Local Government and Regeneration Committee – Considering the powers to address concerns with the Coalition’s welfare reform proposals

As you and your committee members will be aware, there is growing concern amongst individuals and organisations at the effect of the UK Welfare Reform Bill on health, social care and homelessness in Scotland. Many of SCVO’s members have been taking part in discussions with UK Department for Work and Pensions and Scottish Government to highlight these concerns. SCVO has also hosted meetings with its members to develop a sector perspective on these issues. Previously we have also raised these concerns with the House of Commons Scottish Affairs Select Committee inquiry into the Scotland Bill and with the Calman Commission.

SCVO now believes it is essential that the Local Government and Regeneration Committee looks closely at some of the wider implications of Coalition government’s proposals for Welfare Reform. In particular, we ask the Committee to assess the growing disparity between Scottish health and social care policy and the Coalition’s benefits policy. As part of this exercise, we believe the Committee should consider the possible implications of seeking either further devolution of benefits or withholding legislative consent to specific changes to the Welfare Reform Bill that will adversely impact on services to vulnerable people in Scotland. Clearly, a move towards devolution of benefits may also impact on legislative consent for the provisions in the Scotland Bill.

We briefly note the main issues below and attach a more detailed summary for your consideration. Our members have concerns regarding the following:

General issues: The Welfare Reform Bill leaves much of the detail to regulation still to come. This reliance on secondary legislation makes it exceptionally difficult to assess the Scottish-specific impact

Disparity between Scottish health and social care policy and UK benefits policy:

- specifically in relation to the Self Directed Support Strategy and Bill which moves Scotland towards an outcomes focussed, personalised care system that individuals can control and direct, in stark contrast to the Personal Independence Payment (PIP)

- The transfer from DLA to PIP is expected by DWP to result in a 20% budget saving, but it is not clear where this saving will come from and there are concerns of a significant impact on Scottish local authorities.

Housing changes:

- The policy on under-occupancy in housing creates issues in Scotland as evidenced by research from both the DWP and the Scottish Government Impact Assessments due to the shortage of one bedroom social houses

- Changes to the Local Housing Allowance rate are relevant to the cumulative impact on welfare and housing. There is some evidence that the impact has been underestimated

- Increase in non-dependent deductions - there does not appear to be a DWP Impact Assessment on this policy and the Scottish Impact Assessment does not estimate the numbers affected in Scotland

- The Broad Market Rental Area (BMRA) rate will be set to the 30th percentile of LHA and then uprated by CPI, rather than by being set against the 30th percentile, in the future.

- The Shared Accommodation Rate policy would see the age at which a person becomes eligible for Housing Benefit for a single room raised to 35. The Scottish Impact Assessment estimated that 4,400 people could have affected, mainly in Glasgow and Edinburgh.

- Impact of housing changes on Scottish Policy Homelessness 2012 - The changes to Housing Benefit are likely to have an adverse effect on the Scottish Government’s homelessness commitment to remove the distinction between priority and non-priority need and give all applications the same right to accommodation.
Disability Premiums: The Welfare Reform Bill will abolish disability premiums with the introduction of Universal Credit. As the Severe Premium is designed to help those who need care but live alone, this could have a knock-on effect on local authority budgets and the Scottish Government’s policies on Independent Living.

The Independent Living Fund: Changes to the Independent Living Fund (ILF) (closed to new applicants 18 months ago) will impact on Scottish policy and Local Authorities. The City of Edinburgh Council has noted that no transitional arrangements were put in place and that responsibility for supporting those who would have been eligible for the ILF falls to local authorities.

Conclusion
In summary, SCVO believes that you should be aware that there is a very strong feeling within the third sector that the current position of benefits being reserved to Westminster whilst areas such as health and social care are devolved will lead to major impacts on our most vulnerable citizens unless there is very close alignment of policy. We do not believe that there is close alignment between the policies proposed in the Welfare Reform Bill and those in the Self Directed Support Bill. We also believe that the Welfare Reform Bill will adversely impact on Scotland’s homelessness targets.

We are therefore asking that the Local Government and Regeneration Committee considers very closely the implications for Scotland of the Welfare Reform Bill and considers seeking either further devolution of benefits or withholding legislative consent to those provisions in the Welfare Reform Bill that will adversely impact on Scottish policy. Further devolution of benefits may impact on provisions in the Scotland Bill.

If the Local Government and Regeneration Committee is prepared to look into these areas in detail, SCVO and its members would be very willing to provide more detailed written and oral evidence.

Sincerely,

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Request for consideration of the UK Government’s Welfare Reform Bill and the Scotland Bill
SCVO Brief – August 2011

This brief accompanies a letter to the Health and Sport, Equal Opportunities and Local Government Committees of the Scottish Parliament requesting that the Committees consider the impact of the Welfare Reform Bill in Scotland, and any potential impact on the Scotland Bill. The points outlined in our letter have been explained in further detail below. Should the Committees decide to take up this request, we, along with many of our members, will submit further detailed evidence to support the consideration of these important issues.

