



Designing a Social Security System for Scotland:
**Employment Programmes and
Discretionary Housing Payments**

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About the Citizens Advice Service

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Adviceguide provides information on rights and helps people solve their problems.

In 2014-15 the Citizens Advice Service network helped over 323,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £124 million and the Scottish zone of our self-help website Adviceguide received approximately 5.4 million unique page views.

Summary

The CAB service has a unique role in Scotland. No other charity offers direct help to so many people over such a wide variety of problems and across the whole of Scotland. Our on-the-ground experience and extensive evidence base puts us in an ideal position to set out a vision for how Scotland should use its new social security powers.

The process of devolving social security powers to Scotland includes control over employment programmes and Discretionary Housing Payments.

CAS believes that the devolution of employment programmes represents an opportunity to replace the existing Work Programme and Work Choice with schemes that more effectively support long-term unemployed people to get into work, based on the positive employability programmes already existing in Scotland. However, we are concerned that as conditionality and sanctions remain reserved, maintaining a requirement for the new programme to refer people for possible sanctions regardless of any good reason a claimant might have, could result in a tension between the reserved agency providing the benefit and the devolved agency providing employment support, which may undermine good work carried out.

CAS recommends that employment programme providers are given discretionary powers over referrals over what is deemed to be non-compliance of the claimant commitment.

The devolution of the Discretionary Housing Payments (DHP) system gives the opportunity to revise existing UK Government guidance and develop some new criteria for its award. However, it is likely that DHPs will continue to be needed to support existing groups of people who currently are priorities for support from the fund. DHPs will continue to be required to mitigate the effects of the underoccupancy charge until Housing Benefit is fully replaced by Universal Credit. There is also likely to be increased demand from people who are subject to the Benefit Cap, due to the UK Government's decision to substantially lower it, meaning some households Housing Benefit entitlement for some households will be reduced by as much as £6,000 per year.

CAS recommends that Housing Benefit claimants who are affected by the underoccupancy charge should be able to receive a DHP mitigating their full losses until such time as it is fully replaced by Universal Credit.

In light of the impending reduction of the Benefit Cap to £20,000 per year, CAS recommends that people affected are considered a priority for DHP support.

CAS recommends that the Scottish Government review and revise existing guidance for payment of Discretionary Housing Payment to reflect the recommendations made above.

CAS recommends the Scottish Government explores alternative methods to assist people affected by any future removal of their entitlement to Housing Benefit or the housing element of Universal Credit.

Employment Programmes

The Smith Commission proposed that the Scottish Parliament will have all powers over support for unemployed people through the employment programmes currently contracted by DWP (which are presently delivered mainly, but not exclusively, through the Work Programme and Work Choice) on expiry of the current commercial arrangements.

Though CAS is concerned that the Scotland Bill currently restricts the powers devolved to employment support programmes that last at least a year, or the existing Access to Work scheme¹, devolution of employment support programmes presents an opportunity to create a new system, responsive to the needs of unemployed people in Scotland, and improving on the current system.

The existing Work Programme has been subject to wide-ranging criticism since its inception in 2011. This includes concern that it effectively required people to work without being paid a wage², that it was less effective at getting long-term unemployed people into work than taking no action would be^{3 4}, and that the payment-by-results structure of its contracts led providers to focus on the easiest to help clients, whilst ignoring those who were furthest from the labour market.⁵

There is already a substantial amount of well-regarded employability programmes and services in Scotland⁶ together with Scottish Government activity such as the Youth Employment Strategy⁷. These could be built upon to develop a robust, effective and supportive system to work with people who are long-term unemployed and help get them ready for work.

However, with conditionality and sanctions within Universal Credit, Jobseekers Allowance (JSA) and Employment and Support Allowance (ESA) remaining reserved, a number of challenges exist. CAB clients engaged with the current Work Programme have sought advice because they have been sanctioned, in some cases in harsh circumstances.

¹ Written evidence to the Devolution (Further Powers) Committee: Implementing the Smith Agreement – the UK Government’s Scotland Bill – Citizens Advice Scotland, August 2015

<http://www.cas.org.uk/publications/implementing-smith-agreement-%E2%80%93-uk-government%E2%80%99s-scotland-bill>

² John Downie: The Work Programme is about handouts to business, not jobs for people – Scotsman, February 2013 <http://www.scotsman.com/news/john-downie-the-work-programme-is-about-handouts-to-business-not-jobs-for-people-1-2794683>

³ Work Programme outcome statistics report – House of Commons Public Accounts Committee, February 2013

