The Committee will meet at 10.00 am in Committee Room 5.

1. **Decision on taking business in private**: The Committee will decide whether to take item 4 in private.

2. **Family Nurse Partnership**: The Committee will take evidence from—

   - Gail Trotter, National Implementation Lead for Family Nurse Partnership, NHS Education for Scotland;
   - Joan Wilson, Head of Nursing & Vulnerable Children/Families, NHS Tayside;
   - Sally Egan, Associate Director and Child Health Commissioner, NHS Lothian.

3. **Welfare Reform (Further Provision) (Scotland) Bill**: The Committee will take evidence on the Financial Memorandum of the Welfare Reform (Further Provision) (Scotland) Bill from—


4. **Welfare Reform (Further Provision) (Scotland) Bill**: The Committee will consider the evidence taken on the Financial Memorandum of the Welfare Reform (Further Provision) (Scotland) Bill.
The papers for this meeting are as follows—

**Agenda Item 2**

Paper by the clerk

**Agenda Item 3**

Paper by the clerk

Written submissions
Finance Committee
11th Meeting, 2012 (Session 4), Wednesday 18 April 2012

Family Nurse Partnership

Purpose
1. The purpose of this paper is to provide background information for the evidence session on the Family Nurse Partnership (FNP). A briefing paper has been submitted by the witnesses and this is attached (Annex A) while a briefing from the Scottish Government website is at Annex B.

Background
2. The FNP programme is being delivered in NHS Lothian (a team of six family nurses and one supervisor, who are working with 148 families) and NHS Tayside (two teams of six nurses and one supervisor each, aiming to reach 300 families by summer 2012).

3. The programme's main aims are to improve maternal health, child health and development, and family economic self-sufficiency. It addresses elements of the three big key social policy areas - health inequalities, child poverty and early years.

4. The programme is delivered by highly trained nurses (family nurse), each with a caseload of 25 clients. It begins in early pregnancy (before 28 weeks) and lasts until the child reaches two. During the antenatal period, maternity care is delivered by midwives, including screening and core antenatal appointments. However, the public health nurse-health visitor role is covered by the family nurse.

5. The family nurse takes on the role of the named person, in the care of the child, and brings services to the family for additional support. The materials the family nurse uses to support the family are in line with the core materials used universally, to deliver health promotion activity. The family nurse visits regularly - either weekly or fortnightly depending on the family's needs. The visits last, on average, one hour. Links to existing processes and procedures, particularly in areas such as child protection, need to be carefully considered. The programme does not work in isolation - anyone receiving the programme will also be linked into local universal and specialist services, to support them with any additional needs.

6. The Scottish Spending Review 2011 and draft budget 2012-13 indicates the commitment by the Scottish Government to roll out the FNP programme across Scotland. While there is no distinct budget line to identify what specific spending is being allocated to fund this programme, the Scottish Government does highlight funding of £20 million, £45 million and £50 million across the spending review period in an Early Years and Early Intervention Change Fund.

Other consideration
7. The Committee will recall other consideration it has given to the issue of early years within the context of its work on preventative spending.
Growing Up in Scotland

8. The Committee held an evidence session in March with researchers conducting the Growing Up in Scotland (GUS) research study. This is ‘a large scale longitudinal and cross sectional study which will provide information about how circumstances and experiences for children in Scotland are changing and provide data about ‘outcomes’ for children and the factors that influence outcomes’. Data from GUS will help monitor progress towards the Scottish Government’s Early Years Framework.

9. A series of reports was published in June 2011. The findings included—

- During the first five years of their lives, around one in ten children in Scotland experience their parents separating, with the incidence being highest in the first two years after the child’s birth. Separation increased the likelihood of mothers experiencing poor mental health and low income, both known drivers of child outcomes.
- The gap in cognitive abilities between children from more and less advantaged social backgrounds found at age 3 persists at age 5. The largest differences in ability are between children whose parents have higher and lower educational qualifications. Factors such as a rich home learning environment had a positive influence on the improvement of cognitive ability in the pre-school period.
- Children whose parents had no qualifications were found to have vocabulary ability around 18 months behind children of degree-educated parents.
- Mothers living in disadvantaged circumstances are more reluctant to engage with services aimed at supporting parents with young children and are less likely to make use of such services. Informal support by family and friends was used equally by those with different levels of service use.
- Child health and health behaviours are less favourable in families experiencing adversity. However, good parenting was found to have a positive impact on child health. This suggests that parenting support could go some way in reducing health inequalities.

Graham Allen MP

10. Graham Allen MP produced three reports (including two this year for the UK Government) on early intervention with a particular focus on early years. The second of these reports, Early Intervention: The Next Steps, made a number of recommendations—

- with UK Government encouragement the best and most rigorously proven programmes should be pulled together using the best methodology and science to promote their wider use
- Government should encourage 15 local Early Intervention Places to pioneer the programmes and promote an independent Early Intervention Foundation, independently funded, to motivate those in the Early Intervention sector, prove the programmes above, work with pioneering places and raise additional long term finance for early intervention from nongovernmental sources
- the Government should take further existing policies in this field to make sure that all children have the social and emotional capability to be ‘school ready’ at five, including:
a. long-term plan to give all vulnerable first-time mothers who meet the criteria and want it, access to Family Nurse Partnerships;
b. working up a national parenting campaign as part of the Big Society;
c. high-quality, benchmarked pre-school education for 2-, 3- and 4-year-olds as part of a 0–5 Foundation Stage;
d. cross-party review to plan progress towards a quality paternity and maternity settlement; and
e. more coherent series of assessments for the 0–5s to detect and resolve social and emotional difficulties before they become intractable

Netherlands Youth Institute

11. The Committee will recall it held a video conference with the Netherlands Youth Institute to discuss work taking place in the Netherlands in developing and applying an early years approach. The Committee had indicated that it would be useful to consider first-hand evidence on, specifically, the successful implementation of early years policies in other countries. The Netherlands was identified as a good example in this area by the previous Committee in its report on preventative spending.

12. Some of the key points to emerge from that evidence session were—

- prenatal care is very extensive - the midwife visits the expecting mother 10 to 14 times over the nine-month period prior to birth. If the midwife notices risks the mother can be referred to the gynaecologist
- the midwife and the gynaecologist focus on the medical aspects of pregnancy
- prenatal care is offered by youth and family centres (in every municipality) which also offer information and guidance to parents, identify problems, guide parents to help if they have more specific needs and co-ordinate care. As such, they offer children not only healthcare but support with growing up
- support to parents and children is given from minus nine months to 23 years
- attendance at youth and family centres is purely voluntary but, as they also provide free vaccinations and free check-ups, the attendance rate is very high (around 85% but in the week after birth it is higher, at 99%).

13. Below are the main findings from the UNICEF report, Child poverty in perspective: An overview of child well-being in rich countries which provides a comprehensive assessment of the lives and well-being of children and young people in 21 nations of the industrialized world—

- the Netherlands heads the table of overall child wellbeing, ranking in the top 10 for all six dimensions of child well-being covered by this report
- European countries dominate the top half of the overall league table, with Northern European countries claiming the top four places
- all countries have weaknesses that need to be addressed and no country features in the top third of the rankings for all six dimensions of child wellbeing (though the Netherlands and Sweden come close to doing so)
- the UK and the USA find themselves in the bottom third of the rankings for five of the six dimensions reviewed
• no single dimension of well-being stands as a reliable proxy for child well-being as a whole and several OECD countries find themselves with widely differing rankings for different dimensions of child well-being
• there is no obvious relationship between levels of child well-being and GDP per capita. The Czech Republic, for example, achieves a higher overall rank for child well-being than several much wealthier countries including France, Austria, the US and the UK.

Conclusion
14. The Committee is invited to note the above.

Fergus D. Cochrane
Senior Assistant Clerk to the Committee
1. **How does the Family Nurse Partnership Programme link to the National Performance Framework?**

   The FNP programme is for first time teenage parents\(^1\). It is recognised that this particular cohort of the population has specific needs. Evidence shows that:

   - Children born to teenage mothers are more likely to have poor outcomes;
   - The developmental changes taking place in adolescence bring particular risks for teen mothers and their children.

   The FNP programme has three overarching aims at programme level. These are to: *improve maternal health and birth outcomes*; *improve child health and development*; and *improve economic self-sufficiency of the family*. It starts in early pregnancy and lasts until the child reaches two.

   These high level programme outcomes are then re-defined as lower level outcomes for each of the phases\(^2\) of the programme, applicable to mother or child\(^3\). There are short, medium and long term outcomes, depending on which phase of the programme the families are on, where they are within each phase and their own, individual circumstances see Appendix 1.

   The FNP programme makes a contribution to at least four of the Scottish Government’s 16 National Outcomes as well as several HEAT targets relating to breast feeding and child health.

   Two main National Outcomes met by FNP:

   - No 5 ‘*Our Children have the best start in life and are ready to succeed*’ - the work FNP delivers in pregnancy and through the first two years of a child’s life through prevention and early intervention is key to achieving the outcome in the Early Years Framework and GIRFEC.
   - No 8 ‘*We have improved the life chances for children, young people and families at risk*’. All young parents who receive the FNP programme will benefit from the programme in some way. However those who are the most disadvantaged will see the greatest benefits. The programme takes a holistic approach and there is a focus on parenting which brings a strength based approach to address the inequalities some families face and the resulting impact this can have on children within those families.

\(^1\) Eligibility criteria – pregnant teenagers, aged 19 or under at LMP, living within geographical reach of programme and ≤ 28 weeks gestation at enrolment, first time birth

\(^2\) Programme is delivered in 3 phases Pregnancy Phase (up to birth); Infancy Phase (first 12 months); Toddlerhood Phase (12-24 months)

\(^3\) Drawn from 3 different NFP Trials, each of which has followed up at different points in time and measured different things which is why different outcomes area evidenced at different ages. This list sets out the main benefits observed, it isn’t exhaustive.
2. How does the Family Nurse Partnership Programme link to other national policies?
The Scottish Government focus on early years is pre birth to age 8. There is strong evidence that pre-birth interventions are the most effective for children at risk of poor outcomes. We have collaborated with our colleagues within Child and Maternal Health Division on key publications\(^4\) that support this activity within maternity services and the early post birth period, sharing the learning from FNP.

We have also contributed to the work of colleagues across Scottish Government to align core messages, particularly around workforce development, practice change and strength based approaches. This has included a broad range of policy, including Child Poverty Strategy\(^5\), development of models and guidance for protecting children to the work on Modernising Community Nursing\(^6\). The lessons learned from the FNP approach are influencing thinking around education of community nurses, supervision models and organisational support required when implementing new models of care for vulnerable families i.e. Strength based leadership and how that impacts directly on staff delivering care.

We have demonstrated the potential benefits for replication of the approaches used in the FNP programme when looking at ‘co-production’. At a recent Joint Improvement Team conference we shared the learning from FNP and the potential for staff working with vulnerable elderly at home to use approaches such as agenda matching with the client, focussing on their strengths to motivate change behaviours, service development and design and being able to see the world through the eyes of the client whilst also remaining compassionate when delivering care. We shared the value of robust supervision support for staff, excellent education to equip them for the role and using clients to choose the practitioners best suited for the role.

We can show that the FNP programme shares the core ambitions of the Quality Strategy\(^7\): person-centred, safe and effective and puts this into practice. It also embodies the principles of the Getting it right for every child\(^8\) approach: putting the child at the centre, multi-agency working, appropriate information sharing, taking a holistic, proportionate role in supporting the family.

3. How does the Family Nurse Partnership Programme link to other local policies?
Within local NHS Board areas, the FNP programme has been seen as ‘a lever for change’ in working with families at risk of poor outcomes, especially teenage parents. It is a short term outcome in the Early Years Framework (SG 2008) and Equally Well (SG 2008).

\(^7\) http://www.scotland.gov.uk/Topics/Health/NHS-Scotland/nursing/Modernisation
\(^8\) http://www.scotland.gov.uk/Topics/Health/NHS-Scotland/NHSQuality/QualityStrategy
\(^8\) http://www.scotland.gov.uk/Publications/2011/01/11143648/1
This has included the development of pathways between the FNP team and local services such as housing, to provide a supportive route for teenage parents to access these services. Housing leads, both in the city of Edinburgh and across the NHS Tayside Board area (Angus, Perth and Kinross and Dundee city), have adapted their housing policies to recognise that where teenage parents are supported, they are more likely to maintain secure tenancies. Whereas previously, the policy was to wait until much closer to the baby’s birth to offer a tenancy option, they are now offering this much earlier, giving the family time to deal with one major life transition (moving out of the parental home) before their life circumstances change again (birth of the baby). This gives an opportunity for a more settled start for the family to concentrate on developing their parenting skills and capacities, and developing a relationship with their babies.

NHS Tayside has embarked on a Test of Change model. This development is designed to ‘test’ new ways of working which will enhance the support provided to children and families where needs are complex and multifaceted.

The learning from FNP will be tested within this development which will:

- Focus on earlier identification of needs and risk
- Apply the National Pathway of Care for Vulnerable Families (0-3) to Health Visiting practice and the National Practice Model – ‘My World Triangle’
- Use a strengths based approach when working with families
- Use motivational techniques in effecting behaviour change
- Increase levels of direct contact with families in need of intensive support
- Enable families to identify formal and informal sources of support to develop their self-efficacy

4. What lessons have been learned from the Family Nurse Partnership Programme implementation?

The FNP programme is focussed on outcomes. It has specified inputs that must be in place to achieve these outcomes. These are covered in the overarching licensing agreement, which is a legal commitment made by the country implementing the FNP programme to replicate the original research model. These are commonly known as the ‘Core Model Elements’. The implementing country is required to report on high level outcomes, in line with the licensing agreement, on an annual basis.

