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SPICe Briefing

Scotland Act 2016 – Universal Credit

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Universal Credit is a reserved benefit designed to support people of working age who are on a low income or out of work. It replaces six existing benefits, including Housing Benefit, and is being rolled out on a phased basis.

The Scotland Act 2016 gives Scottish Government Ministers regulation making powers to vary the housing element (for rented accommodation) of Universal Credit along with powers to vary how Universal Credit is paid. This briefing provides background to Universal Credit and information on the powers relating to Universal Credit in the Scotland Act 2016.

This is part of a series of SPICe briefings on the social security powers that will be devolved by the Scotland Act 2016.

The Scottish Parliament
Pàrlamaid na h-Alba

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EXECUTIVE SUMMARY

Universal Credit (UC) is replacing six existing working age benefits (including Housing Benefit) into one single, monthly payment. UC is being rolled out on a phased basis. In April 2016, around 26,600 households in Scotland received UC. It has been estimated that around 700,000 households could eventually receive UC when it is fully rolled out in 2021.

UC is a reserved benefit, and will remain so. However, in line with the Smith Commission recommendations, the Scotland Act 2016 gives Scottish Ministers regulation making powers to:

- amend the way in which the housing element of UC is calculated for claimants who rent accommodation
- enable the housing costs element to be paid to someone on behalf of a claimant (such as a claimant's landlord)
- provide to whom and when UC payments are made

These powers to make regulations can be exercised concurrently with the UK Secretary of State. This means that both the UK Government and Scottish Government have the same power to make regulations for Scotland on the matters covered by these regulations, which they can exercise independently of each other.

During parliamentary scrutiny of the Scotland Bill, the main area of debate in relation to the UC clauses was whether or not the clauses provided the UK Government with a "veto" over the Scottish Ministers' use of the powers. These parts of the clauses were amended at Committee Report stage to require that Scottish Ministers consult the Secretary of State on the practicalities of implementation of any of the changes they propose to make. If, following this consultation, the Scottish Ministers proceed to make regulations and the Secretary of State considers that it is not practicable to implement the changes in the proposed timescale, the Secretary of State may make regulations to postpone the time Scottish Ministers' regulations will start to have effect.

Whatever view is taken on the drafting of the provisions in the Scotland Act 2016, it is clear there will be a need for good inter-governmental working around any changes the Scottish Government chooses to make to UC.

The Scottish Government has set out how it plans to use the new powers:

- the housing element of UC will be amended to abolish the bedroom tax for UC claimants (discretionary housing payments will continue to be used to mitigate the bedroom tax for Housing Benefit claimants).
- UC claimants in social rented housing will have a choice of whether to have their housing element paid to themselves (which is currently the default position) or have their housing element paid directly to their social landlord (which can currently only be done in exceptional circumstances). Consideration is also being given to allow tenants in the private rented accommodation the same choice.

- UC claimants will have the choice of having their payments made twice a month rather than once a month, as the DWP plans.

UC is a benefit that is paid on a household basis but split household payments can be made in exceptional circumstances. The Scottish Government will also monitor how split household payment arrangements will work in practice. If there is a case for change, it will use the powers to make split household payments a choice for households.

The costs of using these new powers must be borne by the Scottish Government. Details of the administrative costs for the Scottish Government's planned use of the UC powers are still being finalised. The total cost of abolishing the bedroom tax in Scotland is in the region of £45m a year – the Scottish Government is already providing £35m of Discretionary Housing Payment (DHP) funding to local authorities to help mitigate the bedroom tax.

Timescales for using the UC powers in Scotland will depend upon the discussions the Scottish Government has with the DWP about practical issues as the DWP will need to deliver the changes.

INTRODUCTION

The Smith Commission proposed a range of social security powers be devolved to Scotland including benefits for carers, disabled people and those who are ill, the regulated social fund, various discretionary powers and the power to create new benefits. It also recommended that Scottish Ministers have powers in relation to certain aspects of Universal Credit (UC).

