Johnstone MSP dissented from this paragraph.

APPENDIX

**SUBMISSION FROM THE SCOTTISH GOVERNMENT – PASSPORTED BENEFITS**

The following information was provided by the Scottish Government following the Committee’s request for a breakdown of existing devolved passported benefits including their associated criteria.

**Scope and scale of passported benefits**

Area	Relevant criteria	Client group	Number of people affected
<b>Education related benefits</b>			
Free school lunches	<p>Pupils attending school whose parents are in receipt of any of the following reserved UK benefits:</p> <ul style="list-style-type: none"> <li>• Income support</li> <li>• Income-based jobseeker's allowance</li> <li>• Any income related element of employment and support allowance</li> <li>• Child tax credit (but not working tax credit) with an income less than £15,860</li> <li>• Both maximum child tax credit and maximum working tax credit with an income under £6,420</li> <li>• Support under Part VI of the Immigration and Asylum Act 1999</li> </ul> <p>Young people aged between 16-18 years who receive any of these benefits can also claim free school lunches in their own right.</p>	Children and young people in full time school education	In 2010 118,963 pupils were registered to receive free school lunches. This represented 17.8% of the total pupil population.
Individual Learning Accounts	All Scottish residents with an income of £22,000 or less or who are in receipt of any one of the following reserved benefits:	Low paid/low skilled individuals	Over 110,000 ILA accounts were opened in 2010-11.

Welfare Reform Committee, 1st Report, 2012 (Session 4)

Area	Relevant criteria	Client group	Number of people affected
	<ul style="list-style-type: none"> <li>• Jobseeker's allowance (income and contribution based)</li> <li>• Income support</li> <li>• Carer's allowance</li> <li>• Incapacity benefit</li> <li>• Maximum rate of child tax credit</li> <li>• State pension credit</li> <li>• Employment and support allowance (income and contribution based)</li> </ul>		
Education Maintenance Allowance	<p>Student age, household income (generally based on tax credit award notice) residential status and validity/level of course. There are two threshold limits, £20,351 for households with one dependant child and £22,403 for households with more than one dependant child.</p>	Low income young people (16-19) in non-advanced post-compulsory education	2010-11 in which 34,780 young people received an EMA.
Student loans Higher Education	<p>A student loan can be written off/cancelled if a borrower receives a disability related benefit and is considered permanently unfit for work.</p>	Student loan borrowers	For academic year 2011-12 under 50 borrowers were affected.
Legal Aid	<p>Applicants qualify financially for legal aid with no contribution if they receive one of the following benefits:</p> <ul style="list-style-type: none"> <li>• Income support</li> <li>• Income-related employment and support allowance</li> </ul> <p>Income-based jobseeker's allowance.</p>	Low income in need of justice	In 2010-11, there were 271,974 grants for legal aid (both civil and criminal), of which some 52 per cent were made on a passported basis.
Court exemption fees	<p>Exemptions from court fees are available to those in receipt of:</p>	Low income individuals seeking court	A total of 33,500 applications were exempt during 2010-11.

Area	Relevant criteria	Client group	Number of people affected
	<ul style="list-style-type: none"> <li>• Income support</li> <li>• Income related employment support allowance</li> <li>• Income based jobseeker's allowance</li> <li>• Working tax credit and child tax credit (up to gross annual income of £16,642)</li> </ul>	action	
Blue badge parking	Persons receiving higher rate mobility payment of disability living allowance.		135,000 badges were issued in 2010-11 to those on higher rate mobility component of DLA out of a total of 270,000.
Eligibility criteria for the National Concessionary Travel Scheme for Older and Disabled People. (NCT)	Higher rate of the mobility component of disability living allowance or the higher or middle rate of the care component of disability living allowance.	Older and disabled people	Around 16% of those who currently use the scheme are eligible because they are in receipt of a passported benefit.
Free NHS dental treatment	<p>Group 1: Everyone receiving</p> <ul style="list-style-type: none"> <li>• Income support</li> <li>• Income based jobseeker's allowance</li> <li>• Income related employment support allowance</li> <li>• Pensions credit guarantee</li> </ul> <p>Group 2: people receiving the following tax credits are eligible if their income is below a threshold amount - currently £15,276 gross taxable per year.</p> <ul style="list-style-type: none"> <li>• Working tax credit with a disability or severe disability element</li> <li>• Child tax credit with</li> </ul>	Those meeting the criteria for an income based benefit, and who need NHS dental treatment.	Unknown – count number of treatment claim forms submitted not number of individuals.

Area	Relevant criteria	Client group	Number of people affected
	<ul style="list-style-type: none"> <li>working tax credit</li> <li>• Child tax credit</li> </ul>		
Optical voucher	<p>Group 1: Everyone receiving</p> <ul style="list-style-type: none"> <li>• Income support</li> <li>• Income based jobseeker's allowance</li> <li>• Income related employment support allowance</li> <li>• Pensions credit guarantee</li> </ul> <p>Group 2: people receiving the following tax credits are eligible if their income is below a threshold amount - currently £15,276 gross taxable per year.</p> <ul style="list-style-type: none"> <li>• Working tax credit with a disability or severe disability element</li> <li>• Child tax credit with working tax credit</li> <li>• Child tax credit</li> </ul>	Those meeting the criteria for an income based benefit in need of need of glasses or contact lenses.	Year ending March 2011, there were 322,116 passported claims processed for the provision of glasses/contact lenses.
Travel costs to NHS premises	<p>Group 1: Everyone receiving</p> <ul style="list-style-type: none"> <li>• Income support</li> <li>• Income based jobseeker's allowance</li> <li>• Income related employment support allowance</li> <li>• Pensions credit guarantee</li> </ul> <p>Group 2: people receiving the following tax credits are eligible if their income is below a threshold amount - currently £15,276 gross taxable per year.</p> <ul style="list-style-type: none"> <li>• Working tax credit with a disability or severe</li> </ul>	Low income in need of need health treatment, including a routine check up.	Data not collected centrally.

Area	Relevant criteria	Client group	Number of people affected
	disability element <ul style="list-style-type: none"> <li>• Child tax credit with working tax credit</li> <li>• Child tax credit</li> </ul>		
Energy Assistance Package	Applicants for stage 3 of the package are entitled to receive free or subsidised insulation from an energy supplier on the basis of their existing entitlement to specific benefits. These reserved benefits are: <ul style="list-style-type: none"> <li>• Pension credit</li> <li>• Child tax credit or working tax credit (where income is less than the qualifying threshold)</li> <li>• Employment and support allowance (both income related and contribution based)</li> <li>• Attendance allowance</li> <li>• Disability living allowance</li> <li>• Income support, income based jobseeker's allowance</li> <li>• Housing benefit</li> <li>• Council tax benefit</li> </ul>	Fuel poor	Not possible to identify claims at stages 3 and 4 that were passported as benefits in kind.

**ANNEXE A: REPORTS FROM THE FINANCE AND SUBORDINATE  
LEGISLATION COMMITTEES**

**Finance Committee  
Convener: Kenneth Gibson MSP**

Michael McMahon MSP  
Convener  
Welfare Reform Committee

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18 April 2012

Dear Michael

**WELFARE REFORM (FURTHER PROVISION) (SCOTLAND) BILL**

At its meeting on 28 March 2012 the Finance Committee agreed its approach to its scrutiny of the Financial Memorandum (FM) accompanying the Welfare Reform (Further Provision) (Scotland) Bill.

The Committee agreed to adopt a two stage approach to its scrutiny of the financial implications of the devolved aspects of welfare reform. It agreed that the first stage would focus on the FM accompanying the Bill and that the second stage would focus on the forthcoming subordinate legislation.

As part of its scrutiny of the FM, the Committee sought written evidence from stakeholders and took oral evidence from the Bill team.

In order to report its views in time for your committee's evidence session with the Cabinet Secretary for Health, Wellbeing and Cities Strategy, the Committee has not produced a formal report. Rather it agreed to write to the lead committee referring to the official report of its evidence session with the Bill team, appending the written submissions received and highlighting any specific issues that it considered appropriate.

Paragraph 34 of the FM indicates that the Scottish Government will provide details of how the system of passported benefits will be modified when the necessary subordinate legislation is brought forward later this year, including an assessment of the financial impact of these changes.

It would be helpful to our future scrutiny if the lead committee could seek clarification from the Cabinet Secretary on the timing, nature and level of detail of the financial information that will be provided by the Scottish Government alongside its subordinate legislation and the format in which it will be provided.

*Welfare Reform Committee, 1st Report, 2012 (Session 4) — Annexe A*

The written submissions are attached. The Official Report (link below) of the evidence session with the Bill team that took place at the Committee's meeting today will be published on its website on 23 April.

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6979&mode=pdf>

I hope this information is helpful to your scrutiny.

**Kenneth Gibson MSP**  
**Convener**

**WELFARE REFORM (FURTHER PROVISION) (SCOTLAND) BILL**

**FINANCIAL MEMORANDUM**

The Committee received written submissions from—

- Angus Council
- CHILDREN 1ST
- Citizens Advice Scotland
- Clackmannanshire Council
- COSLA
- Glasgow City Council
- Highland Council
- NHS Greater Glasgow and Clyde
- NHS Lanarkshire
- NHS Lothian
- North Ayrshire Council
- North Lanarkshire Council
- Scottish Courts Services
- Scottish Legal Aid Board
- South Lanarkshire Council

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from Angus Council**

**Costs**

If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

**Response:**

**Free School Meals**

As the entitlement criteria to Free School Meals will have to be realigned to take into account the abolition of the existing passporting benefits there will be financial implications for this council as follows:

- ❖ Software may have to change to accommodate the changed entitlement criteria
- ❖ At the moment the Free School Meals application and assessment process is integrated with the Housing and Council Tax benefit assessment process. Any divergence between the new entitlement criteria for free school meals and the information gathered for HB(until it is fully replaced by Universal Credit) and the new Council Tax Support scheme will put this integrated approach at risk resulting in increased administration costs, poorer customer service etc.

**School Clothing Grants**

Although these grants are not administered or funded by the Scottish Government the award of a grant is linked to entitlement to benefits which will be abolished from 1 April 2013 and the same issues will apply as are outlined for free school meals above.

