UPDATED SUBMISSION TO THE DEVOLUTION (FURTHER POWERS) COMMITTEE FROM THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS (SFHA)

6th March 2015
1. Purpose of Updated Submission

1.1. The SFHA first submitted evidence to the Devolution (Further Powers) Committee ahead of the session on 15th January, when Mary Taylor, CEO of SFHA appeared before the Committee. That submission outlined what powers SFHA had called for in our submission to the Smith Commission and gave our reaction to the Smith Commission’s Heads of Agreement, highlighting powers we welcomed and areas of concern.

1.2. Our latest submission updates that evidence, adding SFHA’s reaction to the Draft Clauses published on 22nd January and emphasising our areas of concern. It also details further engagement efforts by ourselves to highlight the key issues for the housing sector in the devolution of further powers. Our concerns can be summarised as relating to: social security, especially around Housing Benefit or the housing costs element of Universal Credit, benefits outwith Universal Credit but with a bearing on the work of housing associations; energy and fuel poverty; fiscal powers and intergovernmental working.

2. Who We Are

2.1. The SFHA exists to lead, represent and support housing associations and co-operatives throughout Scotland, in all their diversity. There were 160 Registered Social Landlords (RSLs) across Scotland at the start of 2014, mostly in the form of housing associations, large and small, urban and rural. Their housing provision ranges across general and specialist need with around 280,000 homes, and over 5,000 places in supported accommodation. They currently add to new supply of housing, mainly for rent to people in need and at rents below market levels. Associations also provide housing for sale, part sale and mid-market rent, reaching people and families that the private market doesn’t reach.

2.2. Housing associations and co-operatives operate and have strong roots in some of the most deprived communities of our country, providing housing which is safe, warm, dry and affordable. But their wider role goes far beyond bricks and mortar. Housing associations tackle inequality, for example alleviating fuel poverty through energy efficiency measures to new and existing homes, and renewable energy developments. They prevent expensive hospital and care solutions, by providing and promoting independent living with support at home for older, disabled and vulnerable people. They help tenants at times of need with food banks and financial inclusion services, and assist people to work their way out of poverty through employment and training projects. They build and support communities through various activities – creative arts, children and family projects, outdoor projects, providing venues for meetings and events. Housing associations serve as the anchor for services in their communities, adding value and vitality to those communities, wherever they are.

2.3. SFHA is the national voice of housing associations and housing co-operatives. Our role is to assist and support them to meet a diverse range of housing need, to provide high quality genuinely affordable housing and to develop sustainable communities. To this end, we wish to see Scotland develop a well-functioning housing system that is able to make a significant and effective contribution to tackling poverty, inequality and deprivation across Scotland.
2.4. The value of Housing Benefit spending in Scotland is currently £1.8 billion and over 61% of all rental income of housing associations and co-operatives is sourced from Housing Benefit – see Annex B. Universal Credit will replace Housing Benefit as it is rolled out (now underway with effect from February 2015). And the new powers proposed by the Smith Commission will devolve powers over some housing elements of Universal Credit to the Scottish Parliament. This means that the proposed new powers are vital to the interests of our members.

3. The Smith Commission and the Smith Agreement

3.1. The SFHA worked to engage with the Smith Commission throughout its deliberations in pursuit of a more coherent set of powers around housing. We provided a written submission, attended public meetings with Lord Smith, and gave evidence in person to the public plenary held by the Commission on 13th November.

3.2. In all our contributions to the Smith Commission the SFHA argued for the Scottish Parliament to have a further package of devolved powers encompassing all of the social security system (excluding pensions), borrowing and fiscal powers along with certain powers relating to energy supply to enable the Scottish Parliament to fund the policies that will deliver a well-functioning housing system. See Annex A.

3.3. The rationale for this argument is that since devolution in 1999 handed powers over housing to Holyrood, Housing Benefit has grown in significance across Great Britain as rents have risen, and as more and more tenants need support to pay rents. This has had the unintended consequence that the balance of control over housing funding has been shifting back towards Westminster. As Housing Benefit costs overall have risen, the annual value of rent support (reserved to Westminster) is almost twice the value of annual housing investment (devolved to the Scottish Parliament): see Annex B.

3.4. The Smith Agreement did not go as far as we – and many others - had proposed. However, it did recommend powers over elements of welfare, energy and fiscal powers that could have a significant impact on tenants and social landlords.

3.5. The SFHA also warmly welcomed the Smith recommendation for substantially improved intergovernmental working. As an organisation that advocates on policy areas that straddle devolved and reserved powers, we witness first hand how the lack of effective collaboration at times between the UK and Scottish Governments and Parliaments can pose a challenge and threaten effective and safe policy making.

4. The Scotland Office Bill Team and Draft Clauses

4.1. In October 2014 SFHA was asked to sit on the Stakeholder Group set up by the Scotland Office to advise the Draft Clauses Bill Team. The SFHA was one of 19 organisations to accept the invitation, and did so because it is committed to engaging with the entire process that followed on from the Smith Agreement, to draft, pass and enact legislation giving new powers to Scotland.
4.2. The CEO of SFHA attended three meetings of the Stakeholder group between December 2014 and January 2015, prior to the publication of the Draft Clauses. At these meetings, the Stakeholder Group’s views on the Smith Agreement were sought by the Bill team. However, Stakeholders were not given advance view of the Draft Clauses, so did not endorse the content of the Command Paper: *Scotland in the United Kingdom: An Enduring Settlement*.

4.3. The content of the Draft Clauses on the areas of interest to the SFHA – welfare, fiscal powers, energy and fuel poverty and intergovernmental working - were overall as expected, following closely what had been recommended by the Smith Agreement.

4.4. Overall, the draft clauses reveal the complexity of the new devolution settlement, setting out an array of exceptions to the powers which will still be reserved to Westminster. They make critical the need for intergovernmental cooperation between the Scottish and UK Governments, not just to implement the new powers, but to manage the interdependencies of the new settlement on an ongoing basis.

4.5. This is especially important for welfare powers, where the interconnections will be complex and the people who rely on benefits are often vulnerable. For example, some benefits that will be devolved can act as a passport to benefits and other exemptions which will remain reserved. Universal Credit is reserved, but aspects of the housing elements of Universal Credit will be devolved to the Scottish Parliament. So careful ongoing management of these powers between the two governments will be essential for delivery of an effective and safe welfare system.

4.6. Following publication of the Command Paper on 22nd January, SFHA was asked to continue its role on the Stakeholder Group and has been asked to attend and invite others from the housing sector to attend a series of 5 stakeholder meetings being organised by the Scotland Office in different parts of Scotland, in February and March 2015. These meetings are widening the initial pool of 19 stakeholders and inviting larger groups – of approximately 100 at each session – to meet with the Bill Team to consult on the Draft Clauses. SFHA member housing association staff attended meetings in Aberdeen and Inverness in February. The SFHA CEO and staff, along with member associations, tenants groups and COSLA attended the Glasgow meeting on 4th March, where concerns in this submission were raised with senior civil servants from the Scotland Office, DWP and the Treasury.

**Areas of concern**

5. **Housing, Social Security and Housing Benefit – Universal Credit**

5.1. There is an inherent instability in the current system. The SFHA does not regard the status quo as acceptable in terms of powers, on the basis that control over policy and administration of Housing Benefit needs to be able to align with the already devolved powers over housing policy and legal arrangements for housing in Scotland. The Smith Agreement and Draft Clauses do not achieve this, but create the opportunity to improve on the current arrangement. This opportunity must be taken.