We initiated a formal, external evaluation of the implementation of the programme in Scotland, through Scotcen. The first interim report brought out early lessons on the benefits and challenges implementing an evidence-based programme within Scotland. It is clear that fidelity to the original model can be maintained, by using common, consistent approaches, techniques, tools and materials, education and training, quality assurance and governance structures. What appears to be more challenging is maintaining this new approach in an environment that is not designed for working in that way i.e. strength based as opposed to deficit approach. Learning

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a programme, alongside delivery, was also seen as a challenge. However, despite the intensity of the workload, Family Nurses could see the benefits of the programme at each interaction with their clients, giving them the motivation to continue to meet the challenges of shifting their practice in such a fundamental and sustained way. We are also seeing a workforce of community nurses highly motivated, feeling that they are equipped to undertake what is a challenging role. Early signs of staff ‘wellbeing’ such as low attrition, low absenteeism rates and ‘going the extra mile’ are becoming evident. In line with the principles of co-production the staffing group is playing an important part in ‘putting back’ into their professional community by supporting new sites, contributing to the development of new educational materials and buddying new teams.

5. What are the next steps for the Family Nurse Partnership programme?
The Cabinet Secretary for Health, Wellbeing and Cities Strategy, Ms Sturgeon, announced on 1 December 2011 that the FNP programme would be extended to a further 5 NHS Boards, including Glasgow, by end of 2013.

An expansion programme, to support this Ministerial commitment, has been developed\(^\text{13}\). All NHS Boards were asked to express interest in the programme, and provide information to be assessed by an expert panel. Phase 1 of this process has been completed, and two new NHS Boards were nominated to implement the programme during 2012. Further Boards will be announced by the end of June 2012, for implementation during 2013, as well as expansion plans within existing Boards.

Part of the overarching licensing agreement is a commitment to take a phased approach to expansion. This includes taking the learning from current site implementation, and embedding it for the next sites. For example, England have made a commitment to double the number of families receiving the programme by 2015, and will still only reach a proportion of the overall eligible population even though they began delivering the programme in 2007. Due to the geographic size of Scotland and the overall eligible population size, we expect to have the capacity to support one third of the eligible population, at any one time, by the end of 2013.

**Costs**
The average local programme costs are around £3,000 per year, for each family who completes the programme. The Scottish Government has committed to meeting the majority of funding for each new team, within each Board Area. There is an expectation that NHS Boards will make a small contribution at this time. Subsequent cohorts are expected to receive match funding between Scottish Government and local partners.

The licensing fee is calculated based on the number of expected clients. It is a nominal fee, paid to the University of Colorado, Denver, which covers basic administrative functions in relation to the licensing agreement and supporting activities (around $15 per client).

\(^{13}\) http://www.scotland.gov.uk/Topics/People/Young-People/Early-Years-and-Family/family-nurse-partnership/training
Potential cost savings
The NFP is more intensive (i.e. more frequent visiting) than the great majority of UK midwifery contacts or health visiting, though in some districts HVs devote at least 10 times the number of visits to the most needy clients as to those needing only a routine service. The evidence shows costs savings of between $3-$5, for every $1 spent, with cost savings continuing once the programme ends.

In terms of what the cost savings from FNP for 100 families could be:

If we prevent:
- 1 day in hospital for 10 pregnant women we save £10,000;
- One overnight stay in SCBU for 10 babies we save £4,500;
- 5 emergency hospital admissions we save £3,750;
- 5 children going into foster care it will save £135,000 a year.

If we prevent:
- 10 cases of serious conduct disorder we can save society £2.25m over their lifetime;
- Poor outcomes for 50 children with multiple disadvantages we could help save local services over £5m by the time these children are 16;
- 80 children having poor literacy and numeracy we could help save society up to £5m over a lifetime.

Benefits so far (early signs)
- Therapeutic relationships developed between nurses and their clients - clients wanting to share news with nurses e.g. going into labour
- High uptake of the programme
- High retention of clients
- Seeing parents implement the parenting approaches that are offered through the programme
- Healthy choices being made e.g. reducing smoking, alcohol

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14 "Developing an assessment tool with FNP: Hall & Hall 2007"
15 "A programme for prevention and early intervention: Information for Commissioners: Dept. of Health, 2010"
Outcomes attributable to the FNP Programme  Appendix 1

Drawn from 3 different NFP Trials, each of which has followed up at different points in time and measured different things which is why different outcomes are evidenced at different ages. This list sets out the main benefits observed, it isn’t exhaustive.

Pregnancy and Birth

Mother – Improved health behaviours in pregnancy
- 25% Reduction in cigarettes smoked (amongst smokers);
- Improvements in diet

Child – reduced neonatal risk factors
- 79% Reduction in premature births amongst mothers who smoked
- Increased birth weight amongst very young mothers
- Fewer pregnancy related complications

Infancy/Toddlerhood

Mother
- Fewer beliefs about child rearing associated with child abuse and neglect
- 31% fewer pregnancies within 6 months of birth of first child

Child
- 50-70% fewer hospitalisations for injuries and ingestions
- 50% reduction in language development delay at 21 months

But the benefits of the programme are sustained over time, post-graduation\textsuperscript{16} from the programme. These include:

Age 4

Mother
- 20% longer intervals between 1\textsuperscript{st} and 2\textsuperscript{nd} births
- 83% increase in labour force participation
- 46% increased father presence in the household

Child
- Better behavioural development and executive functioning.

\textsuperscript{16} Programme ends at age 2
It is estimated that between 2 and 5% of children in UK experience multiple deprivation and poor outcomes, incurring high cost to the public purse and society.

Recent neuro-scientific evidence shows how for these children negative experiences and poor parenting in pregnancy and very early childhood can do lasting harm to a child's brain development, behaviour, learning and long term health. There is, therefore, a strong case for intervening early with powerful programmes known to make a difference for these vulnerable children.

FNP is a preventive programme for vulnerable young first time mothers. It offers intensive and structured home visiting, delivered by specially trained nurses, from early pregnancy until the child is 2. FNP has 3 aims: to improve pregnancy outcomes; child health and development; and parents’ economic self-sufficiency. The methods are based on theories of human ecology, self-efficacy and attachment, with much of the work focused on building strong relationships between the client and Family Nurse to facilitate behaviour change and tackle the emotional problems that prevent some mothers and fathers caring well for their child.

FNP has brought a different way of working with the neediest families. It is strength based and focuses on an expectant mother's intrinsic motivation to do the best for their child. It consists of structured home visits using materials and activities that build self-efficacy, change health behaviour, improve care giving and increase economic self-sufficiency. At the heart of the model is the relationship between the client and the nurse. A therapeutic alliance is built by specially trained nurses, which enables the most at risk families to make changes to their health behaviour and emotional development and form a positive relationship with their baby.

FNP is a licensed programme, developed in the US at the University of Colorado, where it is known as the Nurse-Family Partnership (NFP). Over 30 years of rigorous research has shown significant benefits for vulnerable young families in the short, medium and long term across a wide range of outcomes including:

- improved early language development, school readiness and academic achievement
- improvements in antenatal health
- reductions in children's injuries, neglect and abuse
- improved parenting practices and behaviour
- fewer subsequent pregnancies and greater intervals between births
- increased maternal employment and reduced welfare use
- increases in fathers' involvement
- reduced arrests and criminal behaviour for both children and mothers

In an international review by The Lancet in 2009 the FNP was named as one of only 2 programmes shown to prevent child maltreatment.
Cost savings in the US are substantial, ranging from $17,000 to $34,000 per child by the time they reach 15, with a $3-5 return for every $1 invested. Significant expansion is planned in the US, on the back of the Obama Health Bill.

**FNP in the UK**

FNP has been tested in England since April 2007 with over 6000 families having received FNP so far. There are now teams in 55 LA/PCT areas, and a planned expansion to double the capacity of FNP to support 15,000 families in England by 2015 (DH Operating Framework 2011-12). It is estimated that the average local cost of FNP per client is £3,000 year.

FNP is now being tested in Scotland for the first time in NHS Lothian City of Edinburgh Community Health Partnership (Edinburgh CHP). The testing of FNP for the 3 years that the programme takes to deliver, is fully funded by the Scottish Government: £1.6m. NHS Lothian has a team of one Family Nurse Supervisor, 6 Family Nurses and one Administrator/Data Manager and supports 145 families.

A second FNP site has now commenced in July 2011 in NHS Tayside, the area with the highest teenage pregnancy rate in Europe. This FNP site will support approximately 295 families in Dundee City and the Tayside area of Angus and Perth and Kinross. The programme is being funded by the Scottish Government: £3.2m with a contribution by NHS Tayside. The NHS Tayside Team consists of 2 Family Nurse Supervisors, 12 Family Nurses and 2 Administrator/Data Managers.

Work is ongoing within Scottish Government to support the recent manifesto commitment to “rollout FNP across Scotland “ to reach three times the current number of families in receipt of the programme and identify the next NHS Boards to test FNP.

FNP is targeted on teenage first time mothers as a large body of research shows this group have a high level of need and that their children are at high risk of poor outcomes in the future. US evidence also shows that it is young disadvantaged first time mothers who benefit most from the programme. 85% of FNP mothers have incomes below the poverty line, 43% very low incomes and 75% no/minimal qualifications.

FNP is being evaluated in England through a formative evaluation of the first 10 sites, which will report early in 2011; and an RCT in 18 sites which will report in 2013.

The testing of FNP in NHS Lothian will be evaluated by an externally commissioned research team and report in 2013, the focus being on the transferability of this model recognising that the findings from RCT in England will also have a significant impact for FNP development in Scotland. The first evaluation report is available at http://www.scotland.gov.uk/Publications/2011/07/28142203/0

Early signs from this evaluation show that the programme is well received by clients, attrition is low at this stage and enrolment is high. Education and training for the role is highly regarded by the Family Nurses and links with wider services such as housing and social work are effective.
Early learning from England and early impacts look promising:

- high levels of engagement with hard to reach young parents, including fathers - 82% of those offered the programme enrolled
- strong engagement with fathers. More than half the fathers and partners had been present for at least one FNP visit
- enthusiastic support from nurses, who are seeing changes take place in health behaviour, relationships, parental role and maternal wellbeing. They have also reported that their clients are more confident as parents, were playing with their children more, wanted to learn, and had aspirations for the future
- reduced smoking during pregnancy and increased rates of breastfeeding
- the education and training is highly valued by Scottish Family Nurses and the model of supervision involving a psychologist is considered imperative to the role

FNP in England is either connected to or delivered from Sure Start Children's Centres (CC) in many areas and Family Nurses encourage clients to use CC services, particularly in preparation for the end of the programme when children reach 2. Family Nurses also work closely with public health nurses/health visitors and midwives and professionals from other services for children, young people and families where additional needs are identified, particularly in relation to social care and safeguarding.

**FNP Evidence**

A strong and rigorous US evidence base developed over 30 years has shown FNP benefits the most needy young families in the short, medium and long term across a wide range of outcomes helping improve social mobility and break the cycle of inter-generational disadvantage and poverty.

Evidence from 3 large scale trials which have followed children and families up to age 19 points to significantly improved health and wellbeing for disadvantaged children and their families including:

- improved early language development, school readiness and academic achievement
- improvements in antenatal health
- reductions in children's injuries, neglect and abuse
- improved parenting practices and behaviour
- fewer subsequent pregnancies and greater intervals between births
- increased maternal employment and reduced welfare use
- increases in fathers' involvement
- reduced arrests and criminal behaviour for children (at 15) and mothers

The benefits are greatest where the mother is young (teenage), has low psychological resources (low IQ, poor mental health, low SES/living in poverty) which is consistent with the eligibility criteria used to target the programme on first time teenage mothers in England.
FNP is consistently rated by high quality evidence reviews as one of the most effective preventative programmes for vulnerable young families.

Recently published US evidence provides further evidence of FNP effects enduring through childhood and into adulthood. This showed that FNP improves school achievement, reduces the use of cigarettes, alcohol or marijuana and anxiety and depression amongst 12 year olds and, also reduced arrests and convictions for girls up to age 19. The life course of FNP mothers was improved through strengthened mother-partner relationships, a greater sense of mastery, less parenting role impairment due to drugs and alcohol use and reduced family poverty. The Government saved more than the cost of the programme in welfare payments alone by the time the children were age 12.

More Specific Detail on Benefits
FNP improves pregnancy outcomes, child health and development and mother’s life course in the short, medium and longer term. In the US research FNP children and mothers, mainly those who were high risk with low psychological resources, compared to children and mothers in the comparison group had:-

Improved Pregnancy Outcomes
- 79% reduction in premature birth amongst mothers who smoked
- Fewer pregnancy related complications and infections
- 31% fewer closely spaced subsequently pregnancies

Improved Child Health and Development

Increase in Children’s School Readiness
- 50% reduction in language delays at 21 months;
- 67% reduction in behavioural/intellectual problems at age 6

Increase in Academic Achievement
- 26% higher scores on school reading and maths achievement in Grades 1-3**

Better Mental Health and Risk Taking Behaviour
- Lower rates of anxiety and depression at age 12
- Less use of tobacco, alcohol and marijuana at age 12
- Girls had had fewer pregnancies by age 19

Reduction in Criminal Activity
- 59% reduction in child arrests at age 15
- 90% reduction in PINS (US equivalent of supervision orders)

Reduced Child Abuse and Maltreatment
- 39% fewer injuries
- 56% reduction in emergency room visits for accidents and poisonings
- 48% reduction in child abuse and neglect

Improved Maternal Self Sufficiency and Life Course Development

Fewer Unintended Subsequent Pregnancies
- 23% fewer subsequent pregnancies by child age 2
- 32% fewer subsequent pregnancies

**Increase in Labour Force Participation by the Mother**
- 83% increase by the child's fourth birthday

**Reduction in Welfare Use**
- 20% reduction in months on welfare
- Saved the government over $12,300 per family in welfare payments alone by time children aged 12, greater than the programme cost of $11,511

**Increase in Father Involvement**
- 46% increase in father's presence in household

**More Sustained Relationships with Partner**
- 18% longer with current partner
- Longer time with an employed partner

**Reduction in Criminal Activity**
- 60% fewer arrests
- 72% fewer convictions

Put another way, FNP families compared to comparison group had:

**At Age 19**
**Child**
- 43% fewer arrests (between 15 and 19, girls)
- 58% fewer convictions (between 15 and 19, girls)
- 57% fewer lifetime arrests (girls)
- 66% fewer lifetime convictions (girls)
- had fewer children (girls)