**Blue Badges and Concessionary Travel (National Entitlement Card)**

The award of a blue badge and an NEC is linked to entitlement to benefits, depending on the category of application. Although national schemes, these are administered locally and, therefore, any changes will have an impact on the operation, and potentially resources, in local authorities. We understand that Transport Scotland is currently in talks with DWP regarding the impact of benefit changes on these two schemes.

**Rent Arrears**

As there is a pre-eviction protocol both locally and nationally we will deal with from within existing resources. We will only pursue eviction action as a

**very last resort. I do foresee quite a rise in the need for detailed welfare and employment advice.**

Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

**Response:**

**An assumption is made in the Financial Memorandum that additional costs resulting from the re-alignment of entitlement and service delivery will be met from existing budgets and no estimate of these costs is provided.**

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

**Response:**

**The bulk of additional administrative costs could be met from existing resources. However, there is no budget allocated to meeting the costs of any significant changes required to software and the existing streamlined application process.**

Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

**Response:**

**Not applicable**

**Wider Issues**

Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

**Response:**

**There will be additional costs associated with re-engineering business processes and documentation and publicising the changes to the public in relation to a number of council services (e.g. leisure concessionary scheme)**

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from CHILDREN 1ST**

This is the written evidence on the Welfare Reform Bill submitted by CHILDREN 1ST to the Welfare Reform Committee.

**Welfare Reform – Call for Evidence Response Form**

**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 1<sup>ST</sup> recommends that the bill is amended accordingly.

**8. Do you have any other comments on regulations that would follow this Bill on 'passported' 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 1<sup>ST</sup> 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 1<sup>ST</sup> 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 1<sup>ST</sup> 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 1<sup>ST</sup> 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>119</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?**

## **Finance Committee**

### **Welfare Reform (Further Provision) (Scotland) Bill**

#### **Submission from Citizens Advice Scotland**

Citizens Advice Scotland has supplied the Committee with a copy of its submission to the Welfare Reform Committee on the Bill. As detailed in question 9, it does not feel it can comment on the Financial Memorandum accompanying the Bill at this time.

1. Are you generally in favour of the Bill and its provisions?
2. What are your views on this principle?
3. What are your views on the proposed powers in relation to Universal Credit?
4. What are your views on the proposed powers in relation to Personal Independence Payments?
5. What are your views on the proposed subordinate legislation powers in the Bill?
6. Do you have any other comments on regulations that would follow this Bill on 'passported' benefits and eligibility for them?

As the Scottish Parliament rejected aspects of the UK Welfare Reform Bill Legislative Consent Motion, this bill is absolutely necessary to ensure that the citizens of Scotland still have access to passported benefits on 1 April 2013 when a raft of current benefits are effectively abolished and replaced by the new Universal Credit which is for people both in and out of work. CAS also believes there has been a lack of detail about many aspects within the UK Welfare Reform Act with much still being left to regulation or secondary legislation. This is unhelpful in policy and legislative planning. We also believe that there is much work still being done to assess what the impact will be of the UK Welfare Reform Act on Scotland's people and services, including passported benefits.

Therefore CAS agrees that it is right that the Scottish Government now make the necessary provisions as it applies to areas of devolved competence both in terms of primarily legislation and subordinate legislation. CAS agrees the Scottish Government needs the powers to be able to amend legislation and introduce regulations as Universal Credit is introduced and DLA is abolished and replaced by PIP. We are content that the bill will also provide for regulations that directly or indirectly relate to the UK Welfare Reform Act to be changed in the future, as shown in the example from the Scottish Government in relation to varying income thresholds. CAS also welcomes the additional scrutiny that the Scottish Parliament will now have over aspects of the UK Act through the publication of primary and subordinate legislation and regulations tabled by the Scottish Government.

CAS expressed concern over the possible rejection of the LCM on the grounds that we wanted to ensure that the people of Scotland would not be in any way adversely affected by a rejection that could lead to a delay for people accessing passported benefits. CAS already believes that there are very tight timescales for the changes being introduced through the UK Welfare Reform Act, indeed the delay in the Bill becoming an Act, has added to those concerns. The Scottish Government said it was confident that legislation could be enacted in time but we would like to take this

opportunity to remind MSPs that we are now less than a year away from the introduction of Universal Credit and PIP. Therefore there is only a short time to get legislation and processes into place to ensure the smooth transition and delivery of passported benefits by Scottish Government, local authorities, and various other stakeholders. Whilst we absolutely support and recognise that necessary time must be taken to scrutinise this bill fully and adequately, the timescales involved must be borne in mind.

CAS also hopes and assumes that regulations to follow from the Scottish Government along with policy on passported benefits will be scrutinised by the Welfare Reform Committee. Much work will need to be done by the Scottish Government, local authorities, and various other stakeholders in establishing the new eligibility criteria and CAS welcome the opportunity to be part of that process.

For the people who currently access passported benefits, they are a necessary and a vital means of support. They are often an important part of a household's overall income or budgeting and removal would cause hardship. Access to passported benefits such as school meals and those associated with health and education are relied on by hundreds of thousands of individuals and families. Equally passported benefits for areas such as legal aid and court exemption fees are important to ensure people have access to justice.

The new eligibility criteria which will be set up by the Scottish Government is important to ensure that those who were in previous receipt of passported benefits remain eligible under the criteria established within the new Universal Credit benefit and PIP benefits (more below). The most important aspects of the new eligibility system will be to ensure that it is simple, clear and easy to access. The whole process will have to be very carefully managed and co-ordinated and we hope stakeholders will engage in this fully and in a timeous manner. Equally local authorities will also have a role in establishing local eligibility criteria for any passported benefits they have under their discretion such as school uniform grants or access to local facilities such as leisure centres.

We want all citizens who currently access passported benefits to remain franchised in the new system. Passported benefits play an important role in meeting education, health and anti-poverty objectives and targets. In considering how passported benefits fit with the new Universal Credit we hope that such considerations and outcomes will be taken into account. CAS also wants to ensure that the replacement eligibility criteria do not impact on work incentives or impoverish people who want to move into work from welfare.

Therefore, as this new criteria is developed, we would argue that a big picture view be taken. CAS suggests that establishing eligibility be done in conjunction with other policy areas – or at least have a role in recommendations for other policy areas. For example, if local authorities were to roll out free school meals for P1-3 as a minimum, then what is currently a passported benefit for those children with parents who meet the current criteria, would be an entitlement for all (also reducing the perceived stigma of such benefits). Equally providing accessible and affordable childcare in early years and wraparound care in school years, would help lone parents and parents on low incomes in the workplace – including

entering the workforce. We can see already how this would work: as Scotland now has free prescriptions, there will be no need to establish the criteria for eligibility for prescriptions, therefore also no need to see if anyone would be disenfranchised through new eligibility rules under the new Universal Credit.

We are concerned that stricter sanctions and conditionality which could lead people to losing out on aspects of the Universal Credit may also have a major knock on effect on accessing passported benefits and believe this will have to be examined carefully during the drawing up of the new eligibility criteria. Equally during the 2013-17 migration process, we are concerned that any delays or appeals could also lead to delays or missing out on vital passported benefits. As well as being of detriment to adults, CAS would not want to see situations where children were missing out on passported benefits due to parental migration problems or sanctions imposed at the very time they were needed the most.

CAS would also like to point Committee Members to the newly published Report by the Social Security Advisory Committee 'Universal Credit: the impact on passported benefits' which shows the importance of passported benefits. This review found that:

- All passported benefits fulfil important needs, are highly valued by those who receive them, and make a significant contribution to:
  - Children's health and wellbeing and their educational and emotional development
  - The health, wellbeing and quality of life for adults and families who are out of work or living on a low income
  - Reducing child poverty, health inequalities and social exclusion
- benefits-in-kind are generally regarded as particularly beneficial in helping low-income families and there was little support from review respondents for cashing these up within UC
- There is no rigorous research evidence to show that the provision of passported benefits acts as a work disincentive: when people take decisions about moving into work or increasing working hours, they take a range of factors into account
- The loss of out-of-work passported benefits when people take a job can create an unhelpful cliff-edge and reduce the apparent gains to work
- As the number of passported benefits has increased, so too has the complexity in the system and greater simplicity and better coordination of passported benefits is essential: this should reduce administration costs, render passporting more effective and efficient, improve awareness, understanding and take-up, and ensure better targeting
- Options for the future should not undermine the policy objectives of individual passported benefits, nor undermine the overarching principle that people should be better off in work than they are on benefits
- It is unlikely that one approach will suit all passported benefits in future, and more radical options will need further consideration and may require additional expenditure
- The constraint of cost-neutrality creates tensions which will need to be balanced.

4. Do you have any other comments on the introduction of Universal Credit?

CAS agrees with the principle of simplifying the benefits system into one Universal Credit and to improve work incentives by allowing individuals to keep more of their income as they move into work. However during the passage of the Welfare Reform Bill we expressed our concern over many of the accompanying changes we believe will be to the detriment of the people, services and economy of Scotland. These include the taper rate for Universal Credit and minimum and maximum disregards; cuts in benefit payments which will mean many people receive lower entitlement payments; increased sanctions and conditionality; monthly payments to one member of the household only (including housing benefit which has previously been paid direct to landlords); and entitlement to passported benefits, especially those that are devolved to Scottish or local governments. We would be happy to provide more information on any or all of these issues.

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

The Scottish Government must introduce new PIP eligibility criteria in relation to accessing the two passported schemes Blue Badge Scheme (BB) and National Concessionary Travel Scheme (NCT) benefits that are currently accessed through DLA Mobility and Care components. Whilst we would argue that again no-one should lose out on these schemes if they received them previously, this could be problematic due the numbers expected to lose DLA and therefore their entitlement to these schemes.

The first thing to note about the change of DLA to PIP is that the UK Government has already determined that they will cut the budget for disability benefits by 20%. The change from DLA to PIP will disenfranchise one in three working age DLA clients in Scotland from their current DLA entitlement. This remains our biggest concern over the move from DLA to PIP. Inclusion Scotland estimate 75,000 people of the 225,000 to be assessed and migrated from DLA to PIP will no longer be entitled to their previous benefit. They will therefore of course, not be eligible for BB or NCT. Therefore as well as losing out on vital DLA, disabled people will also be unable to access these schemes, limiting further access to independent travel.