5.2. Annex D outlines the logic of SFHA’s position on the relationship between Housing Benefit, social security and the housing system.
5.3. The Smith Agreement and Draft Clauses both give attention to the issues of detriment, and it is important to consider the example of devolution of social security on the parity principle in Northern Ireland. This does not serve as a useful prototype as it restricts freedom to make policy in line with local needs and circumstances. Northern Ireland has the powers outlined in paragraphs 44 and 45 of the Smith Agreement – see Annex C – but mostly elects not to use them, for reasons of cost due to the parity principle. Further devolution on this basis in Scotland would represent responsibility without power and would not represent a significant improvement on the status quo. (See Annex E for Housing Scotland article What will greater powers mean for benefits? Lessons from Northern Ireland)

5.4. In looking at the issue of ‘no detriment,’ it is also important to consider that any new system must not just be of no detriment to governments, it should be of no detriment to users. This is a particular issue in terms of transitions between benefit systems.

5.5. Housing Benefit will cease to exist as and when Universal Credit is fully rolled out in Scotland, and so it will be essential for new legislation to take into account how the proposed powers will affect people on Housing Benefit AND during and after their transition to Universal Credit. We remain of the view that Universal Credit should not be further rolled out until the new powers are clear and settled.

5.6. Any new system must be better than the one it replaces. Key to that is improved intergovernmental working – a strong recommendation of the Smith Agreement. The SFHA would reinforce the recommendation of the Commission to develop a framework for liaison between Westminster and Holyrood to ensure much more efficient, collaborative and effective working.

5.7. A vital area where SFHA sees a potential opportunity for significantly improved intergovernmental working is on the roll-out of Universal Credit in Scotland. The Draft Clauses provide for the devolution of a range of welfare powers that will become part of Universal Credit as it is rolled out. So there is still a compelling argument to suspend the roll-out in Scotland, until the new powers have been settled, so that changes can be planned for and implemented only once.

5.8. In the SFHA’s first submission to the Committee, we included a copy of an open letter sent on 11th January 2015 to the Secretary of State for Work and Pensions, from 57 Scottish civic organisations including SFHA. The letter called for the immediate suspension of the roll-out of Universal Credit in Scotland to allow for the process of devolving further powers to the Scottish Parliament – see Annex F for a copy of the letter.

5.9. Following receipt of this letter, staff of the Department of Work and Pensions (DWP) attended a meeting in Inverness on 16th January, 2015 with housing association and council staff involved in the pilot of Universal Credit in Inverness. At this meeting DWP staff were given evidence of problems experienced in the pilot in Inverness that were impacting tenants and landlords, that in their view would pose significant difficulty once the roll-out was done on a large scale. The DWP officials said they had not seen this evidence in their own evaluation of the pilot, and that it would be considered.
5.10. SFHA and the other signatories received a response on 10th Feb to their open letter. The reply was from Neil Couling at the DWP, on behalf of the Secretary of State – see Annex G for a copy. The letter rejected the call for a suspension, stating that “Ministers have concluded that it would not be in the best interests of Scotland to do so.” It went on to say that “Universal Credit has already been rolled-out across the whole of the North West of England and there is no evidence that this has happened in a way that disadvantaged claimants.” The letter concludes by inviting signatories to a one-day conference with DWP officials. Signatories were only willing to attend a meeting if they were also given the opportunity to present information and evidence. A meeting is therefore planned for 24th March, but in a different format to that proposed in the letter, in the form of a meeting for dialogue rather than a conference.

6. Fiscal and Borrowing Powers

6.1. The Scotland Act 2012 granted the Scottish Parliament a significant range of fiscal powers in respect of some land taxes, setting a Scottish rate of income tax, and extended borrowing powers. The Act also gave the Scottish Parliament the power for existing UK-wide taxes to be devolved and/or new taxes to be created using the order-making process in both the UK and Scottish Parliaments.

6.2. Intergovernmental working will also be central to application of the principle of ‘no detriment’, set out within the financial section of the Smith Agreement. It indicated that neither government should be adversely affected as either a result of the devolution of further powers or of the policy decisions taken post-devolution. The implication is that policy decisions of one government which are considered to have a detrimental impact on the other would require financial compensation. An example might be if the UK Government makes policy decisions over mortgage relief or interest rates - reserved policies affecting the housing market – which have an adverse effect on availability and affordability of rental housing, would it compensate the Scottish Government for increased Discretionary Housing Payments or related housing costs? And if the Scottish Government took policy decisions which reduced reserved spending on housing support, would it be compensated?

6.3. We encourage the bill leads to consider recommendations in a report for IPPR in respect of placing the entitlement to a block grant, the fundamental principles concerning its calculation and the arrangements for changing it onto a statutory footing. The Commission could usefully recommend arrangements to ensure that it is beyond the authority of the UK Government to alter the block grant distribution unilaterally. As the IPPR report states, “The UK is exceptional in conferring limited revenue-raising capacity on its devolved Governments, although their spending responsibilities are at least as extensive as those of state or regional – level Governments in many federal systems.”

6.4. SFHA also welcomes the recommendation that borrowing powers are increased. The Draft Clauses published on 22nd January develop detailed proposals around a fiscal framework, but they said additional time was needed to write this section. SFHA believes that the Fiscal Framework should give maximum powers in this area, to provide further levers with which to balance priorities with resources. The Scotland Act has recently increased the cap on borrowing by the Scottish Government to £500 million. For purposes of comparison this is only slightly more than the current annual value of public investment in housing in Scotland and significantly less than the combined borrowing capacity of the SFHA’s members of approx. £4 billion. This is insufficient for the country to be able to effectively manage new powers. The ability for the Scottish Parliament to make genuine long-term strategic decisions in line with current devolved powers is compromised by the lack of flexibility with respect to borrowing for capital investment.
7. Energy and Fuel Poverty

7.1. In order to be able to tackle fuel poverty effectively, and to ensure tenants can afford to heat their homes, the SFHA argued to the Smith Commission that the Scottish Parliament needs powers relating to the regulation of energy supply. Fuel poverty is an especially acute problem in remote and rural parts of Scotland, from Dumfries and Galloway to the Highlands and Islands. For example, in the Western Isles a shocking 71% of households are affected by fuel poverty.iii Two issues need to be addressed as a matter of urgency:

- Inequitable and excessive energy unit prices in remote and rural Scotland;
- Limited Energy Company Obligation (ECO) funding coming into remote rural areas and the need for new and much better focused initiatives to tackle problems of hard to heat and hard to treat homes.

7.2. To effectively tackle these issues SFHA called for the Scottish Parliament to have:

- Power to shape, direct and co-ordinate ECO activities in Scotland, given the specific challenges of the Scottish climate, rurality issues such as the number of properties that are off the gas grid and the incidence of hard to treat properties that require more expensive solutions than the current ECO arrangements permit;
- Effective powers in order to ensure the equitable pricing of energy supply across Scotland, wherever the customer lives.

7.3. The Smith Recommendations and Draft Clauses go some way to addressing these concerns. SFHA welcomes the recommendation that the Scottish Government will be have a formal consultative role on renewables targets set by DECC/UK government and that Ofgem will be required to appear before Scottish Parliament committees and provide reports to Scottish Parliament. This is broadly positive and something that SFHA and partners called for – that the Scottish Parliament has a more formal role in regulation. However, powers on this remain essentially reserved.

7.4. The SFHA also views positively the Draft Clauses that would make Holyrood responsible for the “design and implementation of supplier obligations” placed on the energy companies to reduce carbon emissions and provide funds to address fuel poverty. While this provides a welcome opportunity for schemes to be better designed to meet the specific needs of Scotland (including different property types, more homes that are off the gas network and that are in rural and remote locations); scope for major change is limited as the fundamental design of the supplier obligations such as ECO will remain with the UK government in order to ensure that there is a single energy market.