This briefing is part of a series of SPICe briefings on the social security aspects of the Scotland Act 2016 (the "Scotland Act") (see Related Briefings on page 22).

The following section provides a brief overview of how UC works before considering the details of the powers that the Scotland Act will devolve and the Scottish Government's plans for using those powers.

UNIVERSAL CREDIT OVERVIEW

UC is a means tested benefit for working age people who are unable to work, unemployed or in low-paid work. It will replace six existing working age benefits,[1] including Housing Benefit (HB).

The aim of UC is to simplify the benefits system and improve work incentives. It removes the need to claim different benefits from different agencies when in and out of work. The UK Government expects UC to reduce error, overpayments and fraud. As HMRC's Real Time Information system links into DWP systems, benefit payments for those with fluctuating incomes should be automatically adjusted.

CALCULATION OF UC

UC is a benefit awarded to the household (i.e. Benefit Unit) as a whole. The amount of UC awarded will depend on the income and circumstances of all the Benefit Unit members. Each household has a 'standard allowance' to which other elements are added depending on the household's circumstances. The additional elements can include amounts for:

- children
- childcare costs
- housing costs
- limited capability for work
- carers

When these elements are added together this results in the maximum UC that can be awarded (assuming the benefit cap does not apply).

If a claimant (and/or partner) has responsibility for a child and/or a limited capability of work they will have a "work allowance". For every £1 of net earned income above the claimants'

[1] Housing Benefit, Income support, Income based Jobseekers Allowance, Child Tax Credit ,Working Tax Credit and Income based Employment and Support Allowance

"work allowance," the maximum UC award will be reduced by 65p. Thus, UC has a "taper rate" of 65%.

Prior to April 2016, claimants with earnings who were not responsible for a child, or had limited capability also had a work allowance. However, the work allowance for these groups was withdrawn by the UK Government which announced the change in the Summer Budget 2015 (HM Treasury 2015). Annex A provides information about other changes made to UC. It has been suggested that these changes may reduce the incentives to enter, or progress in work (Kennedy and Keen 2015). Other planned changes to UC specifically affect the housing element (see p 8).

ADMINISTRATION OF UC

The DWP is responsible for administering UC but it has also been working with local authorities, social landlords, and other service providers to develop local support services to help UC claimants. The aim of this *Universal Support – delivered locally* programme is to establish a "joined-up, holistic service, particularly for vulnerable claimants and those with complex needs."

The default position is that the UC award is paid to the household on a monthly basis, and as a single payment. A number of concerns have been voiced about the move to single monthly household payments, including the challenge for families not used to budgeting on a monthly basis (Kennedy 2012). Furthermore, some social landlords have been concerned that payment of the housing element of UC[2] direct to the tenant will result in increased rent arrears and impact on their revenue streams (Wilson 2013).

Alternative Payment Arrangements

Recognising that the change to payment arrangements may be a challenge for some people, the DWP has developed a programme of *Personal Budgeting Support*. There are two elements to Personal Budgeting Support:

1. **Money advice** to help claimants cope with managing their money on a monthly basis and paying their bills on time
2. **Alternative Payment Arrangements** for those claimants who cannot manage the single monthly payment and where there is a risk of financial harm to the claimant and/or their family.

DWP Guidance (DWP 2015a) outlines that alternative payment arrangements can include rent paid directly to the landlord, more frequent payments or payment split between partners. Generally, the expectation is that these alternative payment arrangements will be made in exceptional circumstances and will be reviewed by DWP in order to move the claimant back to the monthly, single payments.

IMPLEMENTATION OF UC

The implementation of UC has been described as, "…a highly ambitious and challenging transformation programme," which has not been without criticism. For example, delays to its implementation and the development of the digital service have been criticised (National Audit Office 2014).