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/936/93602.htm>

⁴ The Work Programme report – House of Commons Public Accounts Committee, October 2014 <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmpubacc/457/45702.htm>

⁵ Most vulnerable jobseekers ‘too costly’ for Work Programme providers – The Guardian, February 2013 <http://www.theguardian.com/society/2013/feb/19/vulnerable-jobseekers-work-programme-providers>

⁶ The Employability Pipeline – Employability in Scotland

<http://www.employabilityinscotland.com/employability-pipeline/the-employability-pipeline/>

⁷ Developing the Young Workforce – Scotland’s Youth Employment Strategy – Scottish Government, December 2014 <http://www.gov.scot/Publications/2014/12/7750>

- An East of Scotland CAB reports of a client who missed a mandatory interview with a Work Programme provider agent, due to being interviewed by the police at the time of the interview after having her windows smashed and suffering a 'campaign of harassment'. She explained this to the agent, but her benefits were sanctioned. The first she was aware that there was a problem was not receiving her payment on the day it was due.
- A West of Scotland CAB reports of a client who was referred to a Work Programme provider during his JSA claim. He is now claiming ESA and is in the assessment phase. He wants to end his involvement with the Work Programme and receive assistance from the local authority employability service because he feels they would help him more. However, he is being told by both agencies that he cannot do this. Additionally, his involvement with the Work Programme provider should technically no longer be compulsory, but he is still being advised to attend by them or face a sanction.

CAS remains concerned about how this structure will sit alongside the current discredited sanctions regime which remains reserved. At the moment, Work Programme Providers have to refer ESA and JSA claimants for a possible sanction in every case where they fail to comply with their conditions; they have no discretion and are not able to consider whether the person had good reason for failing to comply – even though they know the claimant and might be sympathetic to, or in agreement about why non-compliance took place – e.g. a sick relative; transport problems; hospital appointments. Work Programme Providers should be there to support people into work rather than monitor conditionality.

In our view, maintaining a requirement on a Scottish Government-devised employment support programme to continue to refer people for sanctions will result in a massive strain between Governments which have a different view of the sanctions and conditionality regimes put in place by the UK Government.

CAS recommends that employment programme providers are given discretionary powers over referrals over what is deemed to be non-compliance of the claimant commitment.

Discretionary Housing Payments

The Smith Agreement proposed devolving powers over Discretionary Housing Payments to the Scottish Parliament, including “complete autonomy in determining the structure and value of the benefits...or any new benefits or services which will replace [it].”⁸ This provision is included as clause 22 of the Scotland Bill.

Discretionary Housing Payments (DHPs) were first introduced in 2001 to provide those in receipt of Housing Benefit (since extended to those claiming the housing element of Universal Credit) with further financial assistance if they are in need of it. Local authorities decide who receive a DHP and in theory have fairly wide discretion over who it is paid to, how much they receive, and for what housing-related purpose.⁹ However, they must take account of Department for Work and Pensions (DWP) guidance¹⁰ in making a decision over how a limited pot is spent.

Starting with changes to Local Housing Allowance in 2011/12, and followed by the introduction of the Benefit Cap and the underoccupancy charge in 2013/14, the DWP has provided additional funding to meet increased demand for DHPs as a result of ‘welfare reforms’, with the intention of supporting the ‘hardest cases’ of people unfairly affected by the changes.

This was followed by further additional funding provided by the Scottish Government from September 2013 with the express intention of fully mitigating the underoccupancy charge in Scotland. As a result the total available to Scottish local authorities for Discretionary Housing Payments has grown to over £48million in 2015/16.¹¹

Since the Scottish Government lifted the cap on the amount that could be spent on Discretionary Housing Payments (DHPs), and committed an additional £35 million to local authorities, this system has been successful in mitigating the effects of the ‘Bedroom Tax’.

It is important to note that whilst the Smith process devolves the power for the Scottish Government to remove the underoccupancy charge for people receiving Universal Credit (UC) – as CAS recommends it should do – as Housing Benefit remains reserved, the underoccupancy charge will need to continue to be mitigated through DHPs for those who receive it. According to official figures, as of August 2015 there were 457,621 Housing Benefit claimants in Scotland¹², (71,549 of whom

⁸ Report of the Smith Commission for further devolution of powers to the Scottish Parliament, paragraphs 49(3) and 51.