7.5. It has to be hoped, however, that these enhanced powers will allow the Scottish Government to design ECO to fit with its own fuel poverty programmes in order to better address fuel poverty and energy efficiency in Scotland. SFHA’s ongoing concern is that Scotland should receive an uplift for colder climate and rurality/proportion of off-gas settlements.

7.6. The greater the freedom that the Scottish Government is given to design schemes that reflect particular conditions in Scotland (including rurality, a high percentage of homes off the gas network and higher levels of hard to treat solid wall homes), the more effective the “Scottish ECO” will be. Our preference is for a proportion of the funds to be spent by energy suppliers, with an uplift to reflect rurality and a colder climate, to be paid by the energy companies to the Scottish Government, with the government then responsible for the design and distribution of funds.
7.7. On the excessive electricity tariffs charged in the Highlands and Islands, we note that both the Smith Commission and the UK Government Command Paper talk about the importance of a UK wide energy market being maintained. We accept this principle but believe that charging customers in the most rural and remote part of the UK a premium to reflect the higher costs of transmitting electricity to their homes is an anomaly that fails to honour this principle. The Scottish Parliament should have the powers to bring an end to this practice, and to ensure transmission charges are distributed evenly across bills over the UK. This would not only reduce fuel poverty, but would help acknowledge the role that the region plays in generating renewable electricity to help meet the UK and EU Climate change targets. The Draft Clauses give an opportunity to influence this with new oversight powers over Ofgem.

8. Drafting of Clauses on Further Powers

8.1. Annex C provides extracts of the Smith Agreement, and their translation into the Draft Clauses, that SFHA views as vital to social housing and tackling poverty. These are cross-referenced in the paragraphs below.

8.2. The aim of the SFHA is to see that the potential for positive change in issues affecting social housing, that we recognise in the Heads of Agreement and Draft Clauses, make it through to the final Act. The new powers on varying the housing cost elements of Universal Credit do not mean the abolition of the ‘Bedroom Tax,’ but they could lead to it. The power to allow for rent to be paid directly to social landlords would be significant in tackling the financial difficulties that the Universal Credit system has already been creating in its pilot area in Scotland. The powers to ensure the Scottish Parliament has a role in regulating Ofgem and to give Holyrood control over Energy Company Obligations and the Warm Home Discount could make significant inroads into fuel poverty, which is as high as 71% in parts of Scotland. However, we are concerned by how tightly framed the wording of the Draft Clauses are in places, often devolving power over named programmes, rather than the wider policy areas that they sit in. This is not useful for future-proofing the powers. If devolved programmes – such as the Warm Home Discount - are dropped at UK level in future, the power over that policy area should remain devolved, but will it if the power is linked in the Bill to the specific programme?

8.3. The Smith Agreement and Draft Clauses make a key distinction between the devolution of legislative powers and administrative powers – see Annex C. The SFHA has been making the argument during engagement with the Bill Team, for the administrative powers in relation to welfare to be devolved by parliamentary instrument as soon as possible, and for this not to be delayed until legislation is complete. This has already been done in the instance of accelerating devolution of the administrative power that will allow voting by 16 and 17 year-olds in the 2016 Holyrood elections.

8.4. Early devolution of the administrative “power to vary” elements of Universal Credit, is vital to tackling problems in the roll-out of Universal Credit in Scotland – which are outlined in further detail in section 7 below.

8.5. One area of concern is the change in wording between the Smith Agreement and Draft Clauses on the recommendation to devolve the Winter Fuel Payment (WFP) (Smith para 49). In the Draft Clause 17, this is changed to “expenses for heating in cold weather.” However, the WFP and Cold Weather Payments are two different things, so if the current wording of the Draft Clause is not changed, WFP would continue to be reserved, which appears to be contrary to the intention of the Smith Agreement. The wording of the Draft Clauses requires to be changed specifically to exempt WFP from the blanket presumption in favour of reservation (per schedule 5f of the Scotland Act, 1998).
8.6. Another wording concern is the inconsistent definition of ‘disability.’ Housing associations provide homes for many disabled tenants and SFHA – along with other organisations - is concerned about the varying definition of ‘Disability’ in different sections of the Draft Clauses. In Clause 16, a disabled person is defined as someone “to whom a disability benefit is normally payable” (p 106). In Clause 22 it says that a "'disabled person' has the same meaning as it has in the Equality Act 2010." The definition needs to be consistent and match the definition of the Equality Act.

8.7. Another key concern for the SFHA is that, in the layout of the Smith Agreement and subsequent Draft Clauses, the powers to tackle some key issues – such as fuel poverty highlighted in Annex C – are spread between different areas of the document with no indication of their potential interconnection. As experts in housing and relevant aspects of social security, we are concerned that connections that are obvious to us will not be so to others. We remain vitally interested in details yet to emerge.

8.8. We would urge the Devolution (Further Powers) Committee to consider how revisions to the Draft Clauses - and in due course the Bill - can beworded to ensure that these links are highlighted and reinforced, so that these powers are not unintentionally weakened or lost through the redrafting and bargaining that are an inevitable part of the legislative process.

8.9. The proposed changes to welfare will increase the already complex mix of devolved and reserved powers that affect social housing, rather than creating a more streamlined system of housing and benefit. So the SFHA is adding its voice to the many urgent calls for a much more structured and collaborative intergovernmental way of working between Holyrood and Westminster, and between the Scottish Government and Whitehall.

9. Concluding Comments

9.1. It is essential to the SFHA’s role to represent the experience of our members, of tenants and social landlords throughout the entire process of devolving further powers to Scotland, as its impact on their lives and work cannot be overstated. We are keen to engage with The Scottish and UK Parliaments, The Scottish Government and the UK Government, through the Scotland Office, to help channel the experience and expertise of the social housing sector into the future stages of drafting and passing legislation on further powers.

9.2. While the process of legislating for new powers takes place, it is imperative to the SFHA and others across civic Scotland that the planned accelerated roll-out of Universal Credit is suspended in Scotland, pending legislation of further powers for Holyrood.

9.3. Since the establishment of the Smith Commission SFHA has worked to engage with civic organisations across Scotland and with the different departments and committees at Holyrood and Westminster that are involved in the process of drafting the new powers for Scotland. We have attended and organised events to gather and share information, with the aim of advocating for new powers that will have a positive impact on the housing system and the people it serves. Our submissions to the Devolution (Further Powers) Committee are part of this effort.
9.4. We urge the Devolution (Further Powers) Committee to consider our case for how to ensure the powers recommended in the Smith Agreement are enacted in a way that enables Scotland to be better placed to make a significant contribution to tackling a range of social and economic issues, including deprivation, poverty, fuel poverty and unemployment. The current settlement continues to present conflicts with reserved powers that restrict the Scottish Parliament’s ability to develop a coherent and co-ordinated policy response to these issues. The new powers must improve on that.