**At Age 15**
**Child**
- 48% less verified incidents of child abuse and neglect
- 59% reduction in arrests
- 90% reduction in adjudication as persons in need of supervision (PINS) for incorrigible behaviour

**Mother**
- 61% fewer arrests
- 72% fewer convictions
- 20% less time on welfare*
- 32% fewer pregnancies
- 19% fewer subsequent births

**At Age 12**
**Child**
- Improved academic achievement**
- Less use of cigarettes, alcohol or marijuana
- Reduced levels of clinical and borderline anxiety and depression
Mother
- Longer partner relationships
- Less time on welfare and food stamps
- Less money from Government for welfare assistance
- Less role impairment due to alcohol and drug use

At Age 9
Child
- Lower mortality from preventable causes*
- 26% higher scores on school reading and maths achievement in Grades 1-3**

Mother
- 12% less time on welfare since birth of child
- 10% less time on food stamps
- 18% more time with current partner
- 41% fewer substances used in last 3 years (illegal drugs or moderate to heavy alcohol use)*
- 21% longer intervals in months between birth of first and second child

Age 6
Child
- 67% reduction in behaviour and intellectual problems

Age 4
Child
- 50% reduction in language development delay (standardised effect size 0.31)**
- Better behavioural development and executive functioning**

Mother
- 20% longer interval between 1st and 2nd births
- 83% increase in labour force participation
- 46% increased father presence in household

Age 2
Child
- 50-70% fewer hospitalisations for injuries and ingestion
- 50% reduction in language development delay at 21 months

Mother
- 23% fewer subsequent pregnancies
- 31% fewer pregnancies within 6 months of birth of first child
- Fewer beliefs about child rearing associated with child abuse and neglect

Pregnancy and Birth
- 25% reduction in cigarettes smoked amongst smokers
- Improvements to diet
- Fewer pregnancy related complications
- 79% reduction in premature birth amongst mothers who smoked
Increased birth weight amongst very young mothers

The information above is drawn from 3 different NFP Trials, each of which has followed families up at different points in time and measured different things which is why different outcomes are evident at different ages. This list sets outs the main benefits observed, it isn't exhaustive. There were also a number of measures that showed no significant differences between the FNP group and the comparison groups, again these varied between the trials and time points.

*only significant at 0.10
**for mothers with low psychological resources

**Cost Effectiveness**

- US evidence shows cost savings from FNP are substantial with up to $5 saved for every $1 invested by the time the children were 15, for high risk groups.
- Cost savings in the US range from $17,000 to $34,000 per child by the time they reach 15, with a $3-5 return for every $1 invested.
- US evidence shows programme costs recovered by the time children reached 4 years old and that savings grow over time.
- Most savings are to the public purse, in form of reduced welfare payments, reduced criminal justice expenditure and increased taxes due to increased earnings.
- Recently published US evidence suggests that NFP (FNP) saves the government substantial amounts in welfare payments alone with $12,300 saved per family between the child being born and reaching 12 years old.
- Washington State Institute in its rigorous analysis of cost effective evidence based programmes has consistently rated NFP as one of the most cost effective preventative programmes for reducing crime, child abuse and maltreatment and risky behaviour amongst youths.
- Too early to say whether FNP is cost effective in England and Scotland but has potential for substantial cost savings by preventing adverse outcomes. For example if FNP prevents 250 children going into foster care it will save almost £7m in foster care costs in any one year and if it prevents 20 cases of serious conduct disorder it could save society £4.5m over the lifetime of these children.
- In UK, the local cost of delivering programme is estimated to be around £3,000 per client per year.
- A team of 4 Family Nurses, one Family Nurse Supervisor is estimated to cost £300k.

**FNP and Other Early Childhood Programmes**

The size of FNP effects are relatively large compared to other home visiting programmes and FNP is consistently rated by high quality reviews of evidence based programmes as one of the most effective preventative home visiting programmes for vulnerable young mothers and their children (e.g. Aos 2004, 2008, 2009, Blueprints Centre for Violence Prevention, Coalition for Evidence based Policy).

FNP has many of the features identified by research as associated with effective early childhood interventions including:-
focus on specific populations
uses evidence based implementation practices
provides intensive services
involve both parents and child
has mechanisms for ensuring fidelity to programme model is achieved so benefits are reproduced

Evidence from FNP in England and Implications for Scotland
As we are at a very early stage of testing FNP in Scotland it is important to note the findings and lessons learned across the sites in England, although early signs are promising in Lothian with a very high uptake rate by those eligible for the programme and low attrition one year into the programme delivery. Family Nurses report that the education and training experience is of an extremely high quality and equips them well to undertake this new role.

FNP is being evaluated in England through a formative evaluation of the first 10 sites, which has reported interim findings and will report finally early in 2011; and an RCT in 18 sites which will report in 2013. The RCT will assess whether FNP benefits families over and above universal services and offers value for money. Outcomes being measured include smoking during pregnancy, breastfeeding, admissions to hospital for injuries and ingestions, further pregnancies, and child development at age 2.

Early evaluation of FNP in England points to:-

- high levels of engagement with hard to reach families. Around 87% of those offered the programme enrol on it and a high proportion continue to engage with the programme until their child reaches 2 years old. 85% of FNP mothers have incomes below the poverty line, 43% very low incomes and 75% no/minimal qualifications
- strong engagement with fathers. More than half the fathers and partners had been present for at least one FNP visit
- enthusiastic support from nurses, who are seeing changes take place in health behaviour, relationships, parental role and maternal wellbeing. They have also reported that their clients are more confident as parents, were playing with their children more, wanted to learn, and had aspirations for the future
- early signs that the programme is having a positive effect on reducing smoking during pregnancy and increasing rates of breastfeeding
- nurses report that FNP is playing a key role in protecting children by ensuring that children/families who need to be protected are identified early, preventing children entering the child protection system and working with families so they are able to leave child protection system

Gail Trotter
FNP Programme Director, Scotland
April 2012
References
Finance Committee

11th Meeting, 2012 (Session 4), Wednesday 18 April 2012

Welfare Reform (Further Provision) (Scotland) Bill
Financial Memorandum

Introduction

1. The Welfare Reform (Further Provision) (Scotland) Bill was introduced by the Scottish Government on Wednesday 22 March 2012.

2. At its meeting on 28 March 2012 the Committee agreed a two-stage approach to the scrutiny of the financial implications of the devolved aspects of welfare reform. It agreed that the first stage should focus on the Financial Memorandum (FM) accompanying the Bill. As part of this process, the Committee agreed to seek written evidence from a range of organisations potentially affected by the Bill and to seek oral evidence from the Bill team. The written submissions received are provided in a separate document. A copy of the FM is attached at Annexe A. A SPICe briefing on the Bill is attached at Annexe B.

3. The FM indicates that 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 reforms is available. It states 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, alongside the draft subordinate legislation. The Committee has therefore agreed that the second stage of its scrutiny will focus on the forthcoming subordinate legislation.

4. The purpose of this paper is to provide background information on the Bill and FM to assist Members in the evidence session with the Bill team. Members will also wish to raise issues highlighted in the written submissions received.

THE BILL

5. The FM states that the Bill is an enabling Bill comprising six sections. It confers on the Scottish Ministers power to make such provision for devolved purposes as they consider appropriate in consequence of changes to the welfare system made by the UK Welfare Reform Act 2012 (“the UK Act”).

6. Once enacted, the Scottish Ministers will use the powers provided in the Bill to make such supplemental, incidental, consequential, transitional, transitory or saving provision in relation to provisions in Part 1 and Part 4 of the UK Act for devolved purposes as they consider appropriate. Provision will be required in respect of

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1 Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 33.
2 Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 34
3 Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 26
primary and secondary legislation, including not only Acts of the Scottish Parliament but also pre-devolution enactments and subordinate legislation, in order to give effect to this devolved purpose.\(^4\)

7. The FM indicates that provision will be required in respect of legislation which links eligibility for devolved, “passported benefits” to benefits which the UK Act will abolish, such as jobseeker’s allowance, employment and support allowance, housing benefit and the disability living allowance.

8. While passported benefits are provided across the UK, the Scottish Government has responsibility in Scotland where these benefits fall within devolved competence. Passported benefits include such benefits as free NHS dental treatment and concessionary travel. The SPICe briefing notes that—

“Eligibility for “passported benefits” can be set in legislation (such as free school lunches entitlement set out in the Education (Scotland) Act 1980), or can be a matter of policy (such as school clothing grants, or discounts for leisure facilities). Eligibility for some passported benefits has been established through devolved legislation and therefore the Scottish Government has responsibility for defining the entitlement criteria to these. These have been developed by different policy departments over a period of time. There is some variation between the devolved administrations and UK Government in terms of the policy on entitlement, a prime example being universal free prescriptions in Scotland and Wales. In England a person may be entitled to free prescriptions if they are claiming, for example, Income Support, income-based JSA, income-related ESA, or certain levels of CTC or WTC.”

9. Due to the changes being brought forward by the UK Government, the FM indicates that the Scottish Government will have to re-formulate its policy on devolved entitlement to passported benefits before amending Scottish legislation. It indicates that this Bill forms the first part of that process.\(^5\)

10. The FM states that the changes to Scottish legislation need to be commenced ahead of the introduction of the Department of Work and Pensions “pathfinder system”, which is due to be rolled out in April 2013.\(^6\)

THE FINANCIAL MEMORANDUM

Information on costs provided in the FM

Information on the Bill

11. The FM indicates that the devolved policy re-formulation work on entitlement to passported benefits will not be completed in the first half of this year. It indicates that the reason for this is that many of the practical details as to how the UK

\(^4\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 28
\(^5\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 31
\(^6\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 31
Government’s welfare reform will operate remains to be set out in subordinate legislation by the Secretary of State for Work and Pensions.\(^7\)

12. As noted above, the FM states that, as a result, 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 reforms is available.\(^8\)

13. The FM therefore sets out the costs of all passported benefits where a legislative link to eligibility has been identified and costs are incurred. The figures in the FM are based on the current provision and the existing, associated costs. The FM states that—

“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. Indicative budgets for some passported benefits have already been set as part of the 2011 Spending Review process and these are detailed in the relevant section below. Any attempt to provide an assessment of the financial impact of the changes in advance of the operational detail of the UK reforms being available would be speculative.”\(^9\)

**Costs on the Scottish Government**

14. The FM states that there will be an administrative cost on the Scottish Government to re-formulate its policy on entitlement to passported benefits, to make the necessary changes to subordinate legislation, forms and administrative systems as well as costs associated with revising application forms and systems to align with the new arrangements.\(^10\)

15. Other than these one-off costs, the FM states that the Scottish Government is not expected to incur increases in direct costs as a result of this Bill.\(^11\)

16. The FM indicates that passported benefits which the Scottish Government and health boards currently provide and for which they incur costs are—

- Free NHS dental treatment
- Optical vouchers
- Travel costs to NHS Scotland premises
- Individual learning accounts
- Educational maintenance allowances
- Concessionary travel
- Legal aid
- Court exemption fees

\(^7\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 32
\(^8\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 33
\(^9\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 33
\(^10\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 37
\(^11\) Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 38
17. A summary of the current and projected scale of each of the benefits together with a list of assumptions on which projections are based is set out in Table 1 in the FM (reproduced below). Further detail is set out in paragraphs 40 to 57 of the FM.

**Costs on local authorities**

18. The FM states that there will be an administrative cost on local authorities to realign delivery of passported benefits to the new entitlement criteria. It indicates that the passported benefit which local authorities currently provide on a statutory basis and for which they incur costs relates to free school lunches.12

19. The costs of current provision and scale of projected provision are summarised in Table 1. Further detail is set out in paragraphs 58 to 61 of the FM.

**Costs on other bodies, individuals and businesses**

20. The FM states that there will be an administrative cost on other bodies to realign delivery of passported benefits to the new entitlement criteria. It states that the passported benefit which is currently provided by another body and for which it incurs costs, is the energy assistance package. Information on current and projected provision is set out in Table 1. Further detail is set out in paragraphs 63 to 66 of the FM.

**Issues for consideration by the Committee**

21. In addition to the points raised in the written submissions received, Members may also wish to raise the following issues.

**Information on current entitlement**

22. The Committee may wish to consider current entitlement to passported benefits. For example, paragraph 41 of the FM states that—

“It is not known how many people in receipt of qualifying benefits or tax credits currently receive free NHS dental treatment, as provision is measured by the number of individual treatment claim forms submitted (one person may require multiple treatments).”

23. In particular, the Committee may wish to seek information on the current criteria for eligibility for passported benefits.

24. The Committee may wish to seek clarification on the extent to which the benefits listed in Table 1 are exhaustive.

**Future entitlement for passported benefits**

25. While the FM states that 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, the Committee may consider that the projected costs will not be known until the policy re-formulation work on entitlement to passported benefits has been completed. The Committee may consider that it cannot be assumed that levels of entitlement and therefore costs will remain the same. Even a very small change to overall eligibility could potentially involve increased expenditure. The SPICe briefing

12 Welfare Reform (Further Provision) (Scotland) Bill. Financial Memorandum, paragraph 58
notes that the budget for the main passported benefits, in their current form, is forecast to be around £546m in 2011-12. It continues—

“When changes to the eligibility criteria for these benefits are made, there may be direct budget implications for the Scottish Government and wider bodies and knock-on social and economic impacts. However, it is not possible to quantify these impacts until more detailed proposals are put forward in the regulations later this year.”

26. Further, the powers in the Bill are very wide and not limited to providing equivalent entitlement to that of current levels. Therefore, in theory, the delegated powers could be used to extend eligibility.

27. The Committee may therefore wish to consider whether the Scottish Government intends that the Bill and its delegated powers will be used to limit entitlement to passported benefits at current levels and, if so, what steps it is taking to ensure that this will be the case.

28. The Committee may wish to explore the current policy re-formulation work and what information the Scottish Government has regarding the criteria that might be used to determine eligibility to Universal Credit, given that this will impact on entitlement to passported benefits.

29. Given that the policy re-formulation work is still ongoing, the Committee may wish to consider the extent to which the FM can be considered to provide best estimates of the likely costs and margins of uncertainty.

Subordinate legislation
30. The FM states 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.