[2] Most social housing tenants currently have their Housing Benefit paid direct to their landlord. Most tenants in private rented accommodation have their Housing Benefit paid directly to themselves

UC is being implemented on a phased basis, which started with 'simple' claims i.e. new claims from single people, newly unemployed and without children, in selected pathfinder areas in April 2013. Since then, roll-out has continued throughout the country, again mainly with 'simple claims' although in some areas claims are being accepted from more 'complex' cases. The aim of this phased implementation approach is to allow the Government to 'test and learn' so that any problems can be rectified in the future roll out. In Scotland, the areas covered by the Inverness job centre were the first to take UC claims and it has now been rolled out to job centres in all Scottish local authority areas

To date, most UC cases come under the 'live service' which has involved DWP staff helping claimants through the claim process and then reporting changes of circumstances once an award has been made. At the same time, the 'full service' which will offer 'enhanced features and functionality', such as reporting changes online, is being rolled out. In the full service areas it will no longer possible for households to make a new claim to any of the legacy benefits – rather the households will make a claim for UC.

The first Scottish full service site in Musselburgh was launched in March 2016. The next site will be Inverness in June 2016 followed by the rest of the Highland jobcentres in November 2016 (DWP 2016b). The plans for migration to the full UC service for 2017 are expected to be announced by July whilst details for 2018 and the completion of the rollout of the full service are anticipated by September 2016 (HC WS525).

The UK Government expects that by mid-2018 it will no longer be possible to claim legacy benefits (i.e. the benefits that are being replaced by UC). The process of migrating existing claimants of legacy benefits to UC is expected to be completed by 2021 (although the OBR believes the final "managed migration" phase could be subject to a further delay of six months) (see Kennedy and Keen, 2015).

Scottish UC Claimants

By April 2016, there were around 26,600 UC claimants in Scotland (DWP Stat-Xplore), which is expected to increase to around 700,000 households once UC is fully implemented (Kennedy and Wilson 2015).

THE HOUSING ELEMENT OF UC

The housing element of UC can provide support for housing costs for people in rented or owner-occupied accommodation. The following section focuses on support for people in rented accommodation as Scottish Ministers will have powers in that area.

Very briefly, the way that housing costs are calculated in UC takes account of the household size and circumstances and the actual rent charged.[3] The housing element of UC is similar to existing HB regulations in many ways although there are also some differences (Wilson 2013).

Existing HB regulations provide for a different way of assessing the HB for those living in the private rented property and those living in social rented property, with private rented tenants being assessed under the "local housing allowance" (LHA) rules.

In 2010, the UK Government announced a series of reforms to HB prior to the roll out of UC, with the intention of reducing expenditure and maintaining fairness in the system (DWP

[3] Detailed provisions setting out how housing costs are calculated under UC are contained in regulations 25 and 26 together with schedules 1-5 of the *Universal Credit Regulations 2013*.

2010). These reforms have been carried into the UC housing element and are briefly explained below.

Local Housing Allowance reforms

Tenants in private rented accommodation have their level of HB determined by the local housing allowance (LHA) rules. Generally, the maximum HB that will be paid is the LHA rate for the appropriate sized property in one of 18 Broad Market Rental Areas (BRMAs) in Scotland.[4] Reforms have included:

- changing the basis for setting LHA rates from the 50th percentile to the 30th percentile[5] of local market rents.
- capping weekly LHA rates.
- raising the age below which the Shared Accommodation Rate (SAR) applies from age under 25 to age under 35. The SAR means that for many single people under age 35 HB will only cover the rent for a room in shared accommodation.
- changing the way the LHA rates are uprated. Previously, they would reflect the local rents in the area but are now indexed with CPI inflation.

The effect of these measures is to reduce the availability of accommodation where the rent would be fully covered by HB. Recent research by the Chartered Institute of Housing (CIH 2016) found that in some areas of the UK, people are only able to afford to rent properties in the bottom five or 10 % of local market rents (CIH 2016).