There are two specific concerns we have over the introduction of PIP. The first is the assessment process. We have seen major problems with the Work Capability Assessment (WCA) as people have applied for Employment and Support Allowance which is the replacement for Incapacity Benefit. In 2010/11 Scottish bureaux saw a 33% increase in the number of new ESA issues which were both time consuming and stressful for both bureaux and clients. In the case of ESA tribunals where a CAB provided representation, 69% found in favour of the claimant. This shows there are inherent flaws in the WCA, an issue we have pressed UK Governments on since 2008 and can provide further information on if required.

CAS is concerned that the assessment process for PIP may also have inherent flaws and lead to a large amount of appeals as we have seen with ESA. This could lead to other problems, for example whilst someone goes through an appeal process will

they be able to access BB or NCT? When PIP is decided for an individual, the length of time that person is entitled to it for will also be set. Depending on your circumstances the award could be a short award of up to two years or a longer award lasting up to five or ten years. Therefore people will have to face the stress of continual reassessment for PIP and the worry of losing it and associated benefits.

Our other area of concern is that it has been suggested that the use of mobility aids and adaptations may be taken into account in the assessment. So for example, an electric wheelchair-user may be assessed as not having restricted mobility and therefore not eligible for the mobility component of PIP.

DLA is already within the top ten most common problems clients present to Scottish bureaux. In 2010/11, DLA (Care) was the third most common problem with 20,222 issues (an increase of 3% on the previous year) and DLA (Mobility) was the seventh most common with 18,216 issues dealt with by bureaux (an increase of 2% on the previous year). We expect to see an increase in demand for advice during the migration of DLA to PIP.

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

As stated in the Scottish Government Financial Memorandum, 'it is not possible to set out the detail of the likely financial impact of future plans to modify entitlement to passported benefits until the operational detail of the UK Government's welfare reform is available' and that they will instead provide this when subordinate legislation is tabled later in the year. As such CAS feels we cannot make a comment on the financial implications of this bill. However, to reiterate what was stated earlier, time is of the essence and we agree with the Scottish Government's approach in bringing forward this legislation now rather than waiting to legislate after further successor arrangements and details are brought forward by the UK Government.

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?

We have no comment to make on this question.

## Finance Committee

### Welfare Reform (Further Provision) (Scotland) Bill

#### Submission from Clackmannanshire Council

##### Costs

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The costs detailed in the financial memorandum does not appear to reflect the considerable work and associated costs that will be borne by Local Government in implementing the content of the Welfare Reform Act. The costs concentrate solely on the operation of free School Meals but misses other key issues that will face Local Government in all other areas affected by the Welfare Reform Act.

The major areas of increased expenditure expected within Clackmannanshire Council include following areas: -

##### **Replacement Scheme for Council Tax Benefit**

This is being abolished as of 31/03/2013. The costs for Local Government will be considerable as currently the provision is done on a dual basis with Housing Benefit and partially funded by an administration grant from the Department of Work & Pensions. The total administration Grant in Scotland is Circa £4.5 million per annum. In Clackmannanshire Council the grant is £ 432,000 per annum. As universal credit is introduced this grant will no longer be paid and the costs transferred to Local Government as Housing Benefit will be integrated into Universal Credit. These costs will start to be borne from October 2013 when Universal Credit starts to replace Housing Benefit for new customers. In addition to this is the need to develop a scheme to replace Council Tax Benefit and this also comes with a cost in terms of IT systems etc.

##### **Localisation of Social Fund (Community Care Grants and Crisis Loans)**

It is proposed to transfer the functions carried out by the Department of Work and Pensions to Local Government. This will come with associated administrative overheads such as Staff, Estates, IT, etc. Until the new scheme is actually determined, it would be very difficult to accurately quantify the associated costs.

##### **Introduction of Universal Credit**

This will have the effect of removing Housing Benefit (see (a) above) from Local Authorities and will have various impacts in terms of costs. The most notable cost will be in the collection of rental income. At present within Clackmannanshire Council, 60% of Council Tenants receive Housing Benefit to meet their rental liability. The Housing Benefit is assessed by Local Authorities and credited direct to the tenants rent account. A feature of Universal Credit is that the tenants will receive their Housing Costs direct and then have to pay their rent. The costs

associated with this change mean that Council's will now have to collect rent from all their tenants and this will mean increases in Staff Costs, Transaction Costs, Accommodation Costs etc. For Clackmannanshire Council this would be a best estimate based on the current cost of collection of around £300,000 (excluding central recharges), if this is based on collecting 40% then it is fair to assume to collect 100% would see these costs rising to £750,000. If this was replicated nationally the estimated cost of collection would be around £3 million rising to £7.5 million. In addition a hidden cost would be that of homelessness. With increased pressure on Household budgets an unidentifiable number of persons will find themselves homeless and Local Government will have statutory duty to find accommodation for these persons. Each homeless application is estimated to cost in the region of £15,000 to process etc.

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Please see above.

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

No. The additional costs should be met by from DWP or central government

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

No

### **Wider Issues**

Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

No, the additional costs that are not captured include:

- Increased demand for advocacy, welfare and money advice due to the above changes and moves to replace DLA with PIP. As the implications of the Welfare cuts take effect, Local Government will face increased pressure to provide these services which are already under severe pressure. I cannot estimate in my current role the potential increase in total costs.
- Increase in other collection costs due to those on Welfare having less disposable income so the costs to collect other debt streams are likely to increase and the collection rates for these streams are likely to decrease.
- For Scottish Government and Local Government there is the prospect of decreases in Non Domestic Rates income as local businesses fail due to the spending power of those on Welfare diminishes.

- Increase in administration of changing concessionary Schemes.
- Increases in payroll costs as a result on introduction of PAYE online system to report to HMRC payroll details in real time.

## **Finance Committee**

### **Welfare Reform (Further Provision) (Scotland) Bill**

#### **Submission from Convention of Scottish Local Authorities**

##### **Introduction**

COSLA welcomes the opportunity to respond to the Scottish Parliament Finance Committee's call for evidence in relation to the Welfare Reform (Further Provision) (Scotland) Bill - Financial Memorandum.

COSLA accepts that, since the Scottish Parliament only agreed to a partial Legislative Consent Motion in relation to the UK Welfare Reform Act, it is necessary for the above enabling Bill to confer powers to Scottish Ministers to make changes to devolved matters, primarily passported benefits affected by that Act.

This Bill does not cover new arrangements for example for the administration of Council Tax support, following abolition of Council Tax Benefit and devolved elements of the Social Fund, both of which require to be in place by April 2013. Therefore, whilst we look forward to a future discussion with the Parliament about these critically important areas, in our response we are not making any further comment on these.

The Committee should also take note that it is too early for COSLA to offer anything other than broad comments on the financial implications of the elements contained in the Bill, as the level of detail needed to quantify the impacts is not yet available. Nonetheless the Committee should appreciate that where the response below refers to additional costs these will need to be addressed and, as the detail begins to unfold, COSLA will seek to work in partnership with the Scottish Government to quantify and seek ways to mitigate any financial impacts on Local Government.

Taking account of the caveats provided above, COSLA has set out the following responses to the Finance Committee Questionnaire which was attached with the request for evidence.

##### **Costs**

The Financial Memorandum covers the costs of existing statutory passported benefits in Scotland. We do not anticipate the costs of this existing provision changing as a result of the Bill, however any subsequent change to eligibility arising from regulations would have financial implications for Councils and these would need to be understood and quantified.

The Financial Memorandum also refers to possible increases in administration costs for Councils if more complex assessment schemes need to be put in place to maintain existing entitlements, without the same ability to use benefit entitlement as a proxy for income levels.

In response COSLA would wish to draw the Committee's attention to the fact that the costs are very much dependent on whether information on the breakdown of claims for Universal Credit is available and is shared with Councils by the Department of Work and Pensions. Until the position becomes clear as to whether this breakdown will be available it is too early to quantify meaningfully the level of these costs.

Even if a breakdown of benefit information is readily available to Councils there will be costs associated with maintaining the schemes and these could include publicity, devising new assessment forms and procedures, changes to IT systems and electronic claim forms and increased assistance to claimants, but these examples are not exhaustive. We do not consider that Local Government can accommodate these additional administrative costs and therefore further discussion would be required with Scottish Government about how these costs can be addressed. Without the breakdown of Universal Credit, Councils will have to devise much more complex assessment procedures and these could have significant costs attached.

Therefore, whilst COSLA is working closely with the DWP on the implementation of Universal Credit and the issue of having a breakdown of costs is well understood, we would welcome the support of Parliament in pursuing this issue.

Additionally since most claimants will only gradually move on to new benefits between 2013 and 2017, parallel systems of entitlement will need to operate during the transition period and this is likely to further increase the administrative burdens on Councils.

### **Wider Issues**

COSLA understands that the Scottish Government is dependent on further information from the UK Government on how Universal Credit and Personal Independence Payments (PIP) will operate in practice, before it is able to finalise the regulations governing passported benefits. However we would be concerned if sufficient time is not allowed to adjust operational arrangements and to be able to communicate changes. COSLA will however seek to work with the Scottish Government as necessary to ensure the necessary arrangements are put in place timeously.

Councils also provide non statutory passported benefits, for example, school clothing grants which are linked to free school meals, admission to leisure centres and other concessionary entitlements. It is anticipated that additional administration costs may be incurred to continue this provision as a consequence of the move to Universal Credit and PIP but these are not quantifiable at this stage until the detail of the new schemes are available.

## Finance Committee

### Welfare Reform (Further Provision) (Scotland) Bill

#### Submission from Glasgow City Council

##### Costs

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

As the Financial Memorandum notes, there is limited detail available on the changes arising from the UK Act and the potential impact on passported benefits to enable a full estimate of the implications for local authorities. However, the Financial Memorandum correctly highlights at paragraph 58-61 the potential administrative costs to local authorities of changes to passported benefits criteria as they relate to free school lunches.

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

As above. There will inevitably be changes required to systems and processes currently in operation within local authorities once the legislation comes into force. A full financial impact assessment will therefore need to be conducted once the details of the Bill are finalised.

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

As outlined above, it is not possible to ascertain how the costs of implementation will be funded at this time.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum correctly emphasises the tight timescales involved in the UK Act, and the current lack of detail in a number of areas. It is therefore hoped that stakeholders will be given further opportunities to comment on the Bill as details emerge over the coming 12 months.

##### Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

We are pleased to see the importance of passported benefits recognised within the Bill. It would be beneficial to include aspects of data sharing that will be

required between Local Authorities and DWP to effectively administer passported benefits. Without data sharing protocols in place local authorities will incur additional administration costs through the gathering of information that will already be available to DWP.