31. As noted above, the Committee has agreed to scrutinise the financial information that will accompany the subordinate legislation. Procedurally, there is nothing to prevent the Committee from scrutinising the financial implications of subordinate legislation. However, there is no formal parliamentary mechanism or minimum requirement as to the type of financial information that should be provided.

32. The Committee may therefore wish to seek clarification from the Bill team 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.

33. Again, given that the FM states that a full assessment of the financial impact of the modification to passported benefits will provided alongside the draft subordinate legislation, the Committee may wish to consider the extent to which the FM can be

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considered to provide the best estimates of the costs arising from the provisions of the Bill.

Additional financial implications
34. The SPICe briefing notes that two related areas where the Scottish Government may also have to make regulations in future concern Council Tax Benefits and parts of the Social Fund, which were abolished by the UK Welfare Reform Act. The Committee may wish to consider future funding arrangements.

35. The SPICe briefing indicates that gross expenditure from the Social Fund in Scotland in 2009-10 was £30.3m. Following an initial recommendation from the Calman Commission to devolve the discretionary elements of the Social Fund, the UK Government’s White Paper, “Universal Credit: welfare that works”, set out plans for reform of the Social Fund. The SPICe briefing reports that the Scottish Government is currently discussing future arrangements with key stakeholders.

36. Section 33 of the UK Act abolishes the existing Council Tax Benefit. It will fall to the Scottish Government to develop and implement successor arrangements. The SPICe briefing reports that the successor arrangements will operate with 10% less funding, and Scotland will get a fixed addition to its budget which the UK Government asserts will correspond to Council Tax Benefit currently paid in Scotland minus 10%. The Cabinet Secretary confirmed that Council Tax Benefit is worth £380m at the present time.

37. The Committee is invited to consider the above information in its evidence session with the Bill team.

Lucy Scharbert
Assistant Clerk to the Finance Committee
Table 1.0: Passported Benefit Outturn and Forecasts

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<tbody>
<tr>
<td>Free NHS dental treatment</td>
<td>40</td>
<td>34,100</td>
<td>36,000</td>
<td>37,000</td>
<td>37,000</td>
</tr>
<tr>
<td>Optical vouchers</td>
<td>43</td>
<td>15,000</td>
<td>15,000</td>
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<td>Travel costs to NHS Scotland premises</td>
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<td>-</td>
<td>-</td>
<td>-</td>
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<td>Individual learning accounts</td>
<td>46</td>
<td>9,211</td>
<td>8,000</td>
<td>6,000</td>
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<td>Education maintenance allowance</td>
<td>48</td>
<td>33,300</td>
<td>31,600</td>
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<td>31,200</td>
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<td>Concessionary travel</td>
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<td>Legal aid</td>
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<td>161,400</td>
<td>142,300</td>
<td>144,100</td>
<td>138,100</td>
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<td>Court Exemption Fees</td>
<td>56</td>
<td>70</td>
<td>70</td>
<td>72</td>
<td>73</td>
</tr>
<tr>
<td>Free school lunches</td>
<td>59</td>
<td>92,137</td>
<td>96,000</td>
<td>99,000</td>
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<td>Energy assistance package</td>
<td>63</td>
<td>44,600</td>
<td>37,750</td>
<td>65,100</td>
<td>65,000</td>
</tr>
</tbody>
</table>

14 Any increases in the cost of NHS dental treatment would be as a result of increased patient take up and increase in dentists' fees, which are recommended by the independent Doctors and Dentists Review Body (DDRB). Forecasts assume no further increase in dental provision and using the Consumer Price Index (CPI) measure of inflation as a proxy for any increases in fees.

15 Voucher values in Scotland are uprated in line with increases agreed by the Department of Health and their values have not increased since 2009 but are set to increase by 2.5% in 2012/13. However, in previous years the voucher has increased by either GDP or RPI (now replaced with CPI). For the purposes of the forecasts it is assumed voucher values will be uprated by CPI. The Scottish Ministers are still to decide on whether or not to follow Department of Health uprating for 2012-13.

16 2010-11 data refers to learner spend only, 2011-12 and 2012-13 are budget data which is then assumed to roll forward on cash basis.

17 The budget for education maintenance allowance has been agreed up to 2012-13 via the spending review and is expected to remain at approximately this level for the remainder of the spending review period.

18 Expenditure for the National Concessionary Travel Scheme is capped each year and requires to be detailed in the legislation following agreement with industry. While the cap has only been agreed up to 2012/13 the budget is expected to remain flat over the forthcoming years.


20 Court Exemption fees are not set to increase in 2011-12. Court Fees are subject to periodic revision and Scottish Government Officials are currently in the process of taking forward proposals received from the Scottish Court Service to increase Court Fees which will cover a two year period (from 1 November 2012). It has been assumed the Court Fees will increase by the CPI measure of inflation in line with the Office of Budget Responsibility Projections published at the time of the UK Governments Autumn 2011 Statement.

21 Forecasts are based on the assumption that demand for school lunches does not change and that the cost of a lunch increases increase by the CPI measure of inflation in line with the Office of Budget Responsibility Projections published at the time of the UK Governments Autumn 2011 Statement.

22 This benefit closes to new applicants from April 2013. Budget data shown for 2011/12 and forecast spend from 2012-13 are as detailed in the spending review and for 2013-14 onward relate to a successor scheme which will cover fuel poverty and energy efficiency programmes, the criteria for which have not yet been set.
These documents relate to the Welfare Reform (Further Provision) (Scotland) Bill (SP Bill 11) as introduced in the Scottish Parliament on 22 March 2012

WELFARE REFORM (FURTHER PROVISION) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Welfare Reform (Further Provision) (Scotland) Bill introduced in the Scottish Parliament on 22 March 2012:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 11–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

4. The Welfare Reform (Further Provision) (Scotland) Bill will make the provisions required by the Scottish Parliament’s partial refusal of legislative consent for the UK Welfare Reform Act 2012 (“the UK Act”). It is an enabling Bill which gives powers to the Scottish Ministers to make provision in consequence of the UK Act for devolved purposes.

5. The Bill largely mirrors relevant clauses of the Bill for the UK Act which were removed during that Bill’s Third Reading in the House of Lords. Their removal was the consequence of full legislative consent for that Bill having been withheld by the Scottish Parliament. Unlike the relevant clauses of the Bill for the UK Act, however, the provisions in the Bill do not explicitly refer to the enabling powers being exercisable only to make provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of the Parliament. This would have been a necessary express qualification in the UK Act, because the UK legislation could otherwise have conferred a wider power on the Scottish Ministers to enable them to make provision for any purpose whether devolved or reserved. The Scottish Government considers that a similar express qualification in the Bill is unnecessary because in its view all of the powers conferred in the Bill are implicitly limited to being exercisable within the limits of devolved competence in the following way. The legislative objective of the Bill is to enable the Scottish Ministers to make provision by regulations only for devolved purposes. To the extent that the text of the Bill’s provisions, which bear a relationship to provision made by or under Parts 1 and 4 of the UK Act relating to the reserved matter of social security provision, could be read as being outwith competence, the Scottish Government considers that the operation of section 101 of the Scotland Act 1998 would ensure that the provisions could be read as narrowly as required for them to be within competence and for them to have effect accordingly. The Scottish Government furthermore considers that the Scottish Ministers will be constrained in exercising these enabling powers within the limits of their devolved competence set out in section 54 of the Scotland Act 1998.

OVERVIEW OF THE BILL

6. Section 1 of the Bill provides powers to make provision in consequence of the introduction in 2013 of universal credit and the abolition of some existing social security benefits by the UK Act.
Section 2 of the Bill provides powers to make provision in consequence of the introduction in 2013 of personal independence payments and the accompanying abolition of disability living allowance by the UK Act.

Section 3 of the Bill contains general ancillary powers which apply to any regulations made under sections 1 and 2 of the Bill.

**Section 1: Universal credit: further provision**

This section sets out a power for the Scottish Ministers to make such provision (for devolved purposes) as they consider appropriate in consequence of the provisions in Part 1 of the UK Act which creates universal credit and abolishes certain existing social security benefits, referred to further in paragraph 12. Under this section, as read with section 3(3)(b), the Scottish Ministers are empowered to make supplemental, incidental, consequential, transitional, transitory or saving provision. This enabling power is exercisable only for devolved purposes and so could be used, for example, to make consequential or supplemental provision in the devolved area of passported benefits where that provision is considered appropriate in light of the abolition of existing social security benefits by the UK Act.

“Universal credit” refers to the new, integrated benefit and tax credit which will be rolled out across the UK from April 2013-2017. UK Government policy in respect of universal credit has been set out in the white paper (“Universal Credit: Welfare That Works”)

Universal credit will be comprised of a basic award onto which ‘add-ons’ in respect of particular needs such as housing and help with child care costs will be added where appropriate. It will act as a top up benefit for those in work and will be paid to households monthly into a bank account. The intention is that recipients of universal credit will be able to manage their claims online so far as possible and that the amount payable will change automatically to accommodate a change in a household’s circumstances. A “pathfinder” system is due to be introduced in April 2013 with implementation proper due to proceed from October 2013 for new claimants with a four year phase-in period for existing welfare claimants ending in 2017.

The power set out in section 1 of the Bill is needed because the existing benefits, which will be abolished, have links to devolved areas, the main one being that they are used as an eligibility hook for a variety of devolved, Scottish “passported benefits”. These include benefits in kind such as free school lunches and cash benefits such as the education maintenance allowance. When the existing benefits are abolished, so too will the current, associated eligibility hooks. The Scottish Ministers may use the power provided by this section to make changes for a devolved purpose such as to refer consequentially to some aspect of the new universal credit or to supplement the gap left by the abolition of the hook benefit, for example by creating new eligibility criteria for certain passported benefits conferred in devolved areas such as health or access to justice. Existing social security benefits also impact on other devolved areas such as pre-action requirements where a landlord’s grounds for possession include rent arrears and cancellation of adoption allowances. The Scottish Ministers could also make free-standing

provision using this power provided it were for a devolved purpose and was required in consequence of provision made by or under Part 1 of the UK Act.

12. The existing social security benefits which will be abolished by section 33 of the UK Act and replaced by universal credit are:

- Housing benefit under section 130 of the 1992 Act,
- Jobseeker’s allowance under the Jobseekers Act 1995 (where income-based),
- Employment and support allowance under Part 1 of the Welfare Reform Act 2007 (where income-related),
- Child tax credit under the Tax Credits Act 2002, and
- Working tax credit under the Tax Credits Act 2002.

13. Subsection (2) provides that regulations under this section may modify primary and secondary legislation (including not only Acts of the Scottish Parliament but also pre-devolution enactments and subordinate legislation which relate to devolved matters) for a devolved purpose and subject to the other restrictions on competence in the Scotland Act 1998.

14. Subsection (3) provides that regulations under this section are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, and otherwise are subject to the negative procedure.

Section 2: Personal independence payment: further provision

15. This section sets out a power for the Scottish Ministers to make such provision (for devolved purposes) as they consider appropriate in consequence of Part 4 of the UK Act. Part 4 of that Act creates the personal independence payment and abolishes disability living allowance. Under this section, as read with section 3(3)(b), the Scottish Ministers are empowered to make supplemental, incidental, consequential, transitional, transitory or saving provision. This enabling power is exercisable only for devolved purposes. It could be used, for example, to make supplemental or consequential provision in the devolved area of legal aid where the governing legislation refers to the mobility component of disability living allowance, where consequential or supplemental provision is considered appropriate in light of the abolition of disability living allowance by the UK Act.

16. Further provision in relation to Part 4 is needed because, as with universal credit, the introduction of personal independence payment and the abolition of the disability living allowance have consequences for devolved matters and their associated legislation. The power in this section could be used to make changes for devolved purposes to refer to the personal independence payment instead of the disability living allowance so as, for example, to create new eligibility criteria for certain passported benefits such as ‘blue badge’ parking permits. The Scottish Ministers could also make free-standing provision using this power provided it were for a devolved purpose and in consequence of provision made by or under Part 4 of the UK Act.
17. Subsection (2) provides that regulations under this section may modify primary and secondary legislation (including not only Acts of the Scottish Parliament but also pre-devolution enactments and subordinate legislation) for a devolved purpose and subject to the other restrictions on competence in the Scotland Act 1998.

18. Subsection (3) provides that regulations under this section are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, and otherwise are subject to the negative procedure.

Section 3: Regulations under this Act: ancillary provision

19. This section contains general provisions which apply to any regulations made under sections 1 and 2.

20. Subsection (2) provides that the regulations may make provision which is either in direct or indirect consequence of the UK Act. Provision can also be made which is not itself in consequence of the UK Act but concerns a matter which is, or previously was, in consequence of the UK Act. This will allow the Scottish Ministers to make provision required for reasons which are not in direct or indirect consequence of the UK Act. For example, if the powers enabled by this Bill are used to establish an income threshold for entitlement to certain passported benefits then, in future, the Scottish Ministers may wish to vary that income threshold. Such variation may not be in direct or indirect consequence of the UK Act but in consequence of something else, such as a rise in the rate of inflation. It would, however, be linked to a matter which was in consequence of the UK Act.

21. Subsection (3) provides for the regulations to make different provision for different cases or purposes and to include supplemental, incidental, consequential, transitional, transitory or saving provision.

Section 4: References to the UK Act

22. This section defines the term “the UK Act” which is used throughout the Bill.

Section 5: Commencement

23. This Bill will commence the day after it receives Royal Assent.

Section 6: Short title

24. This section gives the short title of the Bill.
INTRODUCTION

25. This document relates to the Welfare Reform (Further Provision) (Scotland) Bill introduced in the Scottish Parliament on 22 March 2012. It has been prepared by the Scottish Government, to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

BACKGROUND

26. The Welfare Reform (Further Provision) (Scotland) Bill is an enabling Bill comprising six sections. It confers on the Scottish Ministers power to make such provision for devolved purposes as they consider appropriate in consequence of changes to the welfare system made by or under Parts 1 and 4 of the UK Welfare Reform Act 2012 (“the UK Act”).