Social Sector Tenants - Bedroom tax

Since April 2013, the “bedroom tax” has introduced size criteria in the social rented sector. Where a working age tenant occupies a property that is deemed to be too big for their household’s needs, their eligible rent (which is used to calculate the maximum HB payable) will be reduced by 14% if they under-occupy by 1 bedroom, or 25% if they under-occupy by 2 or more bedrooms.

The Scottish Government is mitigating the impact of the bedroom tax by providing local authorities with additional Discretionary Housing Payment (DHP) funding. The Scotland Act also devolves responsibility for DHPs.[6]

CHANGES TO THE HOUSING ELEMENT OF UC

In the Summer Budget 2015 (HM Treasury 2015a) and the Spending Review and Autumn Statement 2015 (HM Treasury 2015b) the UK Government announced changes relevant to the housing element of UC. These changes included (see Annex A for more detail):

- **from April 2016 LHA rates will be frozen for 4 years,** or set at 30th percentile of market rents if this is lower

- **from April 2017 the automatic entitlement to the housing element of UC for out-of-work 18-21 year olds will be removed (with some exceptions)**

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[4] Minus any non-dependent deductions

[5] This means that in each market area, if there were 100 properties available for letting of the appropriate size, the LHA would be based on the 30th lowest rent charge of those 100 properties. In other words, tenants who receive LHA should have access to the bottom 30% of the market.

[6] Some tenants may find their bedroom tax reduction is greater than their Housing Benefit award and therefore would no longer receive Housing Benefit. This would mean that they would not be eligible for a DHP as a claimant must be in receipt of Housing Benefit to be eligible for a DHP.

- **the benefit cap will be lowered** from £26,000 to £20,000 a year (£23,000 in London) for couples/lone parent and from £18,200 to £13,400 for a single person with no children at some point before the end of 2016

- **the amount of rent that HB will cover in the social sector will be capped to the relevant LHA rate that applies in the private rented sector.** This will apply to tenancies signed after 1 April 2016, with HB entitlement changing from 1 April 2018 onwards. The implementation of this measure will be delayed for tenants of supported accommodation and will apply to tenancies signed after 1 April 2017. Rents are higher than average in supported accommodation and the UK Government is considering if any protections are needed for people in such accommodation (HL Deb, 1 March 2016).

These changes, and any future changes, may influence how the Scottish Government decides to how to make use of the powers devolved under the Scotland Act.

DEVOLUTION OF UNIVERSAL CREDIT POWERS

The following section summarises the background to the development of the UC clauses in the Scotland Act.

SMITH COMMISSION AND THE DRAFT CLAUSES

The Smith Commission (2014) proposed that:

> " 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"

Draft clauses 20 and 21 sought to give effect to these recommendations (HM Government 2015). They provided Scottish Ministers with regulation making powers under:

- section 11(4) of the Welfare Reform Act 2012 (determination and calculation of housing cost element) as it relates to rented accommodation.
- section 5(1)(p) of the Social Security Administration Act 1992 (payments to another person on behalf of the beneficiary)
- section 5(1)(i) of the Social Security Administration Act 1992, so far as relating to the person to whom, or the time when, UC is to be paid

The UK Secretary of State also has the same regulation making powers under the same sections of the above Acts. Thus, the Scottish Ministers will have 'concurrent' regulation making powers. The draft clauses provided that the Secretary of State may not make regulations (in or as regard Scotland) unless he or she has consulted the Scottish Ministers.

During the Devolution (Further Powers) Committee's scrutiny of the draft clauses, the main area of contention was whether the clauses gave the UK Government a "veto" over the use of the Scottish Ministers' powers. The draft clauses provided that Scottish Ministers could not make regulations unless:

> "(a) they have consulted the Secretary of State about the practicability of implementing the regulations, and
>
> (b) the Secretary of State has given his or her agreement as to when any change made by the regulations is to start to have effect, such agreement not to be unreasonably withheld."