General issues
The Equality and Human Rights Commission has commented¹, “The heavy reliance on secondary legislation may impede the government’s ability to assess the total impact of the measures on protected groups and to assess compliance with equality legislation Convention rights.” SCVO contends that the reliance on secondary legislation also makes it, at best, exceptionally difficult to assess the Scottish-specific impact in terms of numerical consequences, such as x Scottish residents will suffer y losses. We are therefore forced, to an extent, to rely on arguing principles and on a certain amount of conjecture. We regard this as unsatisfactory.

Disparity between Scottish health and social care policy and UK benefits policy
The increasing disparity between the approach of the Westminster controlled benefits system and the direction of travel of Scottish health and social care is of considerable concern. The Self Directed Support (Scotland) Bill (SDS Bill) has been welcomed as a move towards an outcomes focussed, personalised care system that individuals can control and direct. Local authorities are moving rapidly in that direction. However, the draft assessment procedure for Personal Independence Payment (PIP), which is to replace Disability Living Allowance (DLA), has received widespread criticism for appearing to revert to “life and limb” care in stark contrast to the SDS Bill’s move towards personal fulfilment. As the EHRC have commented² about PIP “the Commission is concerned about the indirect introduction of the medical model of assessment”.

The indicators in the draft PIP assessment procedure focus entirely on the applicant and ignore any social or other external barriers that block their independence, such as: availability and accessibility of transport; accessibility of buildings, services, or other locations; and the types of terrain the individual is able to move across. These external factors often account for many of the additional costs faced by a person with a disability, which is recognised in the social model approach taken by Scotland’s Self Directed Support policy. As DLA/PIP, along with local authority services, helps to contribute towards a claimant’s independence, any disparity between the two will create a complex and confusing system that is not conductive to the claimant’s independence and will reduce the effectiveness of the Scottish policy of Self Directed Support.

The draft assessment regulations also restrict their focus to basic survival. For example, the section on preparing food only deals with a “simple meal”, indicating that the provision of this benefit is content to allow the recipient to live off simple meals. The section on washing, bathing, and grooming only considers the ability of a person to clean themselves to above the “level of self-neglect”. These assessment regulations sit in contrast to the principles of independence and dignity, and appear to be aimed at providing a level of support to allow a person to simply survive. This shows that the new benefit would focus only on the individual and only on their ability to survive. This stands in contrast to the approach of the Scottish Government.

The transfer from DLA to PIP is expected by DWP to result in a 20% budget saving, but it is not clear where this saving will come from. There are several examples of claimants using their DLA to contribute towards a service they receive from/through a local authority. The policy of local authorities using DLA to contribute to care packages appears to be increasing as budgets for these services tighten. In Edinburgh, one recipient has reported being required to pay a proportion of her son’s DLA care component along with Direct Payments to an organisation that provides care services,

¹ Memorandum submitted to the Public Bill Committee by the EHRC (WR 50)
² Memorandum submitted to the Public Bill Committee by the EHRC (WR 50)
although he requires only the minimal level of care provision. If he were to lose his DLA it would impact on the family’s ability to pay for this care service.

A report from City of Edinburgh Council\(^3\) also shows that DLA is taken into account during assessments for aids and adaptations from the local authority. In this particular example an applicant was having difficulty using a bath hoist installed about 15 years earlier, as her condition had deteriorated. Although she was assessed as being unable to use the hoist on her own she was not granted a shower adaptation as she could use her DLA to purchase assistance to help her in and out of the bath. This example appears to have been influenced by restrictions on local authority spending and the tightening of eligibility for support. Further reducing funding granted through DLA would impact on the standard of living of those who require support and/or require greater funding by local authorities.

There is a distinct lack of information relating to the effect all this would have in Scotland and on the Scottish policy of Self Directed Support. There is no Scottish Impact Assessment and no section detailing the impact on Scotland in the DWP’s Impact Assessment. As highlighted above several factors of the reform of DLA stand in contrast to the Scottish policy of Self Directed Support and the reductions in funding would have a knock on effect on the ability of Scottish local authorities to provide care services. It is essential that the full impact of this policy is known before the Welfare Reform Bill is passed.

There is also an international element to this area of policy. The International Classification of Functioning, Disability, and Health (ICF) model encompasses environmental barriers in its definition of disability. These environmental barriers create participation restrictions, resulting in a disability faced by a person with an impairment. This definition is endorsed by the World Health Organisation.\(^4\) Environmental barriers and the right to dignity and independence are also recognised by the UN Standard Rules on the Equalization of Opportunities of Persons with Disabilities (1993)\(^5\) and the UN Convention on the Rights of Persons with Disabilities (2006).\(^6\) The PIP draft regulations do not meet the principles set out by these international documents. The Scottish Government’s SDS approach is far more aligned with these international approaches.