Whilst it is still unclear the role that local authorities will play in the delivery of Universal Credit, it is difficult to estimate additional costs that will be incurred going forward. However, it is clear that local authorities will have responsibility for the administration and delivery of the local council tax benefit scheme, where a reduction in funding will impact on council budgets going forward. The current council tax benefit scheme is supported by DWP subsidy payments, which will no longer be applicable with the implementation of the local council tax benefit scheme.

Should the changes to benefits and tax credits result in reductions in payments to individuals, then there will likely be adverse pressures on wider local authority budgets as individuals and households in receipt of benefits react to lower income streams, including the services they purchase from local authorities.

The provision of Education Maintenance Allowances (another passported benefit) is also an important element of education provision within local authority area, and receipt of benefits is used as an eligibility test. This is correctly referred to in paragraph 48.

There are also other non-statutory local provisions that are currently “hooked” onto free school meal statutory provisions (such as footwear and clothing grants).

**Finance Committee  
Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from Highland Council**

**Costs**

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes (but should there be mention of School Clothing Grants?)

1. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes

6. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes

7. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes, with one caveat. – if the criteria for making awards are unclear at this stage there must be a degree of risk around the total value of payments once UC comes into being.

**Wider Issues**

8. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from NHS Greater Glasgow and Clyde Response**

**Costs**

**1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?**

The current assessment of impact for NHS Boards in relation to free NHS dental care, optical vouchers and travel to hospital assumes that costs will rise in line with inflation and agreed upratings only, and that there will be no change to the level of uptake.

Both the move to universal credit and the final agreed eligibility criteria for passported benefits could have significant implications for uptake, either upwards or downwards. We note the lack of information currently available on eligibility criteria for passported benefits and the triggers within universal credit; this is essential to make a full assessment of costs, and we welcome the stated intention to provide a full assessment of the financial impact once this further detail is known. No assessment has been made of potential changes to uptake associated with known or expected changes, for example demographic changes, which could be modelled now.

It would be helpful to explicitly note the risk of additional costs to NHS Boards and other bodies if changes lead to significant increases in uptake.

**2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?**

See comments above.

**3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?**

If any additional financial costs are incurred as a result of the Bill, this would cause severe difficulty to the NHS Board in the context of the current financial climate.

**4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?**

The Financial Memorandum reflects the uncertainty in relation to eligibility for passported benefits and commits to providing further financial assessment as this

information becomes available. The potential scale of this uncertainty is not assessed. Some additional areas of uncertainty are also not addressed, including:

- The potential impact of demographic change.
- The potential change in uptake of Universal Credit or other triggers for accessing passported benefits. For example, the impact of the recession and rising unemployment which may result in an increase in benefit claims.

## **Wider Issues**

**5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?**

The financial memorandum does not cover:

- Costs potentially incurred by individuals and families through the loss of passported benefits or increased complexity in accessing these benefits.
- Potential impact on public services such as NHS Boards associated with a rise in demand for services. The changes to welfare benefits have a number of risks associated including potential reduction in income for disabled people, reduction in income for individuals and families already living in poverty, and potential changes to benefits available for those in work which could affect decision and ability to move into work. We note the well documented relationship between poverty and ill health, and the risks of increasing demand on mental health and other NHS services associated with unemployment. These are indirect implications of the Bill but could lead to real additional demand on the public sector in future.

## Finance Committee

### Welfare Reform (Further Provision) (Scotland) Bill

#### Submission from NHS Lanarkshire

#### Costs

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

- **In the Financial Memorandum it is acknowledged that the true impact of the UK Welfare Reform Act 2012 will not be fully understood until the operational detail of the reforms is available. It is therefore difficult to ascertain what the full financial implications of the Welfare Reform (Further Provision) (Scotland) Bill for NHS Lanarkshire will be.**

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

- **Without having detailed information regarding the calculation of the costings it is difficult to comment the estimates that have been made.**

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

- **In the current financial climate NHS Lanarkshire would not be in a position to incur additional financial costs. If additional costs are incurred, it would seem reasonable to expect that these costs are met by the Scottish Government.**

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

- **It is extremely difficult to comment on this due to the lack of information on the operational detail of the UK Welfare Reform Act 2012 and its impact upon individuals.**

#### Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

- **There are concerns that the implementation of the UK Welfare Reform Act 2012 will place additional pressures upon NHS staff, such as those working in the field of mental health, and general practitioners. This could place additional financial burdens upon NHS Lanarkshire.**

## Finance Committee

### Welfare Reform (Further Provision) (Scotland) Bill

#### Submission from NHS Lothian

#### Costs

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

- Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate? YES
- If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met? - YES
- Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise? - YES

#### Wider Issues

2. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

This legislation was introduced on 23 March 2012 and was triggered by the Scottish Parliament's need to consider the implications of the UK Welfare Reform Act on access to "passported" benefits such as optical vouchers, free dental care and travel assistance to meet the healthcare needs of the population of Scotland.

The Scottish Government has provided national estimates of the costs of such passported benefits looking forward from 2013-14, the first full year of implementing the new UK universal credit regime. Details of how the changes will impact rights to access such benefits have still to be worked through and announced by UK government. Therefore the impact on the Scottish Budget can only be determined assuming stable demand and CPI inflation adjustments- as has been presented in the Financial Memorandum.

No estimates were presented for the cost of patient travel that is re-imbursed by NHS Boards out of their core allocations. Preliminary figures suggest that, for 2011-12, Lothian NHS Board spent £210,000 on patient travel re-imburement. The costs to the NHS and the economy of not reimbursing travel for necessary healthcare has not been presented but include non-attendance, delay of elective care and failure of the organisation to comply with equalities duties Article 2, 56 etc.

Since we have, as yet, no idea what changes to rules on eligibility either the UK or Scottish Government will introduce, it would be impractical to suggest how this

baseline figure of cost would change beyond 2013-14. However on the basis that the Lothian figures are reflective of NRAC level of demand it would not be unreasonable to suggest that NHS Scotland would re-imburse approximately £1.5m-£2m per annum on patient travel cost.

The changes, once implemented may necessitate a re-design of the standard claim forms and evidence of eligibility documentation that cashiers typically require when re-imbursing claims. Some training of staff in the nature of the legislative changes and use of the revised forms would be required within financial services. However the costs of this should be limited to under £5,000 and be largely non-recurrent. Staff will also require training in sensitive practice so that the Board is not exposed to charges of failing to comply with its duties under the Equalities and Human Rights Act.

I have also not tried to assess the indirect knock-on effect of such changes on local authority delivery of services; as other passported benefits also affected are school meals, housing benefit, disability living allowance, and concessionary travel. However with services to vulnerable groups being the subject of the integration agenda, there will inevitably be efforts to increase cross-subsidisation of services out of the NHS budget through budgetary integration. Any threat to the universal, publicly owned, free at point of service NHS (of expected integrated budgets with conditionality at the centre of much of the social care) seriously reduces the equity-enhancing elements of our system. We may well introduce inequality in access, availability and utilisation if contingent on receipt of particular benefits or social position. The other benefits mentioned listed, if withdrawn or reduced, may well reduce recipients capability to live a healthy life. We know this leads to future increased health care and other public costs.

Welfare income thresholds also determine households' access to facilities such as legal aid which also plays a role in giving patients the ability to access expert professional advice in cases of non-clinical and medical negligence. Again, only when the nature of the new thresholds is known can any attempt be made to discern the impact of this on the viability and number of future claims against NHS Boards.

## Finance Committee

### Welfare Reform (Further Provision) (Scotland) Bill

#### Submission from North Ayrshire Council

#### Costs

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Bill has financial consequences for the Council in the following three areas:

- Free school lunches
- Education Maintenance Allowance
- Blue badge applications

#### Free School Lunches

The Council has a statutory responsibility to administer free school lunches, which is a passported benefit for those children with parents in receipt of a particular UK reserved benefit or tax credit. The Council charge £1.90 for a free school lunch and this therefore falls within the price range detailed in the Financial Memorandum. The Council has no issue with the projected total local authority net expenditure figure of £103m for 2014-15 contained in paragraph 61 provided the new eligibility criterion doesn't increase demand. As there is limited information available regarding the eligibility criteria under Universal Credit, it is difficult to estimate what the full financial implications for the Council will be. The Financial Memorandum does not reflect the administration costs associated with changing application forms or the potential software costs that may be incurred when the eligibility rules change under Universal Credit. The Council is not in a position to estimate the cost of these changes until more information about the qualifying criteria is known.

#### Education Maintenance Allowance

Paragraphs 48 and 49 of the Financial Memorandum provide an overview of the income thresholds and the agreed Scottish Government expenditure of £31.2m for 2012-13 and the Council acknowledges this. The Council currently receives a fixed administration fee of £25,000 per annum plus £15 for each Education Maintenance Allowance that is paid. In 2011-12 the Council received 811 applications from which 667 (82.2%) were granted an Education Maintenance Allowance. A customer has to apply for an Education Maintenance Allowance and the Financial Memorandum does not reflect the administration costs associated with changing application forms to request the required proof of income when the eligibility rules change under Universal Credit or the potential software costs that may be incurred. The Council is not in a position to estimate the cost of these changes until more information about the qualifying criteria is known.

Blue badge applications – The Council currently administers the blue badge scheme from its existing budget. If new passporting rules are introduced for individuals in receipt of the Personal Independence Payment then this may have a financial implication for the Council in terms of the administration of the paper applications received, an electronic claim form and the web based software system that is used to record customer details. The Council currently charge each customer £20 to cover the administration costs of a blue badge. A blue badge is currently valid for 3 years from the date of issue and there is a risk that some blue badges will still be valid when the Personal Independence Payment is introduced from 1 April 2013. If customers have to be reassessed under a new scheme then this will increase the Council's administration costs. The customer may also incur an extra administration fee of £20 or part thereof for a replacement badge. However if a current blue badge were to remain valid for the full three years and only change to the new scheme on renewal then this would benefit the customer and also minimise any increase in administration costs of the Council.

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

The passported benefit figures contained in the Financial Memorandum are based on current provision and therefore may change once the full operational detail of the UK Government's welfare reform is known. The Council is therefore unable to confirm that the estimated costs and associated timescale are reasonable and accurate.

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill, which your organisation will incur? If not, how do you think these costs should be met?