While the Scottish Government argued that these provisions did amount to a veto, the UK Government refuted this claim. As UC will remain a reserved benefit the Secretary of State argued that,

> "…there is a need to ensure that Scottish Government proposals can be delivered effectively as part of an integrated delivery plan. This drafting mechanism simply reflects the reality of the close inter-governmental working that will be required." (Devolution (Further Powers) Committee 2015a)

The Committee suggested the wording should be resolved between the two Governments before introduction of the Bill (Devolution (Further Powers) Committee 2015a).

THE SCOTLAND BILL AS INTRODUCED AND CHANGES MADE

Only relatively minor technical changes were made to the drafting of the UC clauses in the Scotland Bill as introduced compared to the draft clauses (the clauses became numbers 24 and 25).

The Scottish Government still claimed the Bill's provisions amounted to a veto for the UK Government and their alternative clauses sought to remove the requirement for the Scottish Ministers to obtain consent from a UK Secretary of State (Scottish Government 2015a).

No changes were made to the Bill at Committee Stage. At the Commons Report Stage various amendments were lodged by the SNP group and by Ian Murray MP (Lab) although none of these were passed. These included:

- a new clause that would devolve the power to make rules about the childcare element of UC to the Scottish Parliament.
- the devolution of UC under Part 1 of the Welfare Reform Act 2012 and of HB as part of a larger amendment to devolve all working age benefits to Holyrood.
- a new clause to allow the Scottish Parliament to vary other elements of UC including the work allowance and childcare costs.
- removal of the reference to consultation with the Secretary of State.
- requiring that regulations made by Scottish Ministers to vary the housing costs element be subject to affirmative, rather than negative, procedure.

At Report Stage, a UK Government amendment replaced the provisions that would have prevented regulations being made by the Scottish Ministers unless the Secretary of State has agreed the start date of any changes. Instead, the Secretary of State has a power to postpone the start date of the changes if the Secretary of State considers that it is not practical to implement the change in the proposed timescale.

In their final report on the Bill, the Devolution (Further Powers) Committee said:

> "The expectation would be that agreement would be reached through the intergovernmental process prior to the date being set within Scottish

regulations, removing the necessity for Westminster regulations. The grounds on which such intervention could be made relate only to the practicability of date of implementation. Practicability is not defined, but may be expected to refer to the capacity of DWP IT systems/staff to affect the planned changes and the compatibility with, and priority given, to the UK Government's own plans for Universal Credit" (Devolution (Further Powers) Committee 2016b)

The House of Lords made technical amendments to clarify that where regulations are made by Scottish Ministers under the new powers, the Scottish procedure for negative instruments applies. See Annex 2 for the full sections (now sections 29 and 30).

FUTURE USE OF THE POWERS

POWER TO VARY THE HOUSING ELEMENT OF UNIVERSAL CREDIT

The Scottish Government has committed to using the new powers to abolish the bedroom tax for UC claimants. It has also committed to continue to use DHPs to mitigate the bedroom tax for HB claimants (Scottish Government 2015b).

To date, the Scottish Government has not announced if any other changes will be made to the housing element of UC. As noted earlier, there have been a series of changes made to the housing element of UC by the UK Government which, potentially, the Scottish Government could alter in Scotland.

The Welfare Reform Committee held an inquiry into *The Future Delivery of Social Security in Scotland* in autumn 2015 (Scottish Parliament Welfare Reform Committee 2015). During that inquiry, the Committee heard support for the Scottish Government's use of the powers to abolish the bedroom tax. Other recommendations made by the Committee, and the Scottish Government's response included:

Welfare Reform Committee Recommendation	Scottish Government Response
That the Scottish Government should investigate amending the housing element of Universal Credit to provide that maintenance costs for adaptations are included as an eligible charge.	We will listen to stakeholder feedback about the housing element of Universal Credit before considering options to vary the calculation, including reviewing what is included as an eligible charge.
That the UK and Scottish Government identify the differences in housing policy for young people between Scotland and England and work constructively with one another to make sure that they are closed.	We are in discussion with DWP to identify differences between housing policy in Scotland and England which might affect young people aged 18 - 21 and will look at options to address any gaps thereafter. We remain opposed to the UK Government's proposals to remove housing benefit for under 21s.
The Committee recommends that a common-sense approach be taken to housing cost contributions when the housing element of Universal Credit comes under Scottish control. It would encourage the Scottish Government to consider reviewing the current list of exemptions to see if any additional exemptions are required	We agree with this approach and can look at the exemptions for housing cost contributions as part of our consideration of the calculation of the housing element of Universal Credit.
The Local Housing Allowance system currently limits the number of bedrooms claimants are entitled to in	We are listening to stakeholder feedback about Local Housing

the same way as the 'bedroom tax' applies to social housing. As the Scottish Government is taking steps to resolve the issue of the 'bedroom tax' for social renters it should also be investigating ways in which it can help support private renters on benefits who may need to pay for larger accommodation than their LHA covers.	Allowance rates and will take a range of views into consideration before looking at options to vary the existing system. Private Rented Sector households experiencing financial hardship may apply for the Scottish Welfare Fund or for a Discretionary Housing Payment

Source: Scottish Government (2016a)

Housing Costs outwith Universal Credit

Although the Scottish Government will have powers to vary the housing element of UC, they will not have direct powers to change other UK benefits that support housing costs for those not entitled to UC.

The Scottish Government will not have direct powers over:

- The current Housing Benefit regime.
- Housing costs for pensioners.
- Help for housing costs for those living in "Exempt Accommodation"[7] which is currently provided separately from UC. In the long term, UK Government Ministers are considering the feasibility of a localised solution to providing help with the housing costs of supported accommodation.
- Restoring entitlement to the housing element for those who are not entitled to Universal Credit.

There are other powers in the Scotland Act the Scottish Government could potentially use to support those not entitled to UC with their housing costs, for example, discretionary housing payments (as long as claimants were entitled to HB), discretionary payments and new benefits.

Therefore, a key consideration for the Scottish Government's future use of these powers would be how any changes would potentially affect, and interact with, other areas of housing policy and other benefits (both Scottish and UK benefits).

POWER TO VARY UC PAYMENT ARRANGEMENTS

The Scottish Government plans to use the new powers to vary payment arrangements:

- **to give UC claimants the choice of having their payments made twice monthly rather than calendar monthly**. In explaining their decision, the Scottish Government's stocktake paper, published in October 2015, said:

  "Many people in Scotland, both in and out of work, are used to budgeting their money more frequently than monthly. Many people have told us that moving to monthly payments under Universal Credit is a worry for them and that fortnightly

[7] Exempt accommodation' is accommodation provided by a housing association, registered charity, voluntary organisation or non-metropolitan county council where the claimant is provided with care, support or supervision by the landlord, or another person on behalf of the landlord

payments would make it easier for them to manage their household budgets" (Scottish Government 2015b)

- **to give claimants the choice of having the housing element paid direct to landlords, where the claimant is renting from a social landlord.** In *A New Future for Social Security in Scotland*, published in March 2016, the Scottish Government said, "We are discussing with stakeholders the opportunity to offer tenants in the private sector the same choice of having their rent paid directly to their landlord". (Scottish Government 2016b)

As noted earlier, these options are already possible under the Alternative Payment Arrangements (APAs) that can be made in exceptional circumstances. There is no published data on how many Scottish UC claimants currently have APAs in place.

In its *Inquiry into the Future Delivery of Social Security in Scotland*, the Welfare Reform Committee (2015) heard general support for the payment of the housing element of UC direct to landlords and the option for more frequent UC payments.

