

The Smith Commission and beyond: the devolution of housing benefit to the Scottish Parliament

Shelter Scotland briefing

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Summary

- **Any additional powers devolved to the Scottish Parliament must be devolved in a holistic manner.** This must be driven by a will to link up extra powers with devolved areas to reduce poverty and inequality generally and to tackle homelessness and housing need specifically.
- **Further devolution must be matched with fiscal and economic powers.** The Scottish Parliament must be fully responsible and accountable for any additional social security powers devolved to it.
- **Full devolution of housing benefit provides the opportunity to shift the balance in spending from demand-side to supply-side housing subsidies.** Devolution of housing benefit should be driven by a will to, over time, shift housing subsidies from housing benefit to house building with transitional protection for current housing benefit claimants.

Recommendations

Adapting Universal Credit to facilitate future policy changes

- Housing benefit via the housing costs element should be provided outside of Universal Credit in Scotland. This will allow the Scottish Government to pursue its own policy agenda in relation to housing benefit.

Using the new powers devolved to the Scottish Parliament

Using the powers to be devolved to the Scottish Parliament from the Smith Commission process the Scottish Government should:

- act to permanently abolish the 'bedroom tax' in Scotland,
- review the rates of housing benefit paid to tenants in the private rented sector,
- consider how to simplify and make fair non-dependant deductions,
- and examine how the power to pay landlords housing costs directly might be used in the interests of tenants in both the social rented and private rented sector.

Long-term strategy on housing subsidies should seek to refocus housing subsidies onto housing supply

- The driving force behind the devolution of housing benefit and social security should be a long-term strategic ambition to refocus housing subsidies onto housing supply. This shift would enable the Scottish Government to refocus spending on housing subsidies onto housing supply and away from moderating the unaffordability of rented housing in Scotland.
- If further powers relating to social security are devolved to the Scottish Parliament the Scottish Government should have sufficient additional financial powers. Ensuring that any further devolution is long-lasting and the Scottish Government is fully responsible and accountable for devolved social security budgets.

Introduction

Housing benefit has been a feature of UK housing policy for more than 40 years. Since the reconvening of the Scottish Parliament in 1999 and during the run up to the referendum on Scottish independence on the 18th of September 2014, policy discussion in the housing sector has frequently focused on the potential for housing benefit – alongside other aspects of social security – to be devolved to the Scottish Parliament. This has continued beyond the referendum and has led to the proposals put forward by the Smith Commission and subsequent draft clauses.

To help inform the ongoing debate on the devolution of social security Shelter Scotland commissioned research into the operation of housing benefit in Scotland: 'The Devolution of Housing Benefit and Social Security: Rebalancing Housing Subsidies in Scotland'.¹ The research makes several recommendations in light of both the Smith Commission process and the general direction of housing policy in relation to social security and housing subsidies in Scotland.

In this paper we set out the principles that Shelter Scotland believes should underpin further devolution of social security – including housing benefit – to the Scottish Parliament, and what steps the Scottish Government and UK Governments should take in relation to the devolution of social security.

¹ Gibb, K, Stephens, M, Blenkinsopp, J, 'The Devolution of Housing Benefit and Social Security: Rebalancing Housing Subsidies in Scotland', Shelter Scotland, 2015
http://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/the_devolution_of_housing_benefit_and_social_security_rebalancing_housing_subsidies_in_scotland

The principles that should underpin devolution of social security

Additional powers in relation to social security should be devolved holistically

Further devolution of social security should be driven by the need to link up the delivery of devolved policy with currently reserved policy areas to tackle poverty and inequality generally, and housing and homelessness specifically.² The justification for additional powers should be seen through this prism: how could these extra powers be used in tandem with devolved areas – such as housing investment and health and social care – to deliver better outcomes for people who are homeless, badly housed or in need of help to pay their housing costs.

Devolution of social security must be matched with sufficient fiscal and economic powers

If additional aspects of social security are devolved – such as housing benefit – the Scottish Parliament should be given sufficient borrowing power and control over revenue, to ensure the Scottish Government is fully accountable and responsible for social security budgets. Devolving budgets which relate to social security spend without devolving powers relating to borrowing and revenue could leave the Scottish Parliament in a vulnerable position if Scotland's labour market deteriorates, for example. In such a scenario the Scottish Government may not be able to temper the rise in social security spend by varying taxation or increasing borrowing at Scotland level. It would also make the Scottish Parliament only partly accountable for social security spend. Incentives for the Scottish Parliament to act to bring down housing benefit spend by investing in new housing supply – thereby reducing the reliance on the more expensive private sector – would be weak. This last point is key given the importance of policy-change in the context of further devolution.

² As set out in Shelter Scotland's submission to the Smith Commission:
http://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/submission_to_the_smith_commission

Full devolution of housing benefit offers the potential for a shift in the balance in spending towards new social housing supply

One of the key policy changes that a Scottish Government would be open to pursue should housing benefit be devolved is, over time, to phase in a shift in spending from demand-side housing subsidies to supply-side subsidies.³ Essentially spending less on housing benefit and more on housing supply over time, with robust transitional protection for current housing benefit claimants.

Broadly speaking the benefits of pursuing this policy are two-fold: government spend on social security would be reduced: tenants who need support paying their rent will be adequately housed in the less expensive social sector. Furthermore increased rates of house building will benefit the many thousands of people currently on housing waiting lists across Scotland and better equip Scotland to meet future demand for housing.