The Council is not in a financial position to meet the cost of any administrative and software system changes that may be required. These costs should be met by the Scottish Government or alternatively the Department for Work and Pensions.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum only reflects the current budget provision for those areas that affect the Council. The Personal Independence Payment and Universal Credit are expected to be implemented around April 2013 and October 2013 respectively. The estimate and timescale of the costs associated with passporting benefit may therefore be subject to change.

### **Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

Software suppliers may incur costs for changes to existing systems that record and maintain the likes of free school lunches, education maintenance allowance, blue badge applications and concessionary travel.

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from North Lanarkshire Council**

In preparing the responses I am aware that the purpose of the bill is primarily to give powers to the Scottish Ministers to make provision in consequence of the UK Act for devolved purposes. As such the financial memorandum addresses the effect on these matters in respect to the 'passported benefits' concerned. A further, and potentially, more significant impact of the Welfare Reform agenda is the cumulative effect upon families and communities of the welfare changes. This may also potentially impact upon Local Authorities and RSL's through difficulties in collection of rents, increased evictions, and greater demand for advice/assistance in dealing with the financial problems, homelessness, advice, etc.

**Costs**

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

A. At this stage the Financial Memorandum has not included any indication of the cost to LA's of preparing and administering changes in the provision of free school lunches as the specifics of welfare reform/Universal Credit is not detailed enough to allow a determination of the system changes needed.

There will certainly be one-off costs associated with the change and redesign of processes and software to prepare for the management of free school meals and UC and there may be additional ongoing costs depending on the detailed operation of UC and how it will interact with the award of free school meals. These are costs that the Government should provide the necessary additional financial support to LA's for.

In addition the LA may find that there is an increase in the eligibility for free school meals once the detail of UC is introduced and any increase in costs should be met by the Government.

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

A. The costs presented in the Financial Memorandum reflect the actual award values of the various 'passported benefits' with uplifts for inflation till 2014/15 as appropriate. As the detail of UC is not yet known the proposed Bill does not include any estimate/projections of the costs and is providing the basis for enabling legislation.

Clearly once the details of UC are known then the impact on the costs for the 'passport benefits' should be reviewed and provision made for Government funding of LA's where consequential increases will arise.

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

A. The effect of UC upon the eligibility of individual/families may increase the totality of payments made under the respective 'passport benefits' and this consequential cost of introducing UC should be met by the Government in addition to funding the costs associated with implementing administrative costs referred to in (1) above.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

A. As indicated in the paper no attempt has been made to estimate the impact other than for an inflationary rise where appropriate, once the detail operation of UC is known and its effect on 'passport benefits' can be projected the award values should then be reviewed and any additional costs for LA should be funded by Government.

### **Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

A. As indicated above the Financial Memorandum does not include any costs/estimates pending the notice of the detail underpinning the introduction and operation of UC.

It is very likely that LA's will experience increased demand for advice services and representational services from the public during the transition to UC and the effect on 'passport benefits'. The Government should recompense Local Authorities for any such additional costs incurred in implementing these changes.

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from Scottish Courts Service**

**Costs**

1. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Bill is not considered to have an impact on the level of exemptions currently provided and we are happy with the information that has been provided.

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Not applicable – see above.

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Not applicable – see above.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Not applicable – see above.

**Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

We have a very minor interest in this change so cannot comment on the overall wider issues.

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from the Scottish Legal Aid Board**

**Costs**

1.If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Scottish Legal Aid Board (the Board) was set up in 1987 to manage legal aid in Scotland. Legal aid allows people who would not be able to afford it to obtain help for their legal problems. The Board is an independent non-departmental public body responsible to the Scottish Government. The Board's main functions are to manage the Legal Aid Fund and advise Scottish Ministers on the current operation and development of legal aid provisions.

The Board welcomes the opportunity to respond to the Financial Memorandum drafted for the Welfare Reform (Further Provision) (Scotland) Bill. The Board welcomes this enabling Bill, which will give powers to Scottish Ministers to make provisions in consequence of the UK Welfare Reform Act 2012 for devolved purposes.

At present, about 52% of all legal aid applications are made on a passported basis, that is to say, by people who are in receipt of income support, income-based job seekers allowance or income-related employment and support allowance. Total expenditure on the Legal Aid Fund was £161.4 million in 2010/2011, so approximately £84 million of this expenditure is on applicants who were in receipt of these passported benefits. In addition, the Board also has significant resources and procedures set up for assessing and verifying applications for legal aid from applicants in receipt of these benefits. As such, we welcome the commitment that the Scottish Government will establish new criteria for the passporting entitlement of various benefits, including legal aid, although this will be dependant on the UK Government establishing in more detail how the new Universal Credit and Personal Independence Payments will operate in practice.

Paragraph 53 of the Financial Memorandum does contain a number of minor procedural inaccuracies in relation to the legal aid applications process. Firstly, applicants for civil legal aid are automatically passported if they are in receipt of a passported benefit, but applicants in receipt of these benefits who apply for civil advice and assistance or the various different types of criminal legal assistance will only qualify if their level of disposable capital is below certain thresholds. Secondly, all applicants for all types of legal aid have to complete an online application form, but in civil legal aid, there is a more detailed financial application form to be completed by applicants who are not in receipt of passported benefits.

Due to the nature of this enabling Bill, the Board cannot be precise about the financial implications associated with it at this stage. We will be in a better position

to do this once it is clear how the Scottish Government proposes to deal with applicants for legal aid under the new Universal Credit arrangements. However, we can confirm that the future legal aid budget figures quoted in paragraph 55 accurately reflect those published in the Scottish Government's paper "A Sustainable Future for Legal Aid".

The table included at paragraph 68 shows the outturn and forecast figures for total legal aid spend from 2010/11 to 2014/2015. These are the actual and forecasted figures for legal aid spend for applicants with all types of financial circumstances. Although this includes the 52% of applicants who are in receipt of passported benefits, the figures obviously also include the remaining 48% of applicants who are either employed or self employed, receive non passported benefits or no income at all.

2. Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

As above, we will be in a better position to comment on this once it is clear how the Scottish Government proposes to deal with applicants for legal aid under the new Universal Credit arrangements.

3. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

We will only be able to comment on this once it is clear how the Scottish Government proposes to deal with applicants for legal aid under the new Universal Credit arrangements. If the approach to passporting is removed, then full eligibility assessments will have to be undertaken on the civil and criminal legal aid applications which are currently passported into legal aid. Extra resources will be required to undertake these extra full financial assessments.

We also hope that the arrangements we already have in place to verify applicants' passported benefits with the DWP can be replicated under the new arrangements. This is an automatic computer link from the Board's IS systems to the DWP IS system, via the Legal Services Commission.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

See the answer to (2) above.

### **Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

See the answer to (2) above.

**Finance Committee**

**Welfare Reform (Further Provision) (Scotland) Bill**

**Submission from South Lanarkshire Council**

**Costs**

1.If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Response - The Bill does not accurately reflect the financial implications to the Council. The Bill mentions that the main implications for Local Authorities surrounds Free School Lunches but does not give any detail as to the specific costs of having to change the eligibility criteria / hook for this passported benefit. There may be an administrative burden on the Council if this changes but this is unquantifiable at this stage as alternative criteria will not be considered until the Bill is passed. The Bill does not consider the changes to Council Tax Benefit and the potential loss of Administration Grant in respect of this. The Bill does not mention the impact of Welfare Reform on Social Work Services, there is a concern that the Welfare changes could result in a loss of income to Local Authorities as clients are deemed to have less ability to pay.

2.Do you consider that the estimated costs set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Response - The calculation for the cost of Free School Lunches includes the costs for all lunches both free and paid, less the income from paid lunches. The estimated cost for Local Authorities of £103m by 2014/15 is likely to be an over estimate of the cost of Free School Lunches. This is because the cost relates to all school meals both free and 'paid for' less the income from the 'paid for' school meals. As mentioned previously there is no detail in the Memorandum regarding the loss of Benefit Administration Grant or the potential reduction in income for Social Work Services, therefore the financial estimates are not deemed accurate.

3.If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Response - If the Council is no longer in receipt of Benefit Administration Grant, yet still expected to provide some form of Support Scheme, then the Council will not be able to meet the financial costs associated with the Bill. No details are provided regarding this in the Memorandum. The Memorandum does not consider any financial burden as a result of changes to passported benefits which could have an administrative impact on the Council. There may be an increased burden on Social Work Services if there is a reduction in income from clients.

4.Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Response - The Memorandum does not accurately reflect the financial implications of the Bill as detailed in the responses above.

**Wider Issues**

5. Do you believe that the Financial Memorandum reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

Response - The Memorandum does not mention any costs to Local Authorities associated with changing the eligibility criteria / hook for Free School Lunches. There may be an administrative burden felt by the Council if there is a change from the current legislation. There are also no details regarding the costs of providing a Council Tax Support Scheme in place of the current Council Tax Benefit Provision. The cost of providing CTB administration is currently met from our Administration Grant. At present it is clear that Councils will require the same level of administrative input and therefore costs, with any revised scheme but to date there is no indication as to where this funding will come from. For South Lanarkshire Council this represents a gap of approximately £2.5m. Further to this the Memorandum makes no mention of the potential loss of income from Social Work clients which may affect Local Authorities.

## **REPORT FROM THE SUBORDINATE LEGISLATION COMMITTEE**

### **INTRODUCTION**

1. At its meetings on 27 March, 17 April and 24 April 2012, the Subordinate Legislation Committee considered the delegated powers provisions in the Welfare Reform (Further Provision) (Scotland) Bill (“the Bill”) at Stage 1. The Committee submits this report to the Welfare Reform Committee as lead committee for the Bill under Rule 9.6.2 of Standing Orders.

2. The Scottish Government provided the Parliament with a memorandum on the delegated powers provisions in the Bill (“the DPM”).<sup>120</sup>

3. Officials from the Scottish Government also provided oral evidence to the Committee at its meeting on 17 April 2012. After this evidence session, the Committee agreed to seek further information in writing. The Committee’s letter and the Scottish Government’s response are reproduced in the Annex.

### **OVERVIEW OF THE BILL**

4. The Welfare Reform (Further Provision) (Scotland) Bill was introduced in the Scottish Parliament on 22 March 2012. It comes into force on the day after Royal Assent.