27. The Bill largely mirrors relevant clauses of the Bill for the UK Act which were removed during that Bill’s Third Reading in the House of Lords. Their removal was the consequence of full legislative consent for that Bill having been withheld by the Scottish Parliament. Unlike the relevant clauses of the Bill for the UK Act, however, the provisions in the Bill do not explicitly refer to the enabling powers being exercisable only to make provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of the Parliament. This would have been a necessary express qualification in the UK Act, because the UK legislation could otherwise have conferred a wider power on the Scottish Ministers to enable them to make provision for any purpose whether devolved or reserved. The Scottish Government considers that a similar express qualification in the Bill is unnecessary because in its view all of the powers conferred in the Bill are implicitly limited to being exercisable within the limits of devolved competence in the following way. The legislative objective of the Bill is to enable the Scottish Ministers to make provision by regulations only for devolved purposes. To the extent that the text of the Bill’s provisions, which bear a relationship to provision made by or under Parts 1 and 4 of the UK Act relating to the reserved matter of social security provision, could be read as being outwith competence, the Scottish Government considers that the operation of section 101 of the Scotland Act 1998 would ensure that the provisions could be read as narrowly as required for them to be within competence and for them to have effect accordingly. The Scottish Government furthermore considers that the Scottish Ministers will be constrained in exercising these enabling powers within the limits of their devolved competence set out in section 54 of the Scotland Act 1998.

28. Once enacted, the Scottish Ministers will use the powers provided in this Bill to make such supplemental, incidental, consequential, transitional, transitory or saving provision in relation to provisions in Part 1 (universal credit) and Part 4 (personal independence payment) of the UK Act for devolved purposes as they consider appropriate. Provision will be required in respect of primary and secondary legislation (including not only Acts of the Scottish Parliament but also pre-devolution enactments and subordinate legislation) in order to give effect to this devolved purpose.
29. Changes will be made to primary and secondary legislation which, at present, link eligibility for devolved, ‘passported benefits’ to benefits which the UK Act will abolish. Although passported benefits are provided across the UK, the Scottish Government has responsibility in Scotland where these benefits fall within devolved competence. The Scottish Government will use the powers enabled by this Bill to make changes to legislation for devolved purposes to reflect the abolition of UK benefits such as jobseeker’s allowance, employment and support allowance, housing benefit and the disability living allowance, in order to maintain the legislative basis that underpins entitlement to passported benefits. A similar process will also be carried out in England and Wales.

30. Passported benefits can be loosely divided into continuing benefits such as free school lunches or free NHS dental care, which customers can expect to receive for a number of years, and one-off benefits such as legal aid. Passported benefits can be cash benefits, such as the education maintenance allowance, or benefits in kind such as optical vouchers or free NHS dental care. When the existing UK benefits are abolished, so too will the current, associated eligibility hooks. Universal credit (the new, UK integrated benefit and tax credit) will be used to top up income for those in work as well as out of work, which means that receipt of universal credit will not, in and of itself, be sufficiently reliable proof of low income for the purposes of establishing any entitlement to passported benefits. From the information currently available, universal credit does not currently contain obvious points of reference on which to link eligibility for passported benefits.

31. These changes brought forward by the UK Government mean that the Scottish Government now has to re-formulate its policy on devolved entitlement to passported benefits before amending Scottish legislation which falls within its devolved competence. This Bill forms the first part of that process. The Scottish Government is required to work to a timetable which requires changes to Scottish legislation to be commenced ahead of the introduction of the Department for Work and Pensions ‘pathfinder system’ which is due to be rolled-out in April 2013.

32. The devolved policy re-formulation work, which will look at future entitlement to passported benefits and consider what changes will be required, will not be completed in the first half of this year. The reason for this is that many of the practical details as to how the UK Government’s welfare reforms will operate (e.g. conditions for entitlement to universal credit and personal independence payment) remain to be set out in subordinate legislation by the Secretary of State for Work and Pensions. The Scottish Government does not expect the UK Government to be in a position to convey the essential detail of its new benefits to it before June of this year.

33. 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 reforms is available. This memorandum therefore sets out the costs of all passported benefits where a legislative link to eligibility has been identified and costs are incurred. The figures set out below are based on the current provision and the existing, associated costs. 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. Indicative budgets for some passported benefits have already been set as part of the 2011 Spending Review process and these are detailed in the relevant section below. Any attempt to provide an assessment of the financial impact of the
changes in advance of the operational detail of the UK reforms being available would be speculative.

34. The Scottish Government will provide details of how passported benefits will be modified when the necessary subordinate legislation is brought forward later this year, including a full assessment of the financial impact of these changes, alongside the draft subordinate legislation.

35. The Scottish Government believes that this approach carries less risk than the alternative, which would be to wait to bring forward legislation when the design of all the successor arrangements has been completed and the full details of the operation of the new UK benefit system are known. Any delay, at this stage, would have significant implications for the timetabling of subordinate legislation. As a result, the Scottish Government could not provide any guarantee that the devolved statutory basis which underpins some passported benefits would be revised in time to be in place post April 2013.

36. In introducing the Bill, the Scottish Government is seeking to avoid a situation where provision of some passported benefits is put at risk if the necessary devolved legislation is not commenced in time.

**COSTS ON THE SCOTTISH GOVERNMENT**

37. There will be an administrative cost on the Scottish Government to re-formulate its policy on entitlement to passported benefits during 2012-13 and then to make the necessary changes to subordinate legislation, forms and administrative systems for introduction from April 2013. Within the core Scottish Government, the associated staffing cost is estimated at £300,000, and will be met through the reallocation of existing resources. Over and above this, there will be some one-off costs to the Scottish Government and for those wider Scottish Government bodies affected by this legislation, associated with revising application forms and systems to align with the new arrangements. Until policy on passported benefits is reformulated, it is not possible to estimate what the cost of the associated system changes will be. Where changes to the existing provision are proposed in subordinate legislation, an assessment of the financial impact will be provided.

38. Other than these one-off, transitional administrative costs, the Scottish Government is not expected to incur increases in direct costs as a result of this Bill. The passported benefits which the Scottish Government and health boards currently provide and for which they incur costs are:

- Free NHS dental treatment,
- Optical vouchers,
- Travel costs to NHS Scotland premises,
- Individual learning accounts,
- Educational maintenance allowances,
- Concessionary travel,
- Legal aid,
These documents relate to the Welfare Reform (Further Provision) (Scotland) Bill (SP Bill 11) as introduced in the Scottish Parliament on 22 March 2012

- Court exemption fees.

39. A summary of the current and projected scale of each of these benefits, together with a list of assumptions on which projection are based, is set out at Table 1 below.

**Free NHS dental treatment, optical vouchers and travel costs to NHS Scotland premises**

40. Health boards are responsible for making arrangements for the provision of free NHS dental treatment, the provision of optical vouchers and for travel costs to NHS Scotland premises. These benefits are available to those in receipt of any of the following benefits or tax credits:

- Income support,
- Income-based jobseeker’s allowance,
- Income-related employment and support allowance,
- Working tax credit with a disability or severe disability element (with an income of less than £15,276 taxable gross income per year),
- Child tax credit (with an income of less than £15,276 taxable gross income per year),
- Child tax credit with working tax credit (with an income of less than £15,276 taxable gross income per year),
- Pension credit guarantee.

41. It is not known how many people in receipt of the qualifying benefits or tax credits currently receive free NHS dental treatment, as provision is measured by the number of individual treatment claim forms submitted (and one person may require multiple treatments).

42. Any variation in entitlement to free NHS dental treatment could impact on the estimated current total cost to health boards which, in 2010-11 was approximately £34,100,000 for those in receipt of passported benefits (including pension credit guarantee credit) or entitled to help under the NHS Low Income Scheme. Any increases in the cost of NHS dental treatment are the result of increased patient take up and treatment needs as well as increases in dentists’ fees, which are recommended by the independent Doctors and Dentists Review Body (DDRB). Assuming no further increase in dental provision and using the Consumer Price Index (CPI) measure of inflation as a proxy for any increases in fees this would result in costs increasing to approximately £38,000,000 by 2014-15.

43. Optical vouchers are available towards the cost of glasses or contact lenses in Scotland to those who qualify. There were 322,116 optical voucher claims processed in 2010-11 in respect of those in receipt of a passported benefit (this includes those in receipt of pension credit guarantee credit but excludes those in receipt of income-related employment and support allowance). An additional 4,193 optical voucher claims were processed in respect of those in receipt of a passported benefit for the repair or replacement of glasses. A voucher valued at between £36.20 and £200.10 (depending on the person’s optical prescription) is provided in respect of each claim. An individual may receive more than one voucher in a year if it is considered clinically necessary. Any variation in entitlement to optical vouchers could impact on
the estimated current total cost to health boards of this provision which, in 2010-11 was approximately £15,000,000.

44. Voucher values in Scotland are uprated in line with increases agreed by the Department of Health. Their values have not increased since 2009 but are set to increase by 2.5% in 2012-13. The choice of indicator used by the Department of Health to guide upratings has in the past varied between the forecast Gross Domestic Product (GDP) deflator, and the all-items Retail Price Index (RPI) now replaced by the Consumer Price Index (CPI). If going forward the CPI measure of inflation is used this would result in a cost of approximately £16,000,000 by 2014-15, assuming patient demand remains constant.

45. Qualifying people, who are in need of health treatment, are entitled to have the cost of their travelling expenses incurred for the purposes of obtaining NHS services paid for them by their local health board. Data on the cost of providing travel to NHS Scotland premises is not collected centrally.

**Individual learning accounts**

46. Individual learning accounts (ILA) are available to applicants in Scotland who are 16 or over, have an income of £22,000 a year or less or who are in receipt of one of the following reserved benefits:

- Income-based and contribution-based jobseeker’s allowance,
- Income support,
- Carer’s allowance,
- Incapacity benefit,
- Maximum rate of child tax credit,
- State pension credit,
- Income-based and contribution-based employment and support allowance.

47. Over 110,000 independent learning accounts were opened in 2010-11 with an average spend per person of approximately £140. In 2010-11, total ILA expenditure was £11,345,000, of which £9,211,000 was learner spend. Separately, work is under way to review the eligibility criteria for ILAs.

**Education maintenance allowance**

48. Education maintenance allowances are a continuing cash benefit in the form of means tested payments of £30 per week which are available to young people aged 16-19 who remain in education. Education maintenance allowances in respect of school pupils are payable by local authorities, but funded by the Scottish Government. Pupils attending further education colleges receive education maintenance allowances via the Scottish Funding Council. Entitlement to the education maintenance allowance is based on the age of the student, household income, residential status and validity/level of academic course. A relevant award notice of entitlement to UK reserved benefits is used as proof of income. There are two thresholds for household income: £20,351 for households with one dependent child and £22,403 for households with more than
one dependent child. These thresholds have remained constant since they were introduced from the start of academic year 2009-10. There are no plans to amend them at this time.

49. There were 34,780 young people in Scotland who received an education maintenance allowance in 2010-11. The average claim, based on budget and uptake for 2010-11 was £800 per student with the maximum claim, based on a young person participating in an activity agreement for the whole 52 weeks of the year being £1,560. The total cost of education maintenance allowances for 2010-11 was £33,300,000. The budget for education maintenance allowance has been agreed at £31,200,000 for 2012-13 and is expected to remain at approximately this level for the remainder of the spending review period, including 2014-15.

Concessionary travel

50. Transport Scotland offers free bus travel for older people, and for disabled people who are in receipt of the higher rate of the mobility component of disability living allowance or the higher or middle rate of the care component of disability living allowance.

51. As of 28 January 2012 there were just over 1.23 million National Entitlement Cardholders in circulation giving access to free bus travel throughout Scotland. Of these 84% are eligible through the age criteria (60 and over) with the remaining 16% eligible through a number of passported benefits.

52. Expenditure for the National Concessionary Travel Scheme in 2010-11 was £174,200,000; the average benefit for an individual eligible to use the scheme was in the region of £215. Expenditure for the National Concessionary Travel Scheme is capped each year and requires to be detailed in the legislation\(^3\). While the cap has only been agreed up to 2012-13 the budget is expected to remain flat over the forthcoming years. As a result it is expected that the cap in 2014-15 will be approximately £187,000,000.

Legal aid

53. The Scottish Legal Aid Board ("the Board") is a non-departmental public body funded by the Scottish Government and by contributions and expenses payable by persons in receipt of legal assistance. The Board is responsible for managing legal aid in Scotland. Applicants for legal assistance can qualify with no contribution payable if they are in receipt of certain benefits. Applicants who are not in receipt of these benefits must complete an application form and show evidence of income and expenditure. The Board will then decide if the person qualifies for legal assistance and whether or not they will have to pay a contribution. The reserved benefits which ‘passport’ a person onto legal assistance include:

- Income support,
- Income-based jobseeker’s allowance,
- Income-related employment and support allowance.

54. The budget for legal aid is demand-led and is not a fixed amount. The Scottish Government gives the Board the necessary funds to meet the cost of cases. This means that the cost of providing legal aid as a passported benefit will vary from year to year. 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.

55. Total expenditure on the legal aid fund in 2010-2011 was £161,400,000. The Scottish Government’s paper, “A Sustainable Future for Legal Aid”\(^4\), published on 5 October 2011, noted that the Scottish Legal Aid Board was at that point forecasting that, based on savings measures already taken, expenditure would fall to £145,300,000 by 2014-15. However, the Scottish Government budget for legal aid in 2014-15 will be reduced to £132,100,000. A Sustainable Future for Legal Aid’ sets out the Government’s proposals for meeting this financial challenge.

\(^4\) http://www.scotland.gov.uk/Publications/2011/10/04161029/0

**Court exemption fees**

56. The Scottish Court Service (SCS) is an independent body funded by the Scottish Government which is responsible for providing the staff, buildings and technology to support Scotland’s courts. The SCS grants exemptions to fees usually payable for various applications at court to persons in receipt of certain UK benefits. The qualifying reserved benefits are:

- Income support,
- Income-based jobseekers allowance,
- Income-related employment and support allowance,
- Child tax credit, working tax credits – up to gross annual income of £16,642.