**Housing changes**

The policy on **under-occupancy in housing** will see those in social housing deemed to be under occupying their home lose an amount of their Housing Benefit. According to the DWP\(^7\), 670,000 affected people will lose £13/week on average with 530,000 under occupying by one bedroom losing £11 average and 150,000 under occupying by two or more bedrooms losing £20 average. Evidence from both the DWP and the Scottish Government Impact Assessments suggests that there are not enough one bedroom social houses. This will create a problem for rehousing those affected by the under occupancy rules. There is generally a surplus of 3 bedroom houses and a lack of one bedroom properties.

Changes to the **Local Housing Allowance** rate were introduced from April 2011. The full impact of this is unknown as yet, but it is relevant to the cumulative impact on welfare and housing. Although DWP conduct some impact assessment there is some evidence that the impact has been underestimated.


Non-dependent adults living in a property are usually expected to contribute towards housing costs. This group tends to include adult children, friends, or other relatives. Partners, people under the age of 18, people under the age of 25 and on an income related benefit, students, and prisoners are exempt. The DWP estimates that there are 300,000 Housing Benefit claimants in the UK receiving a non-dependent deduction and 350,000 non-dependents. The exact figure is not known, however. Deductions are based on the income of non-dependents, and can range from £7.40 for those on less than £120 per week to £47.75 for those on over £382 per week. These rates had been frozen since 2001/02, but are now due to be uprated in three stages to the level they would have been at if uprating had not been frozen. According to the Scottish Government Impact Assessment, there was a 27% rise in non-dependent deductions between 2010 and 2011. It is not clear how much the rise will be in further stages. Although it is not known exactly how many claimants will be affected in Scotland, Scotland’s 10% of the Housing Benefit caseload would indicate that about 30,000 claimants could be affected. There does not appear to be a DWP Impact Assessment on this policy and the Scottish Impact Assessment does not estimate the numbers affected in Scotland.

The Broad Market Rental Area (BMRA) rate will be set to the 30th percentile of LHA and then uprated by CPI, rather than by being set against the 30th percentile, in the future. As rents tend to rise faster than CPI, this may gradually further lower the BMRA rate to below the 30th percentile. This is due to begin in 2013. The DWP expects a loss of £5.50 per week for those claiming LHA.

The Shared Accommodation Rate policy would see the age at which a person becomes eligible for Housing Benefit for a single room raised to 35. Those under 35 will only be entitled to the Shared Accommodation Rate, which is designed to cover the rate of a single room in a shared household. This would represent a significant loss to those between 25 and 35 in single accommodation, ranging from about £18 to £50 per week in Scotland. The Scottish Impact Assessment estimated that 4,400 people could have been affected, mainly in Glasgow and Edinburgh.

Impact of housing changes on Scottish Policy Homelessness 2012

The changes to Housing Benefit are likely to have an adverse effect on the Scottish Government’s homelessness commitment to remove the distinction between priority and non-priority need and give all applications the same right to accommodation. The changes to Housing Benefit concerning the reduction of LHA rates to the 30th percentile, the restriction to 4 bedroom rate, the removal of the £15 excess, uprating by CPI, uprating non-dependent deductions, the age eligibility increase for the shared accommodation rate, and under occupying social housing are all understood to risk increasing homelessness. This will put pressure on the Scottish Government 2012 homelessness commitment.

There are several documents on the Scottish Government website that assess the impact of the above measures on homelessness. They predict a gradual increase in the number of people presenting as homeless and accumulating debt.

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Premiums

The Welfare Reform Bill will abolish disability premiums with the introduction of Universal Credit. Instead, the Support Group component of UC will be paid at an additional £74.50 (up from £31.40), whilst the Work Related Activity Group will remain at £25.95. The rise in the Support Group payment is due to it encompassing what used to be disability premiums. This means that those placed in the Work Related Activity Group who previously had a disability premium would lose their entitlement to that premium. Transitional protection will protect those currently in the Work Related Activity Group and claiming a disability premium. The exact details of transitional protection are not yet known. As the Severe Premium is designed to help those who need care but live alone, this could have a knock on effect local authority budgets and the Scottish Government’s policies on Independent Living. It appears that this policy would have an impact on two groups in particular: those placed in the Work Related Activity Group and those who are over 65.

The Independent Living Fund

A brief examination of the impact of changes to the Independent Living Fund (ILF) gives an indication of how Westminster policy can impact on Scottish policy and Local Authorities. The ILF was closed to new applicants in 2010. Existing ILF claimants have been assured of funding continuing until 2015. The City of Edinburgh Council (CEC) has noted that no transitional arrangements were put in place and that responsibility for supporting those who would have been eligible for the ILF falls to local authorities. As of May 2011 there were 295 in receipt of ILF in Edinburgh and the total amount they received was £4.9m per year. CEC estimates that the cost to the Council of closing the ILF to new applicants as £591,000 in 2011/12 rising to £2,360,500 by 2015/16. In addition, reducing support under the independent living fund will have a knock-on effect on the Scottish Government’s employability policies, as many recipients use their ILF to support them in continuing to work.

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13 City of Edinburgh Council Health, Social Care and Housing Committee report 21 dated 24 May 2011