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ANNEXES:
Annex A – Table of Existing and Potential Powers
Annex B – Housing Investment versus Housing Benefit Expenditure graphic
Annex C – Excerpts of the Smith Agreement and Draft Clauses
Annex D – The Logic of SFHA’s Position on the Social Housing System
Annex E – Article on Lessons from Northern Ireland
Annex F – Letter to Iain Duncan Smith from Civic Scotland re Universal Credit
Annex G - Response from DWP to Open Letter 10.2.15

END NOTES

### Annex A: Existing and Potential Devolved Powers

<table>
<thead>
<tr>
<th>Category</th>
<th>Existing Powers</th>
<th>Potential Additional Powers</th>
<th>Potential effect on Housing System</th>
</tr>
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<tbody>
<tr>
<td><strong>Social Security</strong></td>
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<tr>
<td></td>
<td>Scottish Welfare Fund</td>
<td>Housing Benefit</td>
<td>Ability to achieve sensible balance between the capital and revenue subsidies for housing.</td>
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<td></td>
<td></td>
<td>Power to raise the cap on DHP expenditure forthcoming via a Section 30 Order</td>
<td>Establish a coherent, coordinated approach to housing, health and social care and employment. Must be underpinned by an immediate cessation of the roll-out of Universal Credit in Scotland</td>
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<td></td>
<td></td>
<td>All other powers relating to social security, except pensions (this includes Child Benefit, Income Support, Attendance Allowance, Job Seekers' Allowance, Disability Living Allowance/ Personal Independence Payment, Carer's Allowance, Employment and Support Allowance). Also, powers relating to Working Tax Credits, Child Tax Credits and the Minimum Wage.</td>
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<tr>
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<td></td>
<td>Council Tax Benefit (from April 2013)</td>
<td>Establish coherent national welfare and employment policy that has effective connection with Scottish housing system.</td>
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<td>Work Programme</td>
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<td><strong>Fiscal</strong></td>
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<td></td>
<td>Land and Buildings Transaction Tax (effective from April 2015)</td>
<td>Income tax – power to set rates, bands, reliefs and personal allowances</td>
<td>Additional fiscal powers are essential for the Scottish Parliament to have the levers that it would require in order to use the other additional powers</td>
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<tr>
<td></td>
<td>Landfill Tax (effective from April 2015)</td>
<td>Powers over property and land related taxation, e.g. inheritance tax, capital gains tax</td>
<td>Logical to follow the devolution of the two land taxes in the 2012 Scotland Act with other taxes that impact on land.</td>
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<td></td>
<td>Scottish rate of Income tax (with no upper lower limit) – to apply equally to all of the reduced main UK income tax rates.</td>
<td>Assignation of a share of Corporation Tax revenue</td>
<td>To add to the fiscal levers that will be needed to manage risk and raise funds.</td>
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Annex A: Existing and Potential Devolved Powers

<table>
<thead>
<tr>
<th>Power</th>
<th>Description</th>
<th>Potential Use</th>
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<tr>
<td>Borrowing</td>
<td>From April 2015, current borrowing powers of up to £500 million will be extended and a new Scottish cash reserve will be created to help manage the new tax receipts.</td>
<td>To add to the fiscal levers that will be needed to manage risk and raise funds</td>
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<tr>
<td>Assignation of a share of VAT revenue</td>
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<td></td>
<td>From April 2015, there will be a new £2.2 billion capital borrowing power for the Scottish Parliament, with a limited version of the power in place from April 2013 to allow the Scottish government to fund £100 million of pre-payments for the Forth Road Crossing.</td>
<td>Freedom to make borrowing decisions</td>
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<td></td>
<td>To add to the fiscal levers that will be needed to manage risk and raise funds</td>
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<tr>
<td>Power for existing UK-wide taxes to be devolved and/or new taxes to be created using the order-making process in both the UK and Scottish Parliament (from May 2012 but not used to this date)</td>
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<td>Energy</td>
<td>Managing the Renewables Obligation in Scotland</td>
<td>Power to shape, direct and co-ordinate Energy Company Obligation activities</td>
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<td></td>
<td>To align better with Scottish needs and circumstances, particularly the more expensive solutions required for hard to treat properties</td>
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<tr>
<td>Energy</td>
<td>Consent for power stations &gt;50 MW onshore and &gt;1 MW offshore</td>
<td>Effective powers in relation to the pricing of energy supply</td>
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<tr>
<td></td>
<td>To address the excess unit cost prices in remote and rural Scotland</td>
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SFHA SUBMISSION TO THE DEVOLUTION (FURTHER POWERS) COMMITTEE
Annex B: Housing Investment (excluding private finance) versus Housing Benefit Expenditure

Prior to devolution in 1998, Housing Benefit costs were less than investment in housing. But since devolution Housing Benefit costs have risen to the point where the annual value of rent support (reserved to Westminster) is almost twice the value of annual housing investment (devolved to the Scottish Parliament). According to the Institute of Fiscal Studies, the lack of alignment in powers (and policies) means that capital investment by the Scottish Government accrues to the Westminster Government in the form of lower Housing Benefit payments.

Sources: UK Housing Review (2014); DWP (2014)
ON WELFARE POWERS

the sections with potential for social housing and poverty issues affecting tenants are:

Smith Agreement

Heads of Agreement: Introduction

19. Where the agreement provides that powers or competence in relation to a matter will be devolved, this is intended to mean a transfer of full legislative competence to the Scottish Parliament along with that of the associated executive competence to the Scottish Government. Where the agreement states that administrative powers should be devolved, only executive competence is intended to be transferred.

Draft Clauses

The draft clauses clearly define powers as administrative competence or legislative competence, but the distinction is not set out in the command paper is it is in the Smith Agreement.

Smith Agreement

Universal Credit

43. Universal Credit (UC) will remain a reserved benefit administered and delivered by the Department for Work and Pensions (DWP). Within this framework, the Scottish Parliament will have the powers outlined in paragraphs 44 to 45 in relation to UC.

44. The Scottish Government will be given the administrative power to change the frequency of UC payments, vary the existing plans for single household payments, and pay landlords direct for housing costs in Scotland.

45. The Scottish Parliament will have the power to vary the housing cost elements of UC, including varying the under-occupancy charge and local housing allowance rates, eligible rent, and deductions for non-dependents.

46. The power to vary the remaining elements of UC and the earnings taper will remain reserved.

47. Additional administration and programme costs directly associated with the exercise of the powers in paragraphs 44 to 45 will be met by the Scottish Government.

48. Joint arrangements for the oversight of DWP development and delivery of UC, similar to those established with HM Revenue and Customs (HMRC) in relation to the Scottish rate of Income Tax, should be established by the UK and Scottish Governments.

Clause 20 and 21

Para 4.2.1

Clauses 20 and 21 relate to paragraph 44 of the Smith Commission Agreement. The clauses will give Scottish Ministers the power to make alternative payment arrangements in relation to Universal Credit. This will enable the Scottish Government to alter the frequency of payment to a Universal Credit claimant, split payments between members of a couple and decide in what circumstances the housing costs for those in rented accommodation are paid direct to the landlord.

4.2.2

Universal Credit in Great Britain (GB) is currently in the process of being rolled out and as a consequence six existing income-related benefits will be abolished. Similarly, that clause will provide flexibility on payment frequency, allowing the Scottish Government to determine whether and when payment should be made more often than the standard once a month payment (normally twice monthly or four times a month). Clause 20 will enable the Scottish Government to decide when direct payments of housing costs to landlords for rented accommodation will be made, whether from the outset of a claim or some other point.

4.2.3

Alternative Payment Arrangements can currently be considered at any point during the Universal Credit claim. They may be identified at the outset by the Jobcentre Plus work coach during a Work Search Interview, alongside Personal Budgeting Support, or during the claim, for example if the claimant is struggling with the single monthly payment. They can also be triggered by information received from the claimant, their representative, their caseworker or their landlord, advising of a build-up of rent arrears. To safeguard the claimant’s home, a landlord can notify Universal Credit of a build-up of rent arrears and ask for the Universal Credit housing element to be paid direct to them where a rent arrears ‘trigger’ has been reached.

4.2.4

Clause 20 also relates to paragraph 45 of the Smith Commission Agreement. This clause, in addition to giving powers to determine when direct payments may be made to landlords, will enable Scottish Ministers to
vary the housing costs covered by Universal Credit for people in rented accommodation, including varying or removing the under-occupancy charge, and deductions for non-dependents.