57. In 2010-11, the total value of the exemptions amounted to £2,300,000, from 33,500 applications. Around £70,000 of the fees forgone related to means-tested benefits. Court fees were last increased in 2008, after remaining static since around 2002, and are subject to periodic revision. Scottish Government officials are currently in the process of taking forward proposals received from the SCS to increase court fees which will cover a two-year period (from 1 November 2012). This process will be subject to a public consultation which is yet to be published. If the forthcoming Fee Order was to increase court fees by inflation (CPI) over the next period, the total value of exemptions related to means tested benefits may increase to around £75,000 in 2014-15. This, however, would be dependant on other factors such as the number of applications received and the type of applications received.

**COSTS ON LOCAL AUTHORITIES**

58. As with the Scottish Government, there will be an administrative cost on local authorities to re-align delivery of passported benefits to the new entitlement criteria. The passported benefit which local authorities currently provide on a statutory basis and for which they incur costs relates to free school lunches.
59. School lunches are currently provided free of charge to children and young people who are in school education and whose parents (including persons who have parental responsibilities in relation to or who have care of a child or young person such as a guardian or kinship carer) are in receipt of any of the following reserved UK benefits:

- Income support,
- Income-based jobseeker’s allowance,
- Any income-related element of employment and support allowance,
- Child tax credit (but not working tax credit) with an income less than £15,860,
- Both maximum child tax credit and maximum working tax credit with an income under £6,420,

60. From the age of 16, young people in school education who receive any of these benefits can also claim free school lunches in their own right.

61. The range of prices charged for school lunches by local authorities is between £1.15 and £2.30 per lunch. The potential benefit in kind for the parents is therefore between £218.50 and £437.00 per child per annum. In 2010, 118,963 pupils in Scotland were registered to receive free school lunches. This represented 17.8% of the total pupil population. In 2010-11, the total local authority net expenditure on school lunches was reported as £92,137,000. This represents expenditure on all school lunches, not just those that were provided free of charge, minus income from lunches that were paid for. The price charged for school lunches is unlikely to cover the full cost of providing them so this figure is likely to be an overestimate of the costs of providing free school lunches alone, as it will include some expenditure associated with paid for lunches. The figure cannot, however, be disaggregated further. Assuming criteria for providing school lunches and the demand were unchanged, and the cost of a lunch increased by inflation (CPI), net expenditure on school lunches would be approximately £103,000,000 in 2014-15.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

62. As with local authorities, there will be an administrative cost on other bodies to re-align delivery of passported benefits to the new entitlement criteria. The passported benefit which is currently provided by another body, and for which it incurs costs, is the energy assistance package.

Energy assistance package

63. The Energy Saving Trust in Scotland is part of a UK-wide non-profit organisation providing impartial information and advice. The Trust manages the delivery of the energy assistance package on behalf of the Scottish Government. The energy assistance package is a four-stage package aimed at helping to reduce fuel bills and improve the energy efficiency of homes in Scotland. Stages 3 and 4 of the package are passported benefits in kind as applicants are entitled to receive this support on the basis of their entitlement to other benefits.
64. 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:

- Pension credit,
- Child tax credit or working tax credit (where income is less than the qualifying threshold),
- Employment and support allowance (both income related and contribution based),
- Attendance allowance,
- Disability living allowance,
- Income support, income based jobseeker’s allowance,
- Housing benefit,
- Council tax benefit.

65. Applicants for stage 4 of the package could be entitled to grants for up to £6,500 worth of improvement work if they fulfil certain criteria. The amount of grant will depend on a number of factors including the energy efficiency of the home at outset and the type of measure installed. Entitlement to one of the qualifying benefits for the stage 3 package is one of the criteria.

66. In 2010-11 expenditure on the energy assistance package was £44,600,000. This covered all stages and it is not possible to identify claims at stages 3 and 4 issued as passported benefits in kind. The current energy assistance package will close to new applicants from 2013. Scottish Ministers have set aside a budget of £65,000,000 in 2013-14 and £66,250,000 in 2014-15 for successor arrangements which will cover fuel poverty and energy efficiency programmes, the criteria for which have not yet been set.

Other passported benefits

67. There are further devolved passported benefits, such as reduced entry to cinemas, sports facilities and other attractions. They are not, however, provided on a statutory basis and are therefore unrelated to this Bill.

68. Table 1 below summarises information on costs provided in this memorandum:
These documents relate to the Welfare Reform (Further Provision) (Scotland) Bill (SP Bill 11) as introduced in the Scottish Parliament on 22 March 2012

### Table 1 Passported Benefit Outturn and Forecasts

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**Notes:**

- Denotes data not available.

<sup>1</sup> Any increases in the cost of NHS dental treatment would be as a result of increased patient take up and increase in dentists’ fees, which are recommended by the independent Doctors and Dentists Review Body (DDRB). Forecasts assume no further increase in dental provision and using the Consumer Price Index (CPI) measure of inflation as a proxy for any increases in fees.

<sup>2</sup> Voucher values in Scotland are uprated in line with increases agreed by the Department of Health and their values have not increased since 2009 but are set to increase by 2.5% in 2012/13. However, in previous years the voucher has increased by either GDP or RPI (now replaced with CPI). For the purposes of the forecasts it is assumed voucher values will be uprated by CPI. The Scottish Ministers are still to decide on whether or not to follow Department of Health uprating for 2012-13.

<sup>3</sup> 2010-11 data refers to learner spend only, 2011-12 and 2012-13 are budget data which is then assumed to roll forward on cash basis.

<sup>4</sup> The budget for education maintenance allowance has been agreed up to 2012-13 via the spending review and is expected to remain at approximately this level for the remainder of the spending review period.

<sup>5</sup> Expenditure for the National Concessionary Travel Scheme is capped each year and requires to be detailed in the legislation following agreement with industry. While the cap has only been agreed up to 2012/13 the budget is expected to remain flat over the forthcoming years.


<sup>7</sup> Court Exemption fees are not set to increase in 2011-12. Court Fees are subject to periodic revision and Scottish Government Officials are currently in the process of taking forward proposals received from the Scottish Court Service to increase Court Fees which will cover a two year period (from 1 November 2012). It has been assumed the Court Fees will increase by the CPI measure of inflation in line with the Office of Budget Responsibility Projections published at the time of the UK Governments Autumn 2011 Statement.

<sup>8</sup> Forecasts are based on the assumption that demand for school lunches does not change and that the cost of a lunch increases increase by the CPI measure of inflation in line with the Office of Budget Responsibility Projections published at the time of the UK Governments Autumn 2011 Statement.

<sup>9</sup> This benefit closes to new applicants from April 2013. Budget data shown for 2011/12 and forecast spend from 2012-13 are as detailed in the spending review and for 2013-14 onward relate to a successor scheme which will cover fuel poverty and energy efficiency programmes, the criteria for which have not yet been set.
These documents relate to the Welfare Reform (Further Provision) (Scotland) Bill (SP Bill 11) as introduced in the Scottish Parliament on 22 March 2012

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

69. On 22 March 2012, the Cabinet Secretary for Health, Wellbeing and Cities Strategy (Nicola Sturgeon MSP) made the following statement:

“In my view, the provisions of the Welfare Reform (Further Provision) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

70. On 22 March 2012, the Presiding Officer (Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Welfare Reform (Further Provision) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
These documents relate to the Welfare Reform (Further Provision) (Scotland) Bill (SP Bill 11) as introduced in the Scottish Parliament on 22 March 2012

WELFARE REFORM (FURTHER PROVISION) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)


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ISBN 978-1-4061-8611-6
The Welfare Reform (Further Provision) (Scotland) Bill was introduced by Nicola Sturgeon, Cabinet Secretary for Health, Wellbeing and Cities Strategy, on 22 March 2012. It is an enabling Bill which confers powers on Scottish Ministers to make provision via regulations, as considered appropriate, in consequence of changes to the new Universal Credit and Personal Independence Payment created under the Welfare Reform Act 2012.
EXECUTIVE SUMMARY

The Welfare Reform (Further Provision) (Scotland) Bill enables Scottish Ministers to introduce regulations in order that devolved legislation can take account of changes to the benefits system introduced by the Welfare Reform Act 2012. Regulations which amend primary legislation will be made under the affirmative procedure and those which amend existing regulations will be made under the negative procedure. The main focus of these regulations will be to maintain the legislative basis that underpins devolved matters linked to those benefits which are being abolished by the UK Act. This refers primarily but not exclusively to passported benefits.

The UK Act makes far reaching changes to the welfare benefits system in the UK including replacing a number of existing benefits with a new Universal Credit and replacing Disability Living Allowance with Personal Independence Payment – both for people of working age.

The UK Act also abolishes Council Tax Benefit and parts of the Social Fund. The Scottish Government is working with COSLA and other stakeholders to put in place successor arrangements for these schemes and has already consulted on what might replace those aspects of the Social Fund that are to be devolved. However, whilst all of this work is linked through the UK Act, these are separate matters and the Bill as introduced does not provide for regulations to introduce these successor schemes.

The Bill does not in itself make any changes to legislation and the accompanying documents do not set out any specific policy on how devolved legislation should be amended. This is all to be left to the regulations to be introduced later in the year. The Explanatory Notes (para 32) state that the Scottish Government cannot formulate its policy on passported benefits until it has more detail from the UK Government and it does not expect to have this detail until June. However, it is necessary to have provision in place in time for the introduction of new benefits from April 2013. The Scottish Government argues that this timetable requires them to bring forward an enabling Bill prior to the finalisation of policy on successor arrangements for passported benefits. It is therefore stated in the Policy Memorandum that:

“It is not possible to specify all of the uses to which the Scottish Ministers will put the powers in this Bill”. (para 8)

The UK Act originally contained provisions to allow the UK Parliament to make consequential amendments relating to devolved policy areas and legislative consent for this was sought from the Scottish Parliament. However, on 22nd December 2011 this was, in part, refused. Nicola Sturgeon MSP stated that refusing consent would give the Scottish Parliament greater opportunity for scrutiny:

“Let me be clear: we will take whatever steps are necessary, in the timescale required, to ensure that we protect access to passported benefits when universal credit is introduced.

Our doing that through primary legislation, and indeed with the establishment of a new parliamentary committee, will give the Parliament the opportunity to scrutinise more fully the implications of the changes and, within the obvious and severe financial constraints that we have, consider what mitigation measures are possible”. 

3
INTRODUCTION

The Welfare Reform (Further Provision) (Scotland) Bill (the Bill) was introduced by Nicola Sturgeon, Cabinet Secretary for Health, Wellbeing and Cities Strategy, on 22 March 2012. It is an enabling Bill which confers powers on Scottish Ministers to make provision via regulations, as considered appropriate, for changes in consequence of the new Universal Credit and Personal Independence Payment created under the Welfare Reform Act 2012 (UK Act).

The Bill broadly mirrors relevant sections in the UK Act which were removed as a consequence of full legislative consent for that Bill having been withheld by the Scottish Parliament in relation to the introduction of Universal Credit and Personal Independence Payments. The main aim is to maintain the legislative basis that underpins devolved, passported benefits in Scotland. These are benefits such as free school lunches and blue badge parking permits which people who are in receipt of certain state benefits, such as, income support or disability living allowance, are entitled to receive as a consequence of (or ‘passport’ from) their entitlement to the UK benefit.

This paper provides background information on the broad policy intention of the UK Government as regards the UK Act; the Scottish Parliament’s consideration of the Legislative Consent Memorandum on the UK Bill, and subsequent refusal of certain elements by the Scottish Parliament; a discussion of passported benefits; the Bill’s provisions; and, a brief discussion of the Social Fund and Council Tax Benefit.

BACKGROUND TO THE WELFARE REFORM (FURTHER PROVISION) (SCOTLAND) BILL

WELFARE REFORM ACT 2012

Policy intention

The UK Government set out its proposals to reform the benefits system in a consultation paper ‘21st Century Welfare’ work (30 July 2010 – 1 October 2010), and ‘Universal Credit: welfare that works’, which set out plans to introduce legislation to reform the welfare system by creating a new Universal Credit (11 November 2010). In addition, the UK Government consulted on Disability Living Allowance reform (6 December 2010 – 18 February 2011) to create a new benefit, the Personal Independence Payment, which aims to be simpler, more efficient and to provide support to disabled people who face the greatest challenges to leading independent lives.

The UK Government’s stated aim in introducing Universal Credit (UC) was to “radically simplify the system to make work pay and combat worklessness and poverty”. The UK Government has given the following reasons for change:

- Poor work incentives – the current system creates poor work incentives, meaning that many people who rely on benefits would have to work for many hours at the minimum wage before they were noticeably better off.

- Complex benefit system – the current system makes it difficult for people to know what benefits and tax credits they can get. Depending on the benefit or tax credit, claimants
may have to deal with the Department for Work and Pensions (DWP), their local authority (Housing Benefit) or HMRC for tax credits.

- Administrative cost of complexity – the complexity of the system generates inefficiency, for example, people often contact the wrong agency, and the complexity prevents people taking up benefits they are entitled to.

- Rising costs of welfare – dependency on welfare is described as a growing problem in Britain, in the last decade, spending on working-age benefits and tax credits rose from £63 billion in 1996/97 to £87 billion in 2009/10 (in real terms, 2010/11 prices) (DWP 2010a)

The UK Government’s stated aim in replacing Disability Living Allowance (DLA) with Personal Independence Payments (PIP) is to “support disabled people who face the greatest challenges to remaining independent and leading full and active lives”. The UK Government has given the following reasons for change:

- Increase in caseload and expenditure – In eight years, the numbers receiving DLA have increased by 30% (DWP 2010c, chapter 1, para 15). Splitting the figure by age shows that the increase for those under 16 is 32%, those of working age is 25%, and those of pension age is 46%, (as at May 2011 using figures from DWP Tabulation tool).

- Complex system – The current system is complicated by 11 possible different rates of benefit making it complex to administer. There is evidence that the claim form is difficult to understand and some recipients do not fully understand what the benefit is for, eg many recipients believe DLA to be an out-of-work benefit, leading to the assumption that the benefit will be lost if they return to work (DWP 2010c, chapter 1, para 16).

- No system of review – A claimant’s entitlement to DLA is not reviewed on a regular basis to ensure they are getting the right level of benefit. Two thirds of DLA claimants have an indefinite award, which means their award may continue for life without being checked to see if it reflects their current needs. This is not in line with other benefits. (DWP 2010c, chapter 1, para 18).