5. The Bill is required as a consequence of the decision of the Parliament to refuse to agree to powers to make consequential and other provision being conferred on the Scottish Ministers by the United Kingdom Welfare Reform Act 2012 (“the UK Act”)<sup>121</sup>. In short, it broadly replicates the powers which the Parliament rejected in the UK Act. The Bill is therefore purely enabling.

### **DELEGATED POWERS PROVISIONS**

6. Section 1 of the Bill confers power in consequence of the introduction of universal credit by the UK Act. Section 2 makes similar provision in consequence of personal independence payment introduced by the UK Act. Section 3 expands each of the powers so that the powers may:

- make provision in direct or indirect consequence of the UK Act or instruments made under it;
- make provision which is not of itself in consequence of the UK Act if the provision concerns any matter arising in direct or indirect consequence (or previously arising);
- make different provision for different cases or purposes; and

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<sup>120</sup> Welfare Reform (Further Provision) (Scotland) Bill. Delegated Powers Memorandum. Available at: [http://www.scottish.parliament.uk/S4\\_Welfare\\_Reform\\_Committee/Welfare\\_reform\\_bill\\_DPM.pdf](http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/Welfare_reform_bill_DPM.pdf)

<sup>121</sup> Welfare Reform Act 2012. Available at: <http://www.legislation.gov.uk/ukpga/2012/5/contents/enacted>

- include supplemental, incidental, consequential, transitional, transitory or saving provision.

7. There are two important points to highlight by way of introduction which are of particular relevance to the Committee's remit and consideration of the powers which it is proposed to confer on Ministers through this Bill.

8. First, the powers in the Bill go further than those which were originally proposed in the bill for the UK Act and which were not consented to by the Parliament. The Bill does not seek solely to deal with the immediate consequences of the UK Act for devolved matters. The Bill also seeks to use the general powers to allow for the "future-proofing" of changes made in consequence of the UK Act.

9. Second, much of the discussion on the exercise of the powers conducted to date has focused on the primary policy objective of ensuring continued access to devolved benefits which currently accrue to those who receive welfare benefits (the devolved benefits are commonly described as "passported benefits"). However, the bill does not restrict the exercise of the powers to delivery of this objective. The powers conferred allow any provision to be made within devolved competence as Ministers consider appropriate provided there is a link back to the consequences of the UK Act or a link to matters which themselves arose in consequence of that Act. The powers are therefore extensive in their potential effect, which goes beyond the task of embedding the changes to the UK welfare system properly within the current sphere of passported benefits.

10. The Bill provides that where the regulations made under either section 1 or 2 textually amend primary legislation they will be subject to the affirmative procedure. In any other case they will be subject to the negative procedure.

### **Delegation of the powers in principle**

11. The Committee recognises the context within which these powers are to be conferred. A substantial amount of work is required in order to make the changes to legislation relating to devolved matters as a result of the UK Act. The Committee understands that the roll-out of the UK changes will commence with effect from 1 April 2013, although this will be a process which will continue for a number of years beyond that date. As a Scottish Government official put it, "the bill provides a practical means to a necessary end."<sup>122</sup> The Committee accepts that the timetable and the pace at which the changes need to be made are set by the UK Act and by implementing measures that are still to be made by UK Ministers under that Act. These are matters beyond the control of the Scottish Parliament or the Scottish Government. The Committee also recognises that both the timetable and the current lack of availability of the operational detail set out in instruments to be made under the UK Act mean that it would not be possible to deliver these changes by 1 April 2013 through the standard primary legislation process rather than subordinate legislation.

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<sup>122</sup> Scottish Parliament Subordinate Legislation Committee. *Official Report*, 17 April 2012, Col 348.

12. Nevertheless, the Committee also recognises that the changes which these powers could deliver are extremely significant. They are capable of having a profound effect on people in Scotland who currently receive passported benefits or who might in the future expect to be entitled to receive them. Scottish Government officials advised the Committee that the changes made by the UK Act have precipitated the first review of passported benefits “in the round”. This is a matter which is clearly of importance and concern to a wide range of stakeholders.

**13. The Committee accepts that it is appropriate in principle to delegate the powers sought in order to achieve the primary objective of ensuring the continued delivery of passported benefits from 1 April 2013. However, the Committee considers that the current context illustrates that the potential reach of ancillary powers of this kind can be of significant impact in practice. The scrutiny of the grant of such powers by the Parliament is therefore an important matter which requires careful consideration in addition to ensuring proper scrutiny of the exercise of the powers themselves. The Committee considers this further below.**

#### **Scope and duration of the powers to be conferred**

14. As noted above, the powers go further than proposed in the bill for the UK Act and are drafted in terms which permit changes to be made that are wider than is necessary to achieve the primary objective of ensuring the continued delivery of passported benefits to current recipients. In its evidence, the Scottish Government confirmed that a number of these passported benefits are currently regulated through subordinate legislation. Therefore, in a number of cases, Ministers could already have the powers necessary to conduct the exercise of engaging these benefits with the UK Act.

15. As a general principle the Committee considers that it is preferable that subordinate legislation is made using enabling powers which have been conferred for specific purposes where these are available rather than general ancillary powers of the kind proposed in the Bill. Some of those existing specific powers may be subject to additional statutory requirements such as consultation with stakeholders which are not replicated in the general powers proposed in this Bill.

16. The Scottish Government indicated that it is currently too early in the process to determine whether the existing powers are sufficient. The full scope of the necessary work is not known and the policy approach to be adopted is not yet sufficiently developed to be clear whether the existing powers are adequate. The Scottish Government’s legal adviser explained:

“It is true that some of the powers will be sufficient to make the changes that will ultimately be made. However, at the moment, it is not possible to say exactly what the changes will be to a particular provision, which means that we cannot say whether the power that is available under subordinate legislation will be apt to make the change that we ultimately want to make. Against that background, we are looking to take a general power to allow us

to make the changes that we need to make in order to ensure that passported benefits are available.”<sup>123</sup>

17. The Committee accepts that, in the particular circumstances, it is necessary to legislate to confer powers at a point at which the scope of the task is unknown. It recognises that this is a challenging task and that it is important to ensure that Ministers have adequate powers at their disposal to ensure that passported benefits continue to be delivered.

18. Where existing powers are available, the Scottish Government has indicated that this may provide Ministers with a choice whether to use those powers or those to be granted under the Bill and consideration will be given to whether it is appropriate to use existing powers and comply with any existing pre-conditions. Ministers will be accountable to the Parliament for the manner in which they exercise that choice. The Committee accepts that the choice will depend on the context of each case.

**19. The Committee is reassured by the Scottish Government’s comments that consideration would be given to fulfilling any existing consultation requirements if it were considered appropriate to do so and if this would not put the timetable at risk.**

20. There may also be other necessary consequential changes such as those where the eligibility for receipt of benefits is used as a criterion for other matters. The Scottish Government provided the examples of eligibility to repay debt under the Bankruptcy (Scotland) Act 1985 and determining the ability of disabled persons to vote on their own account. These are consequential changes of a fairly standard nature. Whether the changes made are controversial in policy terms will depend on future policy decisions. However, the Committee recognises that, were eligibility criteria to be altered using these powers, this could prove controversial.

**21. The Committee accepts that in the current circumstances it is not possible to draw the powers to be conferred more narrowly without the risk of possibly impeding the primary objective of ensuring the continued availability of passported benefits with effect from 1 April 2013 and making other necessary consequential changes. Therefore, so far as the powers are necessary to enable the UK Act to be fully embedded with devolved matters, the Committee is content with the scope of the powers.**

22. The Committee accepts that there is a need for the eligibility criteria for passported benefits which Ministers set out in regulations to remain relevant and up to date. For example, a means should be available so that any financial limits which may be set could be adjusted to retain their real value over time. Future uprating of this kind would not involve any significant policy change. However, the Committee is concerned that these general ancillary powers provide the power to go beyond the ability to future-proof criteria in this manner.

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<sup>123</sup> Scottish Parliament Subordinate Legislation Committee. *Official Report*, 17 April 2012, Cols 352-3.

23. In its evidence, the Scottish Government confirmed that the future-proofing element of the powers sought would allow Ministers to introduce very different eligibility criteria from those which are introduced when passporting existing benefits, provided that a link to a change made as a consequence of the UK Act can be established. If such a link is established, the powers permit Ministers to make whatever changes they think fit. If the Bill is passed in this form, the Parliament will have delegated to Ministers the power to make substantial revisions to the criteria by which entitlement to passported benefits is assessed for the foreseeable future.

24. The Committee considers that the Parliament may wish to consider significant revisions to the eligibility criteria for such benefits on a longer timescale and cannot rule out the possibility that the Parliament would prefer to do so using primary legislation rather than through the use of these powers.

25. The Committee accepts that it will be necessary to allow a significant transitional period to encapsulate the time throughout which the UK Act changes are rolled out and to allow for a period of operation during which any practical problems could be identified and rectified. It accepts that it would not be a good use of parliamentary time to revisit the enabling powers during this period. The Committee also recognises that the changes made using the powers would also require to continue in effect.

26. As outlined above, the Committee considers that it is largely the urgency of the current UK welfare reform project and the unknown scope of the current passported benefits which justify the conferral of these broad general powers. The Committee is not satisfied that the delegation of general powers of this kind to permit significant variations once that project is completed, without parameters as to what those variations may comprise, has been justified.

**27. The Committee therefore considers that serious consideration should be given to whether the delegated powers should continue to be available indefinitely. The Committee is not in a position to identify a specific period after which the powers should no longer be available. The Committee would expect that a reasonable period should be allowed to ensure full implementation and that some further adjustments may be required beyond 2013 to ensure the system operates effectively and as intended. The Committee therefore recommends that the justification for the continued availability of general powers should be reviewed by the Parliament after the implementation period is complete and that provision to this effect should be included in the Bill. This would not affect the continued operation of provision made under exercise of the powers.**

#### **Parliamentary procedure which should apply to the exercise of the powers**

28. It is clear from the evidence submitted to the lead committee to date that stakeholders are more concerned with the content of the regulations which are to be made under the Bill than the terms of the Bill itself. For example, Jeannette Campbell from Citizens Advice Scotland said:

“We are more interested to see the subordinate legislation and regulations, because they are where all the information and detail will be; that is the important bit for CAS. We want to see the eligibility criteria and we want to know exactly what system will need to be in place within a year to 18 months.”<sup>124</sup>

29. Stakeholders are therefore concerned to ensure that the regulations which are to be made under the Bill receive as much scrutiny as, if not more than, the Bill itself. John Dickie, from the Child Poverty Action Group in Scotland, said:

“We therefore seek assurance ... that the committee will give equal scrutiny to the regulations that are still to come, where the meat of the issue will be in relation to passporting”.<sup>125</sup>

30. This concern reflects the Committee’s acknowledgement above that the exercise of the powers will have a significant practical impact and that, until the regulations themselves are available, stakeholders will not have the opportunity to see and comment on what that impact will be.