4.2.5
The maximum amount of Universal Credit a claimant can receive is determined by their circumstances, including whether they have children, are sick or disabled, are a carer, have childcare costs, or have housing costs. The Universal Credit payment is then determined by applying a single income test to this maximum amount. The Universal Credit calculation and payment cannot be disentangled into separate components. For that reason the powers in Clause 20 will enable Scottish Ministers to vary the amounts used to calculate how much support for housing costs should be included in the maximum amount, before the income test is applied. These powers relate to the calculation of housing costs covered by Universal Credit for social sector and private sector renters.

4.2.6
Scottish Ministers will have the power to decide in what circumstances an under-occupancy charge will be made, and at what percentage reduction rate from the housing costs covered by Universal Credit for social sector tenants. This means that Scottish Ministers will be able to decide whether to apply any under-occupancy reductions, or to choose to set them at different levels and provide for an extra room for certain groups of claimants. They will also be able to decide on the level of any deductions for non-dependents and whether to introduce further categories of exemption from the non-dependent deductions. In calculating the amount of rent to be included in the housing costs calculation the Clause will enable Scottish Ministers to decide in what circumstances the level of rents charged by social sector landlords would be considered excessive. For private sector tenants they would be able to vary the local housing allowance rates by varying the manner in which the maximum level of housing support is set.

4.2.7
The matters described in paragraphs 44 and 45 of the Smith Commission Agreement are all governed by regulations made by the UK Government. Therefore, the clauses have the effect of conferring equivalent powers on Scottish Ministers, who will be accountable to the Scottish Parliament for the manner in which they are exercised. These powers will enable both the UK Government, which retains overall responsibility for Universal Credit, and the Scottish Government (where Scottish Ministers have the power) to introduce regulations for Scotland, reflecting the arrangement envisaged by the Smith Commission Agreement that the UK Government should continue to be able to develop and initiate policy changes for Universal Credit without overriding or undermining any decisions made by the Scottish Government.

4.2.8
Universal Credit will remain reserved, and be delivered by DWP across Great Britain, so there will be a need for arrangements to enable smooth administration and liaison between the two governments. In particular it will be important to ensure that any variations that Scottish Ministers wish to make are deliverable and to determine when these might be delivered. For this reason both clauses require Scottish Ministers to consult the Secretary of State so that he can ensure the deliverability of any changes that the Scottish Government wish to take forward. The date on which such changes are brought into effect must also be agreed with the Secretary of State, to ensure that a timescale for delivering changes in Scotland can be discussed and agreed as a part of DWP’s overall delivery plan. The clauses make it clear that the Secretary of State could not unreasonably withhold his agreement. Similarly, the clauses also contain an obligation on the part of the Secretary of State for Work and Pensions to consult Scottish Ministers before making regulations that relate to any of the matters in paragraphs 44 and 45 of the Smith Commission Agreement so far as they relate to Scotland.

### Smith Agreement

<table>
<thead>
<tr>
<th>Benefits devolved outside Universal Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>49.</strong> Powers over the following benefits in Scotland will be devolved to the Scottish Parliament:</td>
</tr>
<tr>
<td>(1) Benefits for carers, disabled people and those who are ill: Attendance Allowance, Carer’s Allowance, Disability Living Allowance (DLA), Personal Independence Payment (PIP), Industrial Injuries Disablement Allowance and Severe Disablement Allowance.</td>
</tr>
<tr>
<td>(3) Discretionary Housing Payments.</td>
</tr>
</tbody>
</table>

### Clauses 16, 17, 18 and 19

4.3.1
Clause 16 relates to paragraph 49(1) of the Smith Commission Agreement. The clause amends the current exceptions to the reservation on social security to provide the Scottish Parliament with legislative competence over provision for disability, carers and industrial injuries benefits which are not income or capital-related, or contributory. This provides the Scottish Parliament with legislative competence for provisions currently covered by Attendance Allowance, Carer’s Allowance, Disability Living Allowance (DLA), Personal Independence Payment (PIP) and Industrial Injuries benefits as outlined in paragraph 49(1). At
the same time other benefits which provide support to carers and disabled people such as Employment and Support Allowance (the income-related element of which will be replaced by Universal Credit) remain reserved. The Scottish Parliament will have the power to create new benefits or other payments to replace the existing benefits should they wish and the autonomy to determine the structure and value of these as set out in paragraph 54 of the Smith Commission Agreement.

4.3.6
In respect of paragraph 49(2), clause 17 amends the current exceptions to the reservation on social security to provide the Scottish Parliament with legislative competence over the subject matter of the Regulated Social Fund. The Regulated Social Fund is defined as providing financial assistance for the purposes of meeting maternity expenses (Sure Start Maternity Grants); funeral expenses (Funeral Payments); and expenses for heating incurred due to cold weather (Cold Weather Payments and Winter Fuel Payments). The Scottish Parliament will have the power to create new benefits or other payments to replace the existing benefits should they wish and the autonomy to determine the structure and value of these payments, as set out in paragraph 54 of the Smith Commission Agreement. This will enable the Scottish Government to adapt the level of support it provides to better meet Scotland’s needs.

4.3.7
Clause 19 relates to paragraph 49(3) of the Smith Commission Agreement. The clause will devolve legislative competence in relation to Discretionary Housing Payments (DHP), subject to certain restrictions similar to those that already exist in respect of DHPs. This follows on from the recent devolution of the cap on DHP expenditure that has enabled Scottish Local Authorities to add more resources to their DHP budget in order to support people who need extra help with their housing costs. This will give the Scottish Government the power to support people in receipt of Housing Benefit, or those entitled to have their housing costs covered by Universal Credit, with their housing costs. It will provide the Scottish Parliament with the flexibility to provide assistance to Scottish claimants, tailored to local circumstances.

**ON FISCAL POWERS** the sections that we see key potential for social housing and poverty issues affecting tenants in Smith Agreement Paragraphs:

<table>
<thead>
<tr>
<th>Smith Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Scotland’s Fiscal Framework</strong></td>
</tr>
<tr>
<td><strong>94.</strong> The devolution of further responsibility for taxation and public spending, including elements of the welfare system, should be accompanied by an updated fiscal framework for Scotland, consistent with the overall UK fiscal framework.</td>
</tr>
</tbody>
</table>

Para 2.1.3
As the fiscal framework needs to be agreed between the UK and Scottish Governments, based on a shared understanding of how it will operate, this section is intended as the start of a process to develop a suitably robust and coherent framework.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Scotland’s Fiscal Framework</strong></td>
</tr>
<tr>
<td><strong>95.</strong> Scotland’s fiscal framework encompasses a number of elements including the funding of the Scottish budget, planning, management and scrutiny of public revenues and spending, the manner in which the block grant is adjusted to accommodate further devolution, the operation of borrowing powers and cash reserve, fiscal rules, and independent fiscal institutions. The parties agree that the Scottish and UK Governments should incorporate the following aspects into Scotland’s fiscal and funding framework.</td>
</tr>
</tbody>
</table>

(5) Borrowing Powers: to reflect the additional economic risks, including volatility of tax revenues, that the Scottish Government will have to manage when further financial responsibilities are devolved, Scotland’s fiscal framework should provide sufficient, additional borrowing powers to ensure budgetary stability and provide safeguards to smooth Scottish public spending in the event of economic shocks, consistent with a sustainable overall UK fiscal framework. The Scottish Government should also have sufficient borrowing powers to support capital investment, consistent with a sustainable overall UK fiscal framework. The Scottish and UK Governments should consider the merits of undertaking such capital borrowing via a prudential borrowing regime consistent with a sustainable overall UK framework.