- DLA can act as a barrier to work – Because of the misconception of DLA as an out-of-work benefit, recipients appear to have lower work expectations (DWP 2010c, chapter 1, para 19).

**Passage of the UK Welfare Reform Bill**

The UK Government introduced the Welfare Reform Bill on 17 February 2011 and the Bill was passed in the House of Lords on 29 February 2012. The Bill achieved Royal Assent on 8 March 2012.

During the Lords’ consideration, a number of the Government’s provisions were amended. However, during the period of ‘ping-pong’, where a Bill goes back and forth between the two houses until both reach agreement, the House of Commons used financial privilege to reject various Lords’ amendments (Clerk of the House of Commons and Clerk of Legislation 2012).

In summary, the UK Act:

- Provides for the introduction of a UC for working age adults to replace Income Support (IS), income-based Jobseeker’s Allowance (IBJSA), income-related Employment and
Support Allowance (IESA), Housing Benefit, Child Tax Credit and Working Tax Credit. The intention is for full roll-out to commence in October 2013, following a ‘pathfinder’ system for new claimants due to start in April 2013. Implementation for existing claimants will then be phased in over a period of four years, from 2013-17.

- Provides for changes to the responsibilities of claimants of JSA, ESA and IS in the period leading up to the introduction of UC. In particular, provision is made for the introduction of a claimant commitment. The claimant commitment will be a record of the requirements claimants are expected to meet in order to receive benefit and the consequences should they fail to do so.

- Once the UC provisions have come into force, ESA and JSA will continue alongside UC as contributory benefits. As well as the changes to be made in the interim period, the Act also introduces longer-term reforms to align ESA and JSA more closely with the provisions for UC.

- Limits the period for which people in the Work Related Activity Group (WRAG) can receive contribution-based ESA to 365 days and prevents any new claims for ESA on the grounds of youth. The ‘youth’ provisions of contribution-based ESA allow certain young people to qualify without having to pay National Insurance contributions. Starts from 1st May 2012.

- Introduces the Personal Independence Payment to replace the Disability Living Allowance for adults of working age. The intention is that this will start from April 2013.

- Provides regulation making powers to cap the total amount of benefit that can be claimed. The intention is that this will start from 2013.

- Provides regulation making powers in relation to the determination of maximum housing benefit. The intention is regulations will be made to restrict housing benefit for people of working age under-occupying social rented properties and to change the way that local housing allowance rates are calculated. The intention is that this will start from 2013.


- Provides for a restriction in access to Income Support for lone parents; to be eligible lone parents will have to have a child under five years of age, compared to under seven years at present. This came into force on 20 March 2012, under the Welfare Reform Act 2012 (Commencement No.1) Order 2012, SI 863.

- Amends the forthcoming statutory child maintenance scheme.

- Abolishes Council Tax Benefit and parts of the Social Fund (community care grants and crisis loans for living expenses).

**Legislative Consent Memorandum (LCM)**

An LCM\(^1\) was originally lodged on 3 March 2011 followed by a supplementary LCM on 1 November 2011. At 3 March 2011, there were four areas where the UK Bill triggered the need for legislative consent:

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\(^1\) See [UK Welfare Reform Bill LCM](#) page for links to the LCMs, Committee evidence and reports.
- Introduction of UC (specifically; clauses 33, 42 and 43);
- Data sharing between DWP and certain welfare service providers (e.g. local authorities) in Scotland (clause 123);
- Introduction of PIP (clauses 89 and 91); and
- Changes to Industrial Injuries Disablement Benefit (clause 64).

Changes to the UK Bill triggered the need for further consent relating to the Child Poverty Commission and further provisions on data sharing (1 November LCM).

Committee consideration of the LCM

The Health and Sport Committee was the lead committee on the LCM. The Infrastructure and Capital Investment Committee (ICI), and the Local Government and Regeneration Committee (LGR) also took evidence. This focused on the overall impact of the UK Bill’s provisions, including:

- changes to Housing Benefit and its particular impact on the social rented sector
- the impact on disabled people as a result of the move to UC and the replacement of DLA with PIP
- the impact on children and families as a result of the move to UC, and other aspects of the UK Bill
- the impact on local government
- the economic impact on Scotland
- ways to mitigate the impacts.

In evidence, a range of witnesses (including, Poverty Alliance, CPAG, CAS, Action for Children Scotland, ECAS in Scottish Parliament Health and Support Committee 2011a) expressed concerns that the UK Bill lacked detail, stating that most of the detail would be in regulations. Nicola Sturgeon, the Cabinet Secretary for Health, Wellbeing and Cities Strategy, said that without knowing the detail of the UK Bill it was difficult to assess the impact (Scottish Parliament Health and Sport Committee 2011b), and therefore the extent to which mitigation measures will be required.

To remedy this, two options were discussed in evidence. The first was that there should be a requirement on the face of the UK Bill to seek consent from Scottish Ministers when making regulations that apply in Scotland. However, no such requirement was put in the UK Bill (Scottish Government 2012). The second was to refuse consent to the LCM, in full or in part, which would require the Scottish Government to introduce primary legislation and provide an opportunity for the Scottish Parliament to scrutinise the detail contained in subsequent regulations.

Witnesses expressed varying views on refusing consent to the LCM. Some felt that consent should be refused (Inclusion Scotland, Capability Scotland, the Scottish Disability Equality Forum, and SCVO in Scottish Parliament Health and Sport Committee 2011c); others felt that the UK Government should be pressed for additional information and amendments to the UK
Bill, prior to consideration of the motion (CPAG, Children 1st, CAS and SAMH in Scottish Parliament Health and Sport Committee 2011c). In addition, there was concern that refusing consent could delay UC and the associated passported benefits to the people of Scotland, and therefore jeopardise the ability of Scotland to prepare for those measures coming into effect (CAS and Children 1st in Scottish Parliament Health and Sport Committee 2011c).

Timing issues

Neil Couling, an official from the DWP, told the Health and Sport Committee that the LCM was the UK Government’s “…attempt to help this Parliament and the Scottish Government to discharge the consequential aspects of the UK Government’s reforms to welfare” (Scottish Parliament Health and Sport Committee 2011d). Mr Couling explained that either the LCM needed to be passed or the Scottish Government would need to introduce legislation, “Otherwise, it will not be able to run some of its devolved responsibilities after the Welfare Reform Bill is enacted” (Scottish Parliament Health and Sport Committee 2011d).

The Cabinet Secretary, Nicola Sturgeon MSP, agreed that Scottish legislation would be required if the LCM consent was refused. She stated:

“...The biggest practical consequence would be the need for primary rather than secondary legislation. The Government would have an obligation to ensure that we could handle the additional complications of that—that we had the additional time that was required for primary legislation—and that it could happen”. (Scottish Parliament Health and Sport Committee 2011b).

When pressed as to whether there was sufficient time for the Scottish Government to introduce primary legislation, the Cabinet Secretary responded:

Nicola Sturgeon: If we were dealing with primary legislation, the timescales for that are longer than they are for secondary legislation, as all committee members know. We would need to factor that into our planning and still ensure that we aligned with the UK Government timescale.

The Convener: But there should be no impediment with the timescales that have been presented to us.

Nicola Sturgeon: We would need to work to ensure that that is the case. Obviously, the key thing with the universal credit is that the effect of the consequential amendments is to a large extent about ensuring access to passported benefits. As health secretary, I would not want people not to be able to get access to passported benefits, and I am pretty sure that members of the committee would not want that, either. (Scottish Parliament Health and Sport Committee 2011b)

Refused consent

The Scottish Government’s Legislative Consent Motion on the UK Welfare Reform Bill did not give consent in relation to the provisions in the Bill giving Scottish Ministers the power to make consequential provisions, by regulations, in relation to the introduction of UC and PIPs. This was supported by the Scottish Parliament on 22 December 2011.

The motion which was agreed, lodged by Ms Sturgeon (S4M-01638.3) and amended by Jackie Baillie, urged the Scottish Parliament to:
• support legislative consent in respect of data sharing, industrial injuries disablement benefit and the social mobility and child poverty commission

• decline legislative consent in relation to the provisions in the Bill giving Scottish Ministers powers to make consequential provisions in relation to UC and PIPs and instead to make these provisions by way of an Act of the Scottish Parliament

• agree to the creation of a Welfare Committee with a remit to consider how the implementation of the Welfare Reform Bill affects people in Scotland, in particular the impact on passported benefits, and the principles and operation of devolved benefits

• continue to make the case to the UK Government to reconsider the Welfare Reform Bill and more broadly its welfare reform agenda.

During the debate on the motion, the Cabinet Secretary made it clear that access to passported benefits would be protected, in the timescale required.

“…we will take whatever steps are necessary, in the timescale required, to ensure that we protect access to passported benefits when universal credit is introduced.

Our doing that through primary legislation, and indeed with the establishment of a new parliamentary committee, will give the Parliament the opportunity to scrutinise more fully the implications of the changes and, within the obvious and severe financial constraints that we have, consider what mitigation measures are possible” (Scottish Parliament 2011).

This is the first time that legislative consent to a UK Bill has been refused since the establishment of the Scottish Parliament.

Welfare Reform Committee

The Scottish Parliament agreed to the establishment of the Welfare Reform Committee on 25 January 2011, under motion S4M-01813. The Committee had its first meeting on 23 February 2012 and will meet for the remainder of this parliamentary session. The remit of the Committee is:

“…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”.

The Welfare Reform Committee is the lead committee on the Bill.

PASSPORTED BENEFITS

Currently, individuals who are in receipt of means-tested out of work benefits or tax credits may be entitled to a number of ‘passported benefits’. A wide range of passported benefits are available and they are administered by a variety of organisations. For England and Wales, this includes various departments of the UK Government; in Scotland this includes the Scottish Government, as well as local authorities, other bodies within and outside of government, and commercial organisations. Passported benefits can be broken down into three groups:

• Benefits in kind, such as free school lunches
• Cash benefits, such as support for travel costs to health appointments
• Discounts on charges or fees, such as leisure discounts.

The Scottish Government has provided information on 10 different passported benefits which are provided in Scotland in the Financial Memorandum to the Bill. The annexe to this briefing provides a summary of which UK benefits provide a ‘passport’ to which devolved schemes and notes the main legislation relevant to each one.

Eligibility for ‘passported benefits’ can be set in legislation (such as free school lunches entitlement set out in the Education (Scotland) Act 1980), or can be a matter of policy (such as school clothing grants, or discounts for leisure facilities). Eligibility for some passported benefits has been established through devolved legislation and therefore the Scottish Government has responsibility for defining the entitlement criteria to these. These have been developed by different policy departments over a period of time. There is some variation between the devolved administrations and UK Government in terms of the policy on entitlement, a prime example being universal free prescriptions in Scotland and Wales. In England a person may be entitled to free prescriptions if they are claiming, for example, Income Support, income-based JSA, income-related ESA, or certain levels of CTC or WTC.

The UK Act effectively abolished all of the ‘passporting from’ benefits (eg income-based JSA, income-related ESA) and replaced them with UC. In the past, UK benefit changes have largely been on a like for like basis and so any changes in eligibility have been made by updating regulations. However, as UC will apply to claimants in and out of work, receipt of this benefit will not ‘stand as reliable proof of sufficiently low income for the purposes of establishing entitlement to passported benefits’ (Scottish Government 2011d, para 35). There is also a need to address the passported benefits attached to DLA as it will be replaced with PIPs.

The Scottish Government will need to establish a new criteria for passporting entitlement to these schemes, although this will be dependent on the UK Government establishing in more detail how the new UC and PIP will operate in practice. In addition to legislation, the Scottish Government may want to consult with the third sector, local authorities, banks, utility companies etc regarding their specific custom and practice arrangements.

SOCIAL SECURITY ADVISORY COMMITTEE

The independent Social Security Advisory Committee (SSAC) is the main UK advisory body on social security matters. It was asked by the UK Government to consider the impact of UC on eligibility to passported benefits. Scottish Ministers asked for the review to include Scotland in its terms of reference, but the scope excluded consideration of Housing Benefit and Disability Living Allowance (Scottish Government 2011d, para 38). The SSAC has now reported to the DWP which aims to publish the findings by the end of April 2012 (SSAC 2012).

The review by SSAC sought the views of individuals, organisations and other bodies with experience of passported benefits. The main focus was on benefits in kind, but views on cash benefits and discounts were also welcomed. The objective of the review was to provide advice on how such benefits should be considered once UC is introduced. In particular, the review sought to:

• Collect and review the evidence on benefits (and note information gaps), including:
  o Which benefits are particularly valued by recipients and the reasons for that valuation
The extent to which such benefits appear to influence employment decisions
Possible customer behaviour if entitlement to benefits is withdrawn

- Assess the level of complexity surrounding these benefits and consider whether such complexity is a barrier to understanding and take-up
- Examine current variations in provision, noting where possible the implications for all agents that administer benefits throughout GB and the responsibilities of devolved administrations
- Consider how a coherent approach might be developed
- Consider whether there are simpler alternative options that might mitigate any disincentives to work
- Identify ways in which such benefits might be developed in future, ensuring the replacement system is coherent, simple and removes disincentives to work.

Responses to the Social Security Advisory Committee

Although the SSAC report is not yet available, some of the responses are publicly available online. Two of the responses which have a Scottish focus come from SCoWR (Scottish Campaign on Welfare Reform 2011), and from the Director of Public Health at NHS Greater Glasgow and Clyde (NHS GCC 2011). Some of the broad issues raised are likely to be relevant to the devolved passported benefits in Scotland.

Overall, SCoWR argue that any UC entitlement should give access to all passported benefits. They say, “we hope that this is the approach that the Scottish Government will choose to take to passported benefits under universal credit, given that responsibility for them is devolved”.

On the value of passported benefits, SCoWR said that it depends upon a family’s or individual’s circumstances and,

“…could reduce their income dramatically if lost. For example, hospital transport costs can vary hugely and may be less important to those living in urban areas, but represent the only way that families from rural areas can manage to visit a child receiving specialist treatment far from home. Legal aid is not a regular cost, but is hugely important in terms of citizens’ access of justice”.