31. The Bill currently provides that regulations which make textual amendments to primary legislation will require the Parliament’s approval. Regulations which do not make such textual amendments do not require approval but could be annulled by resolution of the Parliament within 40 days of being laid.

32. Stakeholders have given evidence that in their opinion this is not a sufficient level of scrutiny given the importance of the subject matter. Some have suggested that consultation on drafts in addition to the affirmative procedure would be merited given the importance of the regulations (“super-affirmative procedure”). Others have recognised that affirmative procedure is merited, although negative procedure would normally be considered sufficient for changes to subordinate legislation, or suggested that affirmative procedure would be appropriate for the first set of regulations to be made under each section.<sup>126</sup>

33. The Scottish Government explained the approach taken in the Bill as follows:

“with regard to amendments to primary legislation, the Parliament has already voted on the actual wording of that legislation and, instead of allowing certain provisions to be made in secondary legislation, has determined that particular terms are sufficiently important to be used in primary legislation ... there is a qualitative difference between that kind of amendment and an amendment to secondary legislation.”<sup>127</sup>

34. The Committee endorses the view that where regulations make amendments to primary legislation they should be approved by the Parliament for the reasons set out by the Scottish Government.

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<sup>124</sup> Scottish Parliament Welfare Reform Committee. *Official Report, 17 April 2012*, Col 93.

<sup>125</sup> Scottish Parliament Welfare Reform Committee. *Official Report, 17 April 2012*, Col 114.

<sup>126</sup> Scottish Parliament Welfare Reform Committee. *Official Report, 17 April 2012*, Cols 117-8.

<sup>127</sup> Scottish Parliament Subordinate Legislation Committee. *Official Report, 17 April 2012*, Col 361.

35. However, the Committee questioned whether it was possible to say that the changes which Ministers might wish to make to subordinate legislation using these powers differed in content, effect or their financial implications from those to be made to primary legislation. The Scottish Government responded:

“It is difficult to answer your question about the content, effect and financial implications of instruments, because instruments will vary from case to case. Some will have significant effect, in that they will broadly continue to make a passported benefit available to the group that currently receives it; others might have an effect that varies in some way, depending on the policy. At the moment, however, I am unable to draw a distinction between the content, effect and financial implications of changes to primary and secondary legislation.”<sup>128</sup>

36. The Committee concludes that one of the implications of the breadth of the power and the current stage in the programme of this project is that it is not possible to predict at the moment whether the changes to be made to secondary legislation will be less significant, as significant or more significant than those which are to be made to primary legislation. In light of this, and the concerns clearly expressed by stakeholders, it therefore does not appear to the Committee to be appropriate to make a distinction as to the scrutiny to be applied solely on the basis of whether the regulations amend primary legislation or not.

37. The Committee is not attracted to the proposal that the first set of regulations could be subject to a higher level of scrutiny than subsequent regulations for the same reason. It does not necessarily follow that subsequent regulations will have a less significant effect than the first set of regulations.

38. The Committee recognises that, if some distinction is to be made between regulations which are to be subject to the affirmative procedure and those which are to be subject to the negative procedure, that distinction must be made by way of a clear criterion. The current criterion does fulfil the requirement of clarity. A criterion based on an assessment of the significance of the effect of the regulations or something similar would not be sufficiently clear since whether or not something has a significant effect is essentially a subjective matter.

39. The Committee considers that the reason why stakeholders would prefer affirmative or super-affirmative procedure is because these procedures provide the opportunity to consider the proposed regulations in draft before they are made. The Committee welcomes that the Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy has given a written undertaking to the Welfare Reform Committee that the Scottish Government will make available material on the relevant subordinate legislation from the UK Government as it becomes available and to continue to work with stakeholders throughout the process of developing the Scottish regulations. This is an important commitment and goes a considerable way towards the additional expectations that would be imposed through a super-affirmative form of procedure.

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<sup>128</sup> Scottish Parliament Subordinate Legislation Committee. *Official Report*, 17 April 2012, Col 360.

40. The Committee recognises that a formal requirement for consultation drafts to be laid for a standstill period or the blanket application of affirmative procedure could have an adverse effect on the timetable for this project, which is set by matters beyond the Scottish Government's control. Given that the timetable is fixed, a balance is to be struck between using the limited time available to work up proposals fully and allowing time for consultation. Formalising the Cabinet Secretary's offer in the legislative process could risk delivery to time if the necessary information from the UK Government is late or there are subsequent changes made as a result of the consultation processes. All of these possibilities are at least foreseeable.

41. The Committee also accepts that affirmative scrutiny of more minor changes would use up valuable committee and parliamentary time which could be better spent on other matters.

**42. The Committee considers that in these particular circumstances the pragmatic and collaborative approach already adopted by the Scottish Government, stakeholders and the Welfare Reform Committee is likely to deliver a better solution than a formal requirement for consultation or additional procedure. The Committee encourages all parties to continue to work together in this manner.**

43. The Committee recognises that at this point it is not possible to predict whether regulations which modify subordinate legislation will have significant effects or not. The Committee therefore considers that where regulations do not make amendments to primary legislation the Bill should allow the regulations to proceed by either affirmative or negative procedure. The Committee's expectation would be that the Scottish Government would adopt the affirmative procedure unless it is clear that the subject matter is not significant or, where the regulations do have a significant effect, if for reasons beyond the Scottish Government's control there is not enough time to adopt the affirmative procedure.

44. The choice of which procedure to use in any particular case would be one for Ministers to make, in addition to considering whether any existing powers would be more appropriate. However, Ministers would be accountable to the Parliament and to stakeholders for their choice of procedure. Given the close working relationship established with the Welfare Reform Committee, which the Committee expects will continue throughout the implementation of this project, the Committee anticipates that this is a matter which the Welfare Reform Committee could pursue as work on the regulations progresses.

**45. In conclusion, the Committee agrees that regulations which amend primary legislation should be subject to the affirmative procedure as the Bill currently provides. The Committee recommends that regulations which do not amend primary legislation should be capable of being made under either affirmative or negative procedure. The Committee's expectation would be that affirmative procedure would be adopted where the subject matter of those regulations is considered to be significant.**

## **SUBORDINATE LEGISLATION COMMITTEE REPORT**

### **Subordinate Legislation Committee letter to Scottish Government**

In considering its conclusions on the Bill, the Committee would appreciate further information from the Scottish Government regarding the inclusion in the Bill of a sunset clause applying to the delegated powers provisions once the changes consequential on the UK Act have been made.

Although the issue was explored at the meeting today, the Committee would welcome further explanation from the Scottish Government as to why it is considered that this is an unnecessary provision. In particular, can you provide justification for these powers being retained and further information on the consequences of such a provision on the operation of the Bill?

The Committee accepts that sufficient time must be given to address fully the consequences of the UK Act and that this may extend over a significant period of time as the UK changes are rolled out. Also changes made using the powers must obviously continue in effect. However the Committee would like clarification of the need to maintain powers of this nature beyond the period of full transition to the new UK Act system. In particular, would it be possible for any future changes to be considered on a longer timeframe and for more specific powers to be taken at that point if they were required?

### **Scottish Government response to the Subordinate Legislation Committee**

Thank you for your letter of 17 April. You have asked, on the Committee's behalf, for a further explanation as to why we consider that a sunset clause would be an unnecessary provision in our Bill. As you acknowledge, this matter was discussed at our meeting with Committee on Tuesday and there will be a limit as to how much further explanation I can provide as I think that discussion covered the salient points. We do not believe that a sunset clause would be appropriate. Furthermore, we consider that if the Bill were to be amended to include such a clause, that this approach would give rise to additional risk as a consequence.

Taking these points in turn, we believe that a sunset clause would be unnecessary because the Bill's provisions are intended for the longer-term, not just the period immediately affected by the transition to Universal Credit and the Personal Independence Payment. We tried to illustrate this point yesterday by citing the example of an income threshold, which might be set to determine eligibility to passported benefits. Whatever figure is set for the income threshold, this is likely to become less useful over time, as a means of accurately identifying low income for the purposes of entitlement to passported benefits.

This is because inflationary pressures on the cost of living mean that, if a household which is currently in receipt of, for example, an income of £16,000 can hypothetically be said to be in relative poverty in comparison with other households in Scotland, this may not be true in 10 years' time. By that time, inflationary pressures may mean that households with an income of above £16,000 may also be at an equivalent relative level of poverty. We would require to

adjust the income threshold, in order to ensure that we could continue to accurately capture households with low, relative incomes over time and not exclude those which are at risk of falling into poverty as the cost of living rises.

As things stand, we would be able to make this adjustment using the powers enabled by the Bill. If these powers ceased, because of a sunset clause, we might then have to recourse to further primary legislation – which we do not consider to be a useful or effective use of government or Parliamentary resources. We believe therefore, that this requirement, to use a term from yesterday, to “futureproof” our eligibility criteria for passported benefits justifies these powers being retained in order to keep the related legislation operating effectively over time. I hope this also clarifies the need the need to maintain powers of this nature beyond the period of full transition to the new UK Act system.

You also asked for further information on the consequences of a sunset clause for the operation of the Bill. We believe that one consequence would be to give rise to additional risk. This is the risk that - if the UK Government were to decide to amend the welfare system in the future, in a way which in turn, also effected devolved legislation - then Scottish Ministers might need to react quickly in order to deal with the implications of those changes. We would expect UK amendments to be made by way of subordinate legislation, which the UK Government would be able to do, in part because the powers delegated by the UK Welfare Reform Act 2012 are not subject to a sunset clause.

For as long as Scottish Ministers are able to use the enabling powers proposed in our Bill, then they would be able to bring about adjustments to timescales which would likely be equivalent to those undertaken in the UK. Depriving Scottish Ministers of these powers could, at some future point, result in a need for further primary legislation which would in turn, potentially cause delay and a risk to continued provision. We believe that we have been quite explicit thus far, about the Scottish Government’s wish in bringing forward this legislation, to avoid any risk to the provision of passported benefits.