(a) The Scottish Government’s borrowing powers should be agreed by the Scottish and UK Governments, and their operation should be kept under review in conjunction with agreement on the mechanism to adjust the block grant to accommodate the transfer of taxation and spending powers. The Smith Commission Heads of Agreement: Pillar 3.27

(b) Borrowing powers should be set within an overall Scottish fiscal framework and subject to fiscal rules agreed by the Scottish and UK Governments based on clear economic principles, supporting...
Para 2.1.1
The United Kingdom (UK) has a strong and successful economy because currency and monetary policy, taxation, spending and financial stability policies are coordinated across the UK. If one part of the UK faces an economic challenge – from a fall in tax revenues, pressure on public services or a temporary increase in unemployment – the impact and the cost is shared across all parts of the UK. This is achieved by the UK Government pooling and redistributing tax revenues across the UK to ensure sustainable and secure levels of spending on public services. The implementation of the Smith Commission Agreement, including an updated fiscal framework, must therefore underpin Scotland’s devolution settlement while retaining the existing benefits of the UK.

Para 2.1.2
This chapter:
• Explains the purpose and key elements of the fiscal framework;
• Provides an overview of the current UK fiscal framework and how this supports the existing devolution settlement in Scotland; and
• Explains how an updated Scottish fiscal framework will incorporate the key features agreed by the Smith Commission, consistent with the UK Government’s continuing responsibility for UK-wide fiscal policy.

ON ENERGY POWERS the SFHA sees the potential of powers set out in three different sections of the Heads of Agreement that together could create the power to tackle fuel poverty. These powers are outlined in paragraphs 41, 49-2, and 68:

<table>
<thead>
<tr>
<th>Smith Agreement</th>
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</thead>
<tbody>
<tr>
<td><strong>Energy Market Regulation and Renewables</strong></td>
</tr>
<tr>
<td><strong>41.</strong> There will be a formal consultative role for the Scottish Government and the Scottish Parliament in designing renewables incentives and the strategic priorities set out in the Energy Strategy and Policy Statement to which Ofgem must have due regard. Ofgem will also lay its annual report and accounts before the Scottish Parliament and submit reports to, and appear before, committees of the Scottish Parliament</td>
</tr>
</tbody>
</table>

Clauses 42 and 44
5.4.1
Clause 42 relates to paragraph 41 of the Smith Commission Agreement concerning the role for the Scottish Government and Scottish Parliament in relation to the Office of Gas and Electricity Markets (Ofgem).

5.4.2

5.4.3
The clause requires Scottish Ministers to lay Ofgem’s annual report and accounts before the Scottish Parliament, and therefore ensures that copies will be provided to Scottish Ministers.

5.4.4
Clause 44 gives effect to the commitment to ensure that Ofgem will appear before committees of the Scottish Parliament on Scottish issues.

<table>
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<tr>
<td><strong>Benefits devolved outside Universal Credit</strong></td>
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<tr>
<td><strong>49.</strong> Powers over the following benefits in Scotland will be devolved to the Scottish Parliament:</td>
</tr>
<tr>
<td>(2) Benefits which currently comprise the Regulated Social Fund: Cold Weather Payment, Funeral Payment, Sure Start Maternity Grant and Winter Fuel Payment.</td>
</tr>
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Clause 17
In respect of paragraph 49(2), clause 17 amends the current exceptions to the reservation on social security to provide the Scottish Parliament with legislative competence over the subject matter of the Regulated Social Fund. The Regulated Social Fund is defined as providing financial assistance for the purposes of meeting maternity expenses (Sure Start Maternity Grants); funeral expenses (Funeral Payments); and expenses for heating incurred due to cold weather (Cold Weather Payments and Winter Fuel Payments).
The Scottish Parliament will have the power to create new benefits or other payments to replace the existing benefits should they wish and the autonomy to determine the structure and value of these payments, as set out in paragraph 54 of the Smith Commission Agreement. This will enable the Scottish Government to adapt the level of support it provides to better meet Scotland’s needs.

### Smith Agreement

<table>
<thead>
<tr>
<th>Energy Efficiency and Fuel Poverty</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>68.</strong> Powers to determine how supplier obligations in relation to energy efficiency and fuel poverty, such as the Energy Company Obligation and Warm Home Discount, are designed and implemented in Scotland will be devolved. Responsibility for setting the way the money is raised (the scale, costs and apportionment of the obligations as well as the obligated parties) will remain reserved. This provision will be implemented in a way that is not to the detriment of the rest of the UK or to the UK’s international obligations and commitments on energy efficiency and climate change.</td>
</tr>
</tbody>
</table>

### Clauses 38 and 39

**8.2.1**

Clauses 38 and 39 relate to paragraph 68 of the Smith Commission Agreement and powers concerning the design and implementation of supplier obligations relating to energy efficiency and fuel poverty in Scotland. The clauses will transfer executive competence to Scottish Ministers to empower them to design and implement supplier obligations in Scotland. This is achieved through amendments to the Gas Act 1986, Electricity Act 1989 and Energy Act 2010 (the 2010 Act).

**8.2.2**

The design and implementation of supplier obligations is an element of the single Great Britain energy market and affects its operation. Reserving control over the fundamental aspects of supplier obligations, as specified in paragraph 68 of the Smith Commission Agreement, ensures that the supplier obligation framework can continue to operate as part of the single GB market thus preventing competitive distortions that could disadvantage some consumers.

**8.2.3**

Setting policies for addressing fuel poverty across Scotland, England and Wales is currently formed from a mixture of devolved matters, such as housing, buildings and promotion of energy efficiency, and reserved matters, such as prohibition and GB-wide regulation. The functions for setting overall targets and strategies for addressing fuel poverty are already devolved to Scottish Ministers under the Scotland Act 1998 (the 1998 Act).

**8.2.4**

A supplier obligation scheme is defined as a regulatory obligation placed on one or more licensed electricity suppliers or licensed gas suppliers, requiring them to take action intended to make a direct contribution to improving energy efficiency or for the purpose of addressing fuel poverty.

**8.2.5**

Regulation making power in relation to schemes for reducing fuel poverty is executively devolved through clause 38. This is achieved by an insertion to the 2010 Act.

**8.2.6**

Holding powers over the design and implementation of energy efficiency and fuel poverty measures will enable the Scottish Government to more accurately meet the specific needs of Scottish households, whilst maintaining the strength and consistency found in the single GB energy market through the continued reservation of certain powers.
1.1. On the basis of the best available figures, over 55% of all rental income of housing associations and co-operatives is sourced from Housing Benefit. The majority of tenants are eligible for rent support currently in the form of Housing Benefit. Almost all tenants mandate Housing Benefit payments received from DWP direct to their landlord. This funds associations’ rental income, which in turn funds the repayment of capital borrowing (existing and new), management services and repairs and maintenance necessary to meet modern energy efficiency standards, which in turn helps to address fuel poverty. Housing legislation and strategy in Scotland has been governed by the Scottish Parliament since 1998, when housing policy was formally devolved, with the notable exception of Housing Benefit which remains controlled from Westminster and has grown in significance.

1.2. For SFHA and its members the future of rent support for tenants, in the form of Housing Benefit, is therefore an issue of the utmost strategic importance, underpinning the annual financing of 11% of all housing in Scotland. Tenants understand this and share our concerns around the current devolution of housing, and the further complexities that could be created with the devolution of further powers, as recommended in the Smith Agreement.

1.3. Since devolution handed powers over housing to Holyrood, Housing Benefit has grown in significance across Great Britain as rents have risen, and as more and more tenants need support to pay rents. This has the unintended consequence that the balance of control over housing funding has been shifting back towards Westminster. As Housing Benefit costs overall have risen, the annual value of rent support (reserved to Westminster) is almost twice the value of annual housing investment (devolved to the Scottish Parliament): see Annex B.