On the impact on incentives to work and stay in work, NHS GGC said that the loss of passported benefits when parents move into work can act as a disincentive if they form a significant part of the family’s income and that

“Better off in work calculations sometimes don’t include passported benefits and this can lead to work being unsuitable particularly for poor families. Once parents move in to work, even if they are better off in cash terms they then have to buy essential items such as school meals, school uniforms or other goods and services. This means that parents need to be able to move in to reasonably well paid work to offset this loss”.

SCoWR and NHS GGC indicated that passported benefits positively affect quality of life for low income families through health improvements, enabling participation in education and social activities, providing vital support in times of crisis, and ‘reduce stigma by ensuring people have access to the basic requirements to participate in society’ (NHS GCC 2011).

In terms of the key issues to consider in the design of passported benefits under UC, SCoWR said
“The most important issues in designing the new system are preserving – if not enhancing – current levels of entitlement and maximising take up of passported benefits. The best way to achieve this is a combination of a simple structure without complicated rules, and timely accessible information to claimants of universal credit about other entitlements”.

THE BILL

This short Bill enables Scottish Ministers to introduce regulations in order that devolved legislation can take account of changes to the benefits system introduced by the Welfare Reform Act 2012. In particular, it makes provision for regulations regarding the introduction of UC and PIPs and relates to the Scottish Parliament refusing consent on the LCM, as discussed above.

Section 1, on UC (Part 1 of the UK Act), and Section 2, on PIPs (Part 4 of the UK Act), confer powers on Scottish Ministers to make regulations as considered appropriate in consequence of relevant sections of the UK Act and any associated regulations. Regulations which amend primary legislation will be made under the affirmative procedure and those which amend existing regulations will be made under the negative procedure. The main focus of these regulations will be to maintain the legislative basis that underpins devolved, passported benefits in Scotland. These include benefits in kind such as free school lunches and blue badge parking permits, or cash benefits, such as the education maintenance allowance or travel costs to hospitals. Scottish Ministers may make regulations to make changes to devolved legislation to refer consequentially to some aspect of the new UC, or to fill a gap left by the abolition of the ‘passporting from’ benefit, for example by creating new eligibility criteria for certain passported benefits. A similar process is being carried out in England and Wales.

Section 3 of the Bill contains general provisions which apply to any regulations made under Section 1 and 2. Subsection (2) provides that regulations may be made which are either directly or indirectly related to the UK Act. The Explanatory Notes offer an example:

“…if the powers enabled by this Bill are used to establish an income threshold for entitlement to certain passported benefits then, in future, the Scottish Ministers may wish to vary that income threshold. Such variation may not be linked directly or indirectly to the UK Act but to something else, such as a rise in the rate of inflation” (para 20).

Section 4 defines the term UK Act, ie Welfare Reform Act 2012, sections 5 and 6 refer to commencement and the short title of the Bill.

TIMING AND CONSULTATION

The Scottish Government is required to work to a timetable which requires changes to Scottish legislation, including all regulations made under this Bill, to be commenced by April 2013 when the DWP intends to introduce the ‘pathfinder system’ to test UC. The Scottish Government is seeking to avoid a situation where provision of some passported benefits is put at risk if the legislation is not in place in time.

The Scottish Government says that its policy on how to replace eligibility for passported benefits will not be completed in the first half of this year. The Financial Memorandum states that this is because the practical details of how UC will operate remain to be set in subordinate legislation by the Secretary of State. As such, the UK Government will not be in a position to “convey the
essential detail of their new benefits to it [the Scottish Government] before June of this year” (Financial Memorandum para 32).

These timing issues have meant that the normal consultation process for legislation has not been possible. However, the policy memorandum describes the Bill as having been introduced “on the invitation of the Health and Sport Committee” (Policy Memorandum para 14) in consequence of the Parliament’s refusal of legislative consent to the relevant aspects of the UK Act. The Scottish Government has established a Welfare Reform Scrutiny Group with which it will consult during the legislative process of the Bill (Policy Memorandum para 15).

FINANCIAL MEMORANDUM

Because of the timing issues described above and lack of available detail, it is not possible for the Scottish Government to set out the full detail of the financial impact of future plans to modify entitlement to passported benefits. The Scottish Government intends to provide further detail when subordinate legislation is introduced later this year; however, it has provided some indication of cost based on current provision.

The budget for the main passported benefits, in their current form, is forecast to be around £546m in 2011-12. Apart from one-off transitional administrative costs, the Scottish Government is not expected to incur increases in expenditure as a direct result of this Bill. When changes to the eligibility criteria for these benefits are made, there may be direct budget implications for the Scottish Government and wider bodies and knock-on social and economic impacts. However, it is not possible to quantify these impacts until more detailed proposals are put forward in the regulations later this year.

OTHER DEVOLVED RESPONSIBILITIES

Two related areas where the Scottish Government may also have to make regulations in the future concern Council Tax Benefits and parts of the Social Fund (community care grants and crisis loans for living expenses), which were abolished by the UK Act. This work is linked through the UK Act, however these are separate matters and the Bill as introduced does not provide for regulations to introduce these successor arrangements.

SOCIAL FUND

Community care grants and crisis loans for living expenses are two discretionary elements of the Social Fund which was originally established in 1986 and is intended to provide support to those on low incomes who had needs that could not be otherwise accommodated (Scottish Government 2011a).

In 2009-10 there were 82,370 applications for community care grants in Scotland, of which 41,450 awards were made. Gross expenditure was £20.2m (DWP 2011a). In 2009-10, 238,000 applications for crisis loans for living expenses were received in Scotland and 180,470 awards were made. Gross spend in Scotland was around £10m (DWP 2011b).

Following an initial recommendation from the Calman Commission to devolve the discretionary elements of the Social Fund, the UK Government’s White Paper ‘Universal Credit: welfare that works’, set out plans for reform of the Social Fund. The UK Government proposed that the discretionary payments should be abolished and replaced by a new locally-based provision.
Section 70 of the UK Act makes provision for the abolition of the discretionary elements of the Social Fund.

In August 2011, the Scottish Government issued a consultation paper proposing that successor arrangements should combine the current systems of grants and loans into one grant fund.

The consultation paper also sought views on: whether there should be centralised or local delivery of the successor arrangements; whether the eligibility criteria should be modified; whether goods rather than cash should be provided; and, whether other support such as budgeting support should be provided and how appeals should be organised.

Fifty responses were received to the consultation which generally welcomed the devolution of the community care grants and crisis loans for living expenses as an opportunity for the Scottish Government to remedy the deficiencies and complexities of the existing system and to secure better integration with other aspects of welfare and public policy in Scotland (Scottish Government 2011c).

Respondents gave a qualified endorsement to the proposal for a single grant fund. Overall, where a preference was expressed, it was for local delivery and this view was particularly expressed by local authorities. Preference for central delivery came almost entirely from third sector organisations.

The Scottish Government is currently discussing future arrangements with key stakeholders - COSLA in particular.

The intention is that new arrangements will be operational in Scotland by April 2013.

COUNCIL TAX BENEFIT

Section 33 of the UK Act abolishes the existing Council Tax Benefit, which assists the workless, retired, low paid or vulnerable to meet their Council Tax liabilities, from April 2013. Council Tax Benefit will be removed altogether from the Social Security system, and it will then fall to the Scottish Government to develop and implement successor arrangements. These successor arrangements will operate with 10% less funding, and Scotland will get a fixed addition to its budget which the UK Government assert will correspond to Council Tax Benefit currently paid in Scotland minus 10%. The Cabinet Secretary confirmed that Council Tax Benefit is worth £380m at the present time. Therefore, a 10% reduction amounts to £38m (Scottish Parliament 2011b col 679-680).

At December 2011 there were 558,090 recipients of Council Tax Benefit in Scotland (DWP 2012).

The Scottish Government is working with COSLA and local government on the development of successor arrangements which will operate in Scotland from April 2013 onwards.
ANNEXE: SUMMARY OF PASSPORTED BENEFITS

The table below shows how different welfare benefits (column) create eligibility for various schemes which are governed by devolved legislation (row).

**Table 1: Passports from benefits to be replaced by Universal Credit**

<table>
<thead>
<tr>
<th>Receipt of this benefit: → Gives entitlement to this benefit ↓</th>
<th>Income Support</th>
<th>Income-based JSA</th>
<th>Income-based ESA</th>
<th>Child Tax Credit</th>
<th>Working Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education Maintenance Allowance</td>
<td>yes</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Student loan cancelled if permanently unfit for work</td>
<td>if get disability premium</td>
<td>no</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Legal aid – advice and assistance</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Individual Learning Accounts</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>if getting maximum amount</td>
<td>no</td>
</tr>
<tr>
<td>Free glasses</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>if income &lt; £15,276</td>
<td>if getting one of disabled elements or also getting CTC and income &lt; £15,276</td>
</tr>
<tr>
<td>Free dental treatment</td>
<td>yes</td>
<td>Yes</td>
<td>yes</td>
<td>if income &lt; £15,276</td>
<td>if getting one of disabled elements and income &lt; £15,276</td>
</tr>
<tr>
<td>Free travel to NHS treatment</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>if income &lt; £15,276</td>
<td>if getting one of disabled elements and income &lt; £15,276</td>
</tr>
<tr>
<td>Free school lunches</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>if income &lt; £15k and not entitled to WTC</td>
<td>if income &lt; c.£6,000</td>
</tr>
<tr>
<td>Court fees exemption</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>if also getting WTC</td>
<td>if getting one of disabled elements or also getting CTC and income &lt;£16,642</td>
</tr>
</tbody>
</table>

Benefits are only mentioned in the above table if they are both an eligibility criteria for passported benefits and are being replaced by Universal Credit. It does not include the Energy Assistance Scheme as this will close to new applicants in April 2013.

PASSPORTS FROM DLA

Replacing DLA with PIP will require new eligibility criteria to be created for the Blue Badge scheme and National Concessionary Travel Scheme. DLA is available at different rates, and the eligibility criteria for the two passported schemes is illustrated in the table below:

**Table 2: Passports from DLA**

<table>
<thead>
<tr>
<th></th>
<th>Mobility</th>
<th>Care</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>low</td>
<td>high</td>
</tr>
<tr>
<td>Blue Badge</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td>Travel</td>
<td>no</td>
<td>yes</td>
</tr>
</tbody>
</table>
RELEVANT DEVOLVED LEGISLATION

The following lists the main regulations or Scottish Acts which provide the eligibility criteria for the above mentioned schemes.

- **Education Maintenance Allowance (Scotland) 2007 SSI 2007/156** (as amended)
- **Repayment of Student Loans (Scotland) Regulations 2000** SI 2000/110 (as amended)
- **The Advice and Assistance (Scotland) Regulations 1996** (SI 1996/2447) (as amended) (legal aid)
- **The Individual Learning Account (Scotland) Regulations SSI 2011/107**
- **National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998** no. 642. (as amended)
- **National Health Service (Travelling Expenses and Remission of Charges)(Scotland) No.2 Regulations 2003 No. 460.** (as amended)
- **Education (Scotland) Act 1980** s.53 (as amended) and **SSI 2009/178** (free school lunches)
- **Sheriff Court Fees Order 1997** (as amended) SI 1997/687
- **Court of Session Fees Order 1997** (as amended) SI 1997/688
- **Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000** (as amended)
- **National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order** SSI 2006/117 as amended.

We do not have information on the number of beneficiaries for all these schemes, but the chart and table below give an indication of scale for seven of them. However, it should be noted that for many schemes there are eligibility criteria in addition to the receipt of specified welfare benefits.

**Table 3: Estimate of number of beneficiaries from example schemes**

<table>
<thead>
<tr>
<th>scheme</th>
<th>beneficiaries</th>
<th>notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glasses*</td>
<td>322,116</td>
<td>Passported claims processed 2010/11</td>
</tr>
<tr>
<td>Blue Badge</td>
<td>135,000</td>
<td>Criteria wider than passported benefits</td>
</tr>
<tr>
<td>Free school lunches</td>
<td>118,963</td>
<td>Prior to expansion to P1-3 pupils, but includes eligibility via immigration legislation</td>
</tr>
<tr>
<td>ILA</td>
<td>110,000</td>
<td>Total ILA accounts opened 2010/11</td>
</tr>
<tr>
<td>EMA</td>
<td>34,780</td>
<td>Eligibility also includes low income</td>
</tr>
<tr>
<td>court fees</td>
<td>33,000</td>
<td>Criteria wider than passported benefits</td>
</tr>
<tr>
<td>Legal Aid</td>
<td>9,727</td>
<td>Grants with no contributions – i.e from passport benefits only</td>
</tr>
</tbody>
</table>

*Source: Scottish Government table personal communication for all except: Free school lunches statistics and EMA statistics. *A person might get more than one voucher.*
SOURCES


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Finance Committee

11th Meeting, 2012 (Session 4), Wednesday, 18 April 2012

Welfare Reform (Further Provision) (Scotland) Bill
Financial Memorandum – written submissions

Introduction

1. The Welfare Reform (Further Provision) (Scotland) Bill was introduced in the Parliament on 22 March 2012.

2. At its meeting on 28 March 2012, the Committee agreed to seek written evidence from a series of organisations potentially affected by the Bill. Submissions have been received from—

   - Angus Council
   - 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

3. In addition, the Scottish Funding Council indicated that the Bill did not have any direct financial implications for its organisation.

4. The written submissions are attached at Annexe A.
Annexe A

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 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
- 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 is 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

2. 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

3. 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

4. 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.

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?

See comments above.

2. 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.

3. 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

4. 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.

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?

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

2. 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.

3. 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
4. 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?

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? YES

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? - YES

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? - YES

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?

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-imbursement. 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:

1. Free school lunches
2. Education Maintenance Allowance
3. 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

1. 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.

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?

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 ‘passported benefits’ should be reviewed and provision made for Government funding of LA’s where consequential increases will arise.

2. 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 ‘passported 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.

3. 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 ‘passported benefits’ can be projected the award values should then be reviewed and any additional costs for LA should be funded by Government.

Wider Issues

4. 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 ‘passported 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.

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.

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
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.

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?

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.

2. 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.

3. 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
4. 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.