⁹ SPICe Briefing: Discretionary Housing Payments – Scottish Parliament Information Centre, February 2014 http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_14-17.pdf

¹⁰ Discretionary Housing Payments Guidance Manual – Department for Work and Pensions, August 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/453392/discretionary-housing-payments-guide-aug-15.pdf

¹¹ Discretionary Housing Payments in Scotland: as at 30 June 2015 – Scottish Government, August 2015 <http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/dhp>

¹² Housing Benefit caseload statistics – Department for Work and Pensions, November 2015
<https://www.gov.uk/government/statistics/housing-benefit-caseload-statistics>

were subject to the underoccupancy charge¹³), compared with just 9,512 Universal Credit claimants¹⁴, not all of whom would receive the housing element. Due to the slow pace of the Universal Credit rollout it is likely that it will be a number of years before the migration from Housing Benefit to UC is complete.

CAS recommends that Housing Benefit claimants who are affected by the underoccupancy charge should be able to receive a DHP mitigating their full losses until such time as it is fully replaced by Universal Credit.

Households affected by the Benefit Cap are also able to make a claim for a DHP, with some funding from the Department for Work and Pensions being allocated for this purpose. At present, the numbers affected by the Benefit Cap in Scotland are relatively low, with 769 households being affected in May 2015 and who had their Housing Benefit reduced by the equivalent amount - in Scotland up to £250 per week¹⁵.

However, following the UK Government's plans to significantly reduce the Benefit Cap from £26,000 to £20,000 per year (from £18,200 to £13,400 for single people), many more households in Scotland will be affected¹⁶, and those already capped face a further reduction in their income of £6,000 per year.

Beyond that, the only estimates the Department for Work and Pensions (DWP) have produced estimate that 92,000 households in Great Britain will be affected by the reduced Benefit Cap¹⁷. Given that around 9.6% of Housing Benefit claims are made in Scotland¹⁸, and that part of the rationale for a higher Cap in London is to 'even out' the effects of the Benefit Cap, that would equate to roughly 8,500 to 9,000 households affected by the reduction.

The groups most likely to be affected at the moment are larger families and lone parents, as well as the children who live in the households. At the moment 60% of capped households had between one and four children and 35% had five or more children. 64% of capped households constituted a lone parent with children.¹⁹ This is mainly a combination of need for large houses with high rents, as well as claiming children's benefits which are not exempted from the cap.

¹³ Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

¹⁴ Universal Credit: monthly experimental official statistics to 29 October 2015 – Department for Work and Pensions, November 2015 <https://www.gov.uk/government/statistics/universal-credit-29-apr-2013-to-29-october-2015>

¹⁵ Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

¹⁶ No estimate for Scotland is currently available, but the UK Government estimates that an additional 92,000 households across Great Britain will be affected by the lowering of the Benefit Cap. Welfare Reform and Work Bill: Impact Assessment for the Benefit Cap – Department for Work and Pensions, July 2015 <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

¹⁷ Impact Assessment – Benefit Cap <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

¹⁸ Housing Benefit caseload statistics: data to May 2015 - Department for Work and Pensions <https://www.gov.uk/government/statistics/housing-benefit-caseload-statistics>

¹⁹ Benefit Cap Quarterly Statistics: GB Households capped to May 2015 – Department for Work and Pensions https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/452971/benefit-cap-statistics-to-may-2015.pdf

From the Government's Impact Assessment, it is forecast that 64% of those affected by the lowering of the Cap will be single women, compared with 18% being single men, and the majority will be aged 25-44.

In light of this, CAS recommends that people affected by the Benefit Cap are considered a priority for DHP support.

At present the UK Government contributes a total of £13,331,287 to Scottish local authorities' DHP funds, and has indicated they will commit a total of £800 million across Great Britain over the next five years²⁰. Clarification over whether this funding will be transferred to the Scottish Government following the devolution of DHPs would be welcome.

The devolution of Discretionary Housing Payments gives the Scottish Government an opportunity to revise existing guidance²¹ for their award. However, some groups of people who may be affected by social security changes will not be eligible for support under the terms of the Scotland Bill – for instance 18 to 21 year olds who will no longer be entitled to Housing Benefit, or people who incur rent arrears because of the five week waiting period for a first Universal Credit payment.²²

CAS recommends that the Scottish Government review and revise existing guidance for payment of Discretionary Housing Payment to reflect the recommendations made above.

CAS recommends the Scottish Government explores alternative methods to assist people affected by any future removal of their entitlement to Housing Benefit or the housing element of Universal Credit.

²⁰ Welfare Reform and Work Bill: Impact Assessment for the Benefit Cap – Department for Work and Pensions, July 2015 <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

²¹ Discretionary Housing Payments Guidance Manual – Department for Work and Pensions, August 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/453392/discretionary-housing-payments-guide-aug-15.pdf

²² Universal Credit is paid monthly in arrears and seven 'waiting days' are applied before a claimant is eligible for support.



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