1.4. According to the Institute of Fiscal Studies, the lack of alignment in powers (and policies) means that the beneficial effects of capital investment by the Scottish Government accrue to the Westminster Government in the form of lower Housing Benefit payments. The converse situation could also apply where less capital investment in affordable housing by the Scottish Government pushes up the Westminster Government’s Housing Benefit expenditure. We are keen to see an allocation of powers which allows coherent, coordinated policy positions to be adopted around housing issues within the same jurisdiction.

1.5. SFHA has argued for devolution of Housing Benefit since housing was first proposed to be formally devolved to the new Scottish Parliament, and while Housing Benefit was a relatively small budget. That position was confirmed in our response to the Calman Commission in 2009. Calman recommended that the UK Government should consult the Scottish Government if it was proposing changes to Housing Benefit. This was not adopted by the UK Government and the practice around the reform of welfare has not honoured the principle of consultation.

1.6. The coalition Government’s proposals in 2010 which became the Welfare Reform Act, cut across the powers on housing devolved to the Scottish Parliament. The only concession to concerns in the Scottish Parliament about welfare reform have been moves, coming into effect 6th November 2014, to permit the Scottish Parliament to raise the cap on mitigation funding for those adversely affected by the changes.

1.7. We reviewed our position in 2012, co-commissioning research from Professors Gibb and Stephens, who concluded in 2012 that devolving Housing Benefit on its own would not be safe because of the interconnections with other areas of welfare and social policy. At that time it was argued that social security needed to be devolved in its entirety. We note that this has become the position of the Scottish Government.
1.8. More recently the IPPR has published proposals which suggest that social security should not be devolved in full and that HB should be devolved on its own. This resonates with proposals from Labour and the Conservatives which the Commission is considering, and with which we disagree.

1.9. On the basis of due consideration of the arguments above, the SFHA argued to the Smith Commission in favour of devolving social security to the Scottish Parliament. This would have allowed the Scottish Parliament to exercise full authority over budgets, priorities, systems in line with the legal framework of tenancy rights, best use of stock, demand, and related to local strategies in relation to fuel poverty, regeneration and investment. Full devolution would have meant that those who need support from social security would benefit from an aligned system with single administration of a range of benefits that intersect.

1.10. We and our members are committed to making the best use of the systems and powers in use.

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ii The Calman Commission’s Recommendation 5.19 stated that “There should be scope for Scottish Ministers, with the agreement of the Scottish Parliament, to propose changes to the Housing Benefit and Council Tax Benefit systems (as they apply in Scotland) when these are connected to devolved policy changes, and for the UK Government – if it agrees – to make those changes by suitable regulation.”


What will greater powers mean in Scotland?
Lessons from Northern Ireland

Unlike in Scotland and Wales, in Northern Ireland, social security is a transferred matter. Under the Northern Ireland Act 1998, responsibility for most social security, child support and pensions matters transferred to the Northern Ireland Executive. In the context of Westminster’s ‘vow’ to provide Scotland with greater devolved powers, it is tempting to look to Northern Ireland for potential insights. Perhaps the most important insight is that having delegated powers is one thing; using them is quite another.

In Northern Ireland, the parity issue has been and remains a major stumbling block. Notwithstanding the delegation of powers, the Belfast Agreement recognises that social security is a devolved area where parity is “normally maintained.” And the Concordat Between the Department for Work and Pensions and the Department for Social Development makes clear that should the Northern Ireland Executive decide to depart from parity, it must inform DWP in order that the consequences can be assessed. The financial consequences would likely feature strongly in such an assessment which itself would be conducted in line with Treasury Guidance. Herein lies the rub.

Although social security is a transferred matter, HM Treasury guidance makes clear that any changes which would increase Annually Managed Expenditure (AME) would require prior approval. The working assumption in Northern Ireland is that any increased AME would have to be met from savings in other AME areas and/or from within existing Department Expenditure Limits. On the other side of the coin, there is a concern that, if by design or good fortune, a revised Northern Ireland welfare arrangement proved less costly than the current arrangement, the savings may be clawed back as opposed to being retained within the Northern Ireland block. Such concerns are likely to generate inertia rather than innovation.

The recent comment from former Minister for Social Development Nelson McCausland underpins this position:

“fundamentally, the agreement that Northern Ireland social security spending is funded direct from the Treasury is that Northern Ireland spending will be met only if we maintain the same systems.”

Collectively, such matters have been central to the stalled introduction of large elements of the welfare reform programme in Northern Ireland, and the frustration at Westminster is palpable. True, Northern Ireland has negotiated significant operational concessions, including maintaining direct rent payment to the landlord, split payments within the household and payments on a two-weekly basis. But despite this, the Welfare Reform Bill remains stalled - the Northern Ireland Executive is currently being fined some £7 million per month for its failure to enact the legislation. The fine relates principally to the loss of ‘savings’ anticipated through the introduction of Personal Independence Payments and Employment Support Allowance. But there are many other elements of the welfare reform agenda that are not yet in operation in Northern Ireland, including the hugely unpopular ‘bedroom tax’, and the fear is that the financial penalties are likely to increase. Indeed, Northern Ireland’s First Minister Peter Robinson has raised the spectre of a reduction in the Northern Ireland block of £1 billion because of the failure to fully implement the welfare reform agenda. The dispute between the two main political parties over welfare reform is deeply
mean for benefits?

Paul Spicker
Professor of Public Policy
Aberdeen Business School, Robert Gordon University

It’s difficult to reform benefits at the best of times. If the amount of money going in stays the same, then someone can be made better off only if someone else is worse off. That means that the only way to reform benefits is to spend more; anything else, and some people will suffer.

Many of the promises made in Scotland’s Future hemmed the Scottish Government in. The document committed it to keeping pensions, Housing Benefit and disability benefits and tax credits and uprating them with inflation. Taken together, that is most of the cost of the benefit system. The White Paper signed up to some of the excesses of the current programme of welfare reform - conditionality, even if it was going to be kinder and gentler than sanctions are now, and linking benefits with “programmes designed to help people find work”. And then the Scottish Government committed itself to respecting all of the established rights of existing pensioners - a pledge which would have locked up parts of the pension system for the best part of a century.

Now that independence is not happening, the Scottish Government has an opportunity to rethink its priorities. The ‘vow’ that has been made by the Westminster parties does seem to offer Scotland the prospect of more powers over tax and ‘welfare’. It’s not clear what the new powers will be, but the most likely candidates for devolution - identified in an IPPR paper on Devo More and Welfare - are Housing Benefit, Attendance Allowance and the Work Programme. The Work Programme is an obvious choice - local employment initiatives should be locally managed and integrated with other services. Attendance Allowance makes less sense. There is a case for tying it to free personal care, but the benefit has a huge overlap with the care component of Disability Living Allowance (DLA)/Personal Independence Payment, and a full third of DLA claims have been extensions given to older people in preference to their claiming Attendance Allowance. Housing Benefit is administered locally, so devolution is practical, but taking it out of the national system would have some side-effects: it would lock us into the use of benefits to support housing finance, and it would completely mess up the integration of Universal Credit. We all know Housing Benefit is a pig’s breakfast, and no-one designing the system would want to start from here, but we don’t know how to get out of the bind without hurting vulnerable people.