The devolution of social security: what should happen now?

Universal credit needs to adapt to facilitate future policy changes in relation to housing benefit

The imminent roll-out of Universal Credit in Scotland – which includes a housing cost element administered centrally rather than at local authority level – creates a risk that administrative capacity and housing benefit expertise will be lost. Should the Scottish Government wish to embark on radical reform of how this benefit operates this must be retained. Therefore Shelter Scotland is of the view that housing costs should not be a part of Universal Credit in Scotland. Importantly housing benefit provided outside of Universal Credit must operate in such a way that claimants are not put at a disadvantage due to multiple tapers operating across housing benefit and Universal Credit.⁴

Recommendation: housing benefit via the housing costs element should be provided outside of Universal Credit in Scotland.

³ Gibb, K, Stephens, M, Blenkinsopp, J, 'The Devolution of Housing Benefit and Social Security: Rebalancing Housing Subsidies in Scotland', Shelter Scotland, 2015

⁴ *Ibid*

Small changes can have a big impact

While the recommendations of the Smith Commission and subsequent draft clauses may have fallen short of the wholesale devolution of social security that some in Scotland – including Shelter Scotland – called for, it does allow for small changes to be made which are capable of having a big impact on households who need help to pay their housing costs.

Powers the Smith Commission proposed be devolved to the Scottish Parliament:

- The power to vary the frequency of Universal Credit payments and pay landlords directly for housing costs.
- The power to vary the housing costs element of Universal Credit.
- Full power over Discretionary Housing Payments.

This basket of new powers gives the Scottish Parliament the ability to abolish the 'bedroom tax', ending the administratively difficult process of the under occupancy deduction being applied to social tenants and then rent accounts being topped up via discretionary housing payments. The Scottish Parliament could also, if it chose to, reverse recent cuts to housing benefit paid to private tenants (since 2011 the local housing allowance rate has been reduced from the 50% percentile of rents in the private sector to the 30% percentile rents and in 13/14 rose by a fixed rate of 1%). Another possibility is for housing costs to be paid directly to landlords – a policy issue causing concern among many social landlords in Scotland given the risk that vulnerable claimants may be put under additional pressure if their benefits are paid in one monthly lump sum.

While these changes are mostly administrative, and fall far short of allowing the Scottish Parliament to make big structural shifts in spend on housing subsidies in Scotland, their combined impact should not be overlooked.

Recommendations

The Scottish Government should;

- act to permanently abolish the 'bedroom tax' in Scotland,
- review the rates of housing benefit paid to tenants in the private rented sector,
- consider how to simplify and make fair non-dependant deductions,
- and examine how the power to pay landlords housing costs directly might be used in the interests of tenants in both the social rented and private rented sector.

Devolution of housing benefit should be driven by long-term strategy to increase investment in housing supply

What is clear from the Smith Commission proposals is that housing benefit has not been devolved to any great extent. The powers that are proposed to lie with the Scottish Parliament relate to the administration of housing costs payments through Universal Credit. While this could lead to important changes for housing benefit claimants in the short-term the additional powers wouldn't enable the Scottish Parliament to make structural changes to the way that housing subsidies operate in Scotland.

This last point is key: if the wholesale devolution of social security to the Scottish Parliament – including housing benefit – is a real possibility this must be policy-driven. If the end-result of further devolution is the same housing benefit system only administered from Scotland then a big opportunity to positively utilize government budgets which go towards housing will have been missed.

The vision that should underpin the devolution of housing benefit should be an ambition to shift housing subsidies from the demand-side to the supply-side. In essence shifting government expenditure from housing benefit to housing investment. This would require the Scottish Government to view housing benefit and housing

investment spend as both achieving the same aim.⁵ During any transition the experience of housing benefit claimants should be absolutely central, and robust transitional protection must be in place to ensure that no housing benefit claimants are worse off due to any long-term policy shift.

Recommendation: the driving force behind any further devolution of housing benefit – and social security more widely – should be a long-term strategic ambition to refocus housing subsidies onto housing supply.

The Scottish Parliament must have the financial levers to be responsible and accountable for devolved budgets

The devolution of significant spend on social security to the Scottish Parliament is not without risks. Should social security expenditure be devolved to Scotland and is not matched by the ability to raise taxation or control budgets then the Scottish Parliament's hands could be left tied should the economy take a turn for the worse, as it did in 2008. This would undermine the sustainability of any devolution settlement which devolved significant aspects of social security.

Ensuring that the Scottish Government is fully responsible for social security budgets is also important as a driver of long-term policy change. A Scottish Parliament with limited control over budgets would not see the full fiscal benefit of pursuing a housing policy which prioritised house building over moderating the unaffordability of housing in Scotland. Savings from the reduction in housing benefit spend – due to an increased supply of homes for social rent with lower rents and a reduced reliance on the more expensive private rented sector – would be a benefit for people across Scotland. The allocation of additional fiscal powers would also give the Scottish Government the power to invest in the transitional phase that would accompany a long-term policy shift.

⁵ As argued in 'Bricks or Benefits? Rebalancing housing investment', Shelter, 2012
http://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/bricks_or_benefits_rebalancing_housing_investment

Recommendation: should housing benefit – alongside other elements of social security – be devolved to the Scottish Parliament the Scottish Government should have sufficient financial power to ensure it is both fully accountable and responsible for these budgets. The Scottish Government should be given control or a share of tax revenue to ensure that devolution of social security is stable and long-lasting.

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