Finally, you asked if it would it be possible for any future changes to be considered on a longer timeframe and for more specific powers to be taken at that point if they were required. We do not see any reason why this would not be theoretically possible. However, we do not believe that this approach would be as effective a means of ensuring continued provision as the one taken in the Bill. To reiterate something I said on Tuesday, “the primary policy intent of this Bill is to ensure continued access to passported benefits”. Introducing a sunset clause would not, in our view, ensure continued access – it would ensure access for a fixed period, after which the same issue would have to be addressed again.

We understand, to an extent, Committee’s concern about delegating these powers in perpetuity. However, we feel that the existing Parliamentary procedures for scrutinising regulations, such as those which will be made under the Bill, should provide sufficient assurance that these powers will be used appropriately.

## **ANNEXE B: EXTRACT FROM MINUTES**

### **1st Meeting, 2012 (Session 4), Thursday 23 February 2012**

**UK Welfare Reform Bill:** The Convener and other members made introductory remarks on the role of the Committee.

**Work programme:** The Committee discussed its approach to developing its work programme.

### **2nd Meeting, 2012 (Session 4), Tuesday 13 March 2012**

**Decision on taking business in private:** The Committee agreed to take agenda item 2, and also a discussion on working practices at its next meeting, in private.

**Legislation (in private):** The Committee considered its approach to upcoming legislation and agreed:

- to launch a call for written evidence on the day that the bill is launched;
- to delegate to the Convener and Deputy Convener - the wording of the call for evidence; the list of organisations and individuals at which to target the call for evidence; and the approach to publicising it;
- to delegate responsibility to the Convener to authorise any witness expense claims and
- to review evidence at the end of any evidence taking sessions, and to consider draft reports in private.

**Welfare Reform:** The Committee took evidence in roundtable format from—  
David Griffiths, Chief Executive, Ecas and Scottish Council for Voluntary Organisations;  
Matt Lancashire, Social Policy Officer, Citizens Advice Scotland;  
Bill Scott, Manager, Inclusion Scotland;  
Carolyn Roberts, Head of Policy and Campaigns, Scottish Association for Mental Health;  
Michael McClements, Policy Manager, COSLA;  
David Ogilvie, Policy and Strategy Manager, Scottish Federation of Housing Associations;  
Maggie Kelly, Policy and Campaigns Officer, Poverty Alliance;  
Richard Hamer, Director of External Affairs, Capability Scotland;  
Dr Jim McCormick, Scotland Adviser, Joseph Rowntree Foundation;  
Councillor Matt Kerr, Chair, Scottish Local Government Forum Against Poverty;  
John Dickie, Head, Child Poverty Action Group in Scotland;  
Robert McGeachy, Policy and Public Affairs Manager, Action for Children Scotland;  
Kate Higgins, Policy Manager, Children 1st;  
Mark Ballard, Head of Policy, Barnardo's Scotland;  
Marion Macleod, Senior Policy and Parliamentary Officer, Children in Scotland;

Marion Davis, Senior Manager (Policy and Development), One Parent Families Scotland;  
Claire Telfer, Policy and Advocacy Manager (Scotland), Save the Children.

### **3rd Meeting, 2012 (Session 4), Thursday 29 March 2012**

**Decisions on taking business in private:** The Committee agreed that reviews of evidence and draft reports on the Welfare Reform (Further Provision) (Scotland) Bill should be taken in private at future meetings.

**Welfare Reform (Further Provision) (Scotland) Bill:** The Committee received a briefing on the general principles of the Bill from—  
Beverley Francis, Head of Welfare Reform Team, Chris Boyland, Bill Manager, Ann McVie, Team Leader, Welfare Division, Susan Anton, Analytical Services Division, Alison Stewart, Legal Division, and John Paterson, Legal Division, Scottish Government.

**Working practices (in private):** The Committee discussed a paper detailing a number of forms of business which are likely to feature regularly in the Committee's work programme where it may wish to consider agreeing standard working practices.

### **4th Meeting, 2012 (Session 4), Tuesday 17 April 2012**

**Welfare Reform (Further Provision) (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—  
Hanna McCulloch, Scottish Campaign on Welfare Reform;  
Jeanette Campbell, Parliamentary Officer, Citizens Advice Scotland;  
Michael McClements, Policy Manager, COSLA;  
David Ogilvie, Policy and Strategy Manager, Scottish Federation of Housing Associations;  
John Dickie, Head, Child Poverty Action Group in Scotland;  
Bill Scott, Manager, Inclusion Scotland;  
Satwat Rehman, Director, One Parent Families Scotland;  
Maggie Kelly, Policy and Campaigns Officer, Poverty Alliance.

Kevin Stewart declared an interest as a councillor for Aberdeen City Council, Margaret Burgess declared an interest due to longstanding involvement with Citizens Advice Scotland and Jamie Hepburn declared an interest as a previous member of Poverty Alliance.

**Welfare Reform (Further Provision) (Scotland) Bill (in private):** The Committee reviewed the evidence heard earlier in the meeting.

**5th Meeting, 2012 (Session 4), Tuesday 24 April 2012**

**Welfare Reform (Further Provision) (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—

Hanna McCulloch, Senior Policy Officer, Capability Scotland;  
David Griffiths, Chief Executive, ECAS;  
Mike Holmes, Executive Director, Enable Scotland;  
Tanith Muller, Parliamentary and Campaigns Officer - Scotland, Parkinson's UK;  
Ken Reid, Chair, RNIB;  
Carolyn Roberts, Head of Policy and Campaigns, Scottish Association for Mental Health;  
Gordon Macrae, Head of Communications and Policy, Shelter Scotland.

Kevin Stewart declared an interest as a councillor for Aberdeen City Council.

**Welfare Reform (Further Provision) (Scotland) Bill (in private):** The Committee reviewed the evidence heard earlier in the meeting.

**6th Meeting, 2012 (Session 4), Tuesday 1 May 2012**

**Decision on taking business in private:** The Committee agreed that its consideration of a draft report on the Welfare Reform (Further Provision) (Scotland) Bill should be taken in private at future meetings.

**Welfare Reform (Further Provision) (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—

Dr Stephen Carty, General Practitioner, Black Triangle Campaign;  
Dr David Bell, BMA Scotland;  
Owen Kelly, Chief Executive, Scottish Financial Enterprise;  
Dermot O'Neil, General Manager, Scottish League of Credit Unions;  
Laurie Russell, Chief Executive, the Wise Group;  
Nicola Sturgeon, Cabinet Secretary for Health, Wellbeing and Cities Strategy, Chris Boyland, Policy Executive, Welfare Division, Ann McVie, Team Leader, Welfare Division, and Alison Stewart, Legal Division, Scottish Government.

Kevin Stewart declared an interest as a councillor for Aberdeen City Council and a member of St Machar Credit Union and Jamie Hepburn declared that Chris Boyland was a constituent.

**Welfare Reform (Further Provision) (Scotland) Bill (in private):** The Committee reviewed the evidence heard earlier in the meeting.

**7th Meeting, 2012 (Session 4), Tuesday 8 May 2012**

**Welfare Reform (Further Provision) (Scotland) Bill (in private):** The Committee considered a draft Stage 1 report.

**8th Meeting, 2012 (Session 4), Tuesday 15 May 2012**

**Welfare Reform (Further Provision) (Scotland) Bill (in private):** The Committee agreed a Stage 1 report.

## ANNEXE C: ORAL AND WRITTEN EVIDENCE AND CORRESPONDENCE

The oral and written evidence has not been reproduced in this report but is available on the Committee's webpages at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/48685.aspx>

### ORAL EVIDENCE

- [Official Report of meeting 29 March 2012 \(300KB pdf\)](#)
- [Official Report of meeting 17 April 2012 \(432KB pdf\)](#)
- [Official Report of meeting 24 April 2012 \(397KB pdf\)](#)
- [Official Report of meeting 1 May 2012 \(517KB pdf\)](#)

### WRITTEN EVIDENCE

[ABCUL](#)

[Barnado's Scotland](#)

[Black Triangle Campaign](#)

[Capability Scotland](#)

[Carers Scotland](#)

[Children 1<sup>st</sup>](#)

[Children in Scotland](#)

[Citizens Advice Scotland](#)

[COSLA](#)

[Crohn's and Colitis UK](#)

[Disability Agenda Scotland](#)

[Disability History Scotland](#)

[ECAS](#)

[Edinburgh Voluntary Organisations Council](#)

[Enable Scotland](#)

[Hug \(Action for Mental Health\) Friday Forum](#)

[Inclusion Scotland March 2012](#)

[Inclusion Scotland April 2012](#)

[Inclusion Scotland April 2012 supplementary evidence](#)

[Joseph Rowntree Foundation](#)

[Leonard Cheshire](#)

[Long Term Conditions Alliance Scotland](#)

[NHS Lanarkshire](#)

[One Parent Families](#)

[Onions, Pat](#)

[Parkinsons UK](#)

[Poverty Alliance](#)

[RNIB Scotland](#)

[Save the Children](#)

[Scottish Association for Mental Health \(SAMH\) March 2012](#)

[Scottish Association for Mental Health \(SAMH\) April 2012](#)

[Scottish Campaign for a Fair Society](#)  
[Scottish Campaign on Welfare Reform \(SCoWR\)](#)  
[Scottish Central Branch, National Federation of the Blind](#)  
[Scottish Council for Voluntary Organisations](#)  
[Scottish Federation of Housing Associations March 2012](#)  
[Scottish Federation of Housing Associations April 2012](#)  
[Scottish Financial Enterprise](#)  
[Scottish Government April 2012](#)  
[Scottish Government May 2012](#)  
[Scottish Independent Advocacy Alliance](#)  
[Scottish Women's Convention April 2012](#)  
[Scottish Women's Convention May 2012](#)  
[Shelter Scotland](#)  
[Spicker, Professor Paul](#)  
[Tucker, Craig](#)  
[Unison Scotland](#)

## **CORRESPONDENCE**

[Lord Freud to Deputy Convener of the Welfare Reform Committee - 14 May 2012](#)  
[Lord Freud to Convener of the Welfare Reform Committee - 14 May 2012](#)  
[Convener of the Welfare Reform Committee to Lord Freud – 26 April 2012](#)  
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