The Northern Irish example tells us that devolution is not enough to guarantee control. The Northern Ireland Assembly, unlike the Scottish Parliament, has full devolved powers to deal with benefits. The ‘parity principle’ should mean that benefits are equivalent in value. In practice, as John McPeake explains, the Assembly treats this as if benefits have to be just the same. Its reluctance to use its powers is reinforced by an assumption that it cannot legitimately incur any additional expenditure - and by the fines imposed by the Treasury. In Scotland, by contrast, the Scottish Government has supplemented funding for Council Tax Reduction, the Scottish Welfare Fund and Discretionary Housing Payments, even though social security is a reserved power. If there is a brighter hope, it’s that Scotland may be more ready to use the powers it already has.

www.paulspicker.wordpress.com
11 January 2015

The Rt Hon Iain Duncan Smith MP
Secretary of State for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

Dear Mr Duncan Smith

Civic Scotland Call to Suspend the Roll-Out of Universal Credit in Scotland

We – the undersigned – are writing with a united voice from across Civic Scotland to call on the UK Government to immediately suspend the further implementation of Universal Credit in Scotland until the process of legislating for new powers for the Scottish Parliament is complete.

We know from the Smith Agreement that the bill for further powers that is currently being drafted will include significant new welfare powers. The detail of how these powers will interact with the Universal Credit system will be complex and require careful consideration and planning. The legislation around welfare is complex and is regularly being adapted: since the enactment of the Welfare Reform Act 2012, there have already been over 40 Statutory Instruments passed by Westminster to bring into force many of its provisions.

Any system of welfare has to be safe and secure. Driving through Universal Credit in Scotland at this stage will create unnecessary administrative complication in an already complex process.

The sensible way to roll-out Universal Credit in Scotland is to do it once, when the Scotland-specific elements have been carefully planned and incorporated into it. This would avoid wasting precious time and scarce resources, and would protect vulnerable people in our society from bureaucratic change that could wreak havoc.

A key recommendation of the Smith Commission was to significantly improve intergovernmental working between Westminster and Holyrood, this is a golden opportunity to do just that.

So we ask you to act immediately to suspend the next phase of the roll-out of Universal Credit in Scotland, before it is scheduled to start in February.

Our diverse, united voices demonstrate that our call is not about politics. It is about protecting the most vulnerable people in our society and creating an effective, robust new system for delivering welfare. Our call is about responsible, effective governance.

We would welcome the opportunity for dialogue with you on this important matter.

Yours sincerely,

Mary Taylor, Chief Executive, SFHA on behalf of my 56 co-signatories listed below:

Age Scotland - Brian Sloan, CEO
Business for Scotland - Brandon Malone, Interim Chair
Church of Scotland - Rt Rev John Chalmers, Moderator of the General Assembly
Coalition of Care Support Providers in Scotland - Annie Gunner Logan, Director,
Common Weal - The Board
Constitutional Commission - John Drummond, Chairman
Council of Mortgage Lenders - Kennedy Foster, Policy Consultant, Scotland
Cyrenians - Ewan Atkin, CEO
Development Trusts Association - Ian Cooke, Director
East Lothian Tenants and Residents Panel - Mark Ormiston, Chair Person
Edinburgh Tenants Federation - Betty Stevenson, Convenor
Engender - Emma Ritch, Executive Director
Food Train - Michelle McCrindle, CEO
Glasgow & West of Scotland Forum of Housing Associations - David Bookbinder, Director
Health & Social Care Alliance Scotland - Ian Welsh, CEO
Inclusion Scotland - Bill Scott, Director of Policy
Money Advice Scotland - Yvonne MacDermid OBE, CEO
Quarriers - Alice Drife, CEO
Scottish Association of Social Work - Trisha Hall, Country Manager
Scottish Children's Services Coalition - Sophie Pilgrim, Member
Scottish Community Alliance - Angus Hardie, Director
Scottish Council for Voluntary Organisations - Martin Sime, CEO
Scottish Out of School Care Network - Irene Audain MBE, CEO
Scottish Trade Unions Council - David Moxham, Deputy General Secretary
Scottish Women's Aid - Lily Greenan, CEO
Sense Scotland - Andy Kerr, CEO
Social Enterprise Scotland - Fraser Kelly, CEO
Social Firms Scotland - Pauline Graham, CEO
St Martins Parish Pastoral Council, Tranent - Fr James Smith. Parish Priest
The Equality Network - Tim Hopkins, Director
The Jimmy Reid Foundation - Bob Thomson, Convener
The Poverty Alliance Peter Kelly, Director
The Wise Group - Laurie Russell, CEO
The Trussell Trust - David McAuley, CEO
Turning Point Scotland - Martin Cawley, CEO
Who Cares? Scotland - Duncan Dunlop, CEO
Voluntary Action Scotland - Calum Irving, CEO
Voluntary Health Scotland - Claire Stevens, CEO
YouthLink Scotland - Jim Sweeney, CEO
Zero Tolerance - Laura Tomson, Co-director

Signatories from Housing Associations in Scotland that are due to be part of the next stage of the Universal Credit roll-out:

ARK Housing Association - Jane Gray, CEO
Barony Housing Association - Rebecca Wilson, CEO
Bield Housing & Care - Brian Logan, CEO
Blackwood - Fanchea Kelly, CEO
Cairn Housing Association - Jason MacGilp, CEO
Castle Rock Edinvar Housing Association - Alister Steele, Managing Director
Dunedin Canmore Group - Ewan Fraser, CEO
Hanover (Scotland) Housing Association – Helen Murdoch, CEO
Knowes Housing Association - Pierre De Fence, Director
Lister Housing Co-operative - Alistair Cant, Director
Manor Estates Housing Association - Lynn McDonald, Director
Melville Housing Association - Andrew Noble, CEO
Prospect Community Housing - Brendan Fowler, Director
Trafalgar Housing Association - Paul McShane, Director
Trust Housing Association - Bob McDougall, CEO
West Granton Housing Co-operative - Gerry Gillies, CEO
Civic Scotland Call to Suspend the Roll-Out of Universal Credit in Scotland

Thank you for your letter to the Secretary of State for Work and Pensions of 11 January. As the Senior Responsible Owner for Universal Credit, he has asked me to reply on his behalf.

We have carefully considered your request to suspend the implementation of Universal Credit in Scotland. Ministers have concluded that it would not be in the best interests of Scotland to do so. Moreover we believe the system is “safe and secure”. Universal Credit has already been rolled out across the whole of the North West of England and there is no evidence that this has happened in a way that disadvantaged claimants.

In fact quite the opposite has occurred. It is early days yet but the results from the first people, who have claimed Universal Credit, in comparison to their Jobseeker’s Allowance counterparts, show they are doing more to search for work, applied for more jobs, moving into work quicker and staying in work longer.

Any suspension of roll-out to Scotland would deny some of the poorest people in society these benefits and the Government thinks that this is something Civic
Scotland would not want. It would certainly not be in the best interests of Scotland or indeed the rest of the United Kingdom to do so.

It appears that there may be some misconceptions and misunderstandings about the true nature of Universal Credit. Moreover the exercise of the Smith Agreement powers will need some careful reflection as Universal Credit abolishes the old, separate systems of tax credits and benefits. The impacts on work incentives and the smooth operation of the system as it supports people into work will need to be carefully thought through so that the people of Scotland are not disadvantaged compared to the rest of Great Britain.

Ultimately, of course, these decisions on how to use the flexibilities set out in the Smith Commission report and the Command Paper are wholly for the Scottish Government to determine. My Ministers are keen though to support this debate in any way that might be deemed in Scotland as helpful. They have therefore directed me to offer to hold a one-day conference in Scotland with those who co-signed your letter, and other interested parties, to review the evidence that is emerging from the North West of England on the actual experience of Universal Credit and seek to address any misconceptions or misunderstandings.

If you would find this helpful I think it should be possible to set up an event in March. Please do let me know if this initiative would be welcomed by the SFHA and co-signatories. A copy of this letter goes to all of those who signed yours.

Yours Sincerely

[Signature]

Neil Couling

Director General, Universal Credit