During the inquiry, some stakeholders raised concerns about the potential administrative difficulties in making adaptations to DWP UC systems to facilitate these changes. For example, North Ayrshire Council noted that making direct payments to landlords would require fundamental changes to DWP systems. They suggested that although the DWP has an Alternative Payment Arrangement facility in place to pay the housing element direct to landlords, this comes after the calculation of the housing element, and both processes would need to be co-ordinated (Scottish Parliament Welfare Reform Committee 2015). The Scottish Government's response to the Committee indicated it was working closely with DWP to minimise administrative difficulties (Scottish Government 2016b).

The Scottish Government is discussing the timing for implementing the UC flexibilities is with the DWP (who will be delivering the changes). The implementation dates will depend, in part, on the development and testing of the new UC IT system.

Split Household Payments

In *A New Future for Social Security in Scotland*, the Scottish Government noted that split payments were currently available as an APA but there had been no examples of the arrangement being used yet given the current focus on rolling out UC to single claimants first. The report stated that the Scottish Government would:

> "…monitor how these arrangements will work in practice and will continue to engage closely with stakeholders and claimants as Universal Credit is rolled out to keep this issue under review. If there is a case for change, we will use our powers to bring this about." (Scottish Government 2016a)

FUNDING

The Smith Commission recommended that any additional administration and programme costs directly associated with the exercise of the Scottish Government's use of the UC powers must be met by the Scottish Government (Smith Commission 2014 para 47) and this was confirmed in the Fiscal Framework (Scottish Government 2016c).

The total cost of mitigating the impact of bedroom tax in Scotland is around £45m (based on existing HB caseload data).[8] The Scottish Government is already effectively mitigating the impact of the bedroom tax in Scotland through providing additional DHP funding worth £35m.[9]

Details of the administrative costs for the Scottish Government's planned use of the UC powers are still being considered by the DWP.

NO-DETRIMENT PRINCIPLE

The Smith Commission also said that, on making use of the powers, the Scottish Government would also need to take into account the Smith Commission principle of "no detriment":

> "Where either the UK or the Scottish Governments makes policy decisions that affect the tax receipts or expenditure of the other, the decision-making government will either reimburse the other if there is an additional cost, or receive a transfer from the other if there is a saving. There should be a shared understanding of the evidence to support any adjustments". (Smith Commission 2014 para 95(4a))

In addition to this institutional level of 'no detriment', there is also the expectation that individual claimants will not lose out. In particular, any extra benefit provided by the Scottish Government should not simply be deducted from another UK level benefit the individual is claiming.

As the Fiscal Framework states:

> "90. The Governments have also agreed that the UK government's Benefit Cap will be adjusted to accommodate any additional benefit payments introduced by the Scottish Government." (Scottish Government 2016c)

[8] SPICe estimate. At November 2015 there were 70,853 HB claimants with a bedroom tax reduction. The average reduction was £12.11 a week (DWP 2015). This estimate does not include any UC claimants with a bedroom tax reduction as those statistics are not available – however it has been assumed that at November 2015 this number would have been relatively low.

[9] This is added to the DWP's DHP contribution of £15.2m in 2015-16. Total DHP budget is just over £50m

ANNEXE 1:

Changes to Universal Credit and Housing Benefit announced by the UK Government

[Summer Budget 2015]

- **Reductions in the "work allowances"** for most UC claimants, from April 2016. The work allowance is reduced to £192 a month for those with housing costs and £397 a month for those without housing costs (a decrease from £222 and £536 respectively). For non-disabled childless claimants the work allowance is abolished completely.

- **Limiting the child element of UC** to two children for new claims and births after 6th April 2017 (with limited exceptions)

- **removing the first** child premium in UC for new claims from April 2017

- **from 2016-17 LHA rates will be frozen for 4 years**

- **the automatic entitlement to the housing element of UC for out-of-work 18-21 year olds will be removed**. Exemptions will be in place for parents, certain vulnerable groups and for those recently in-work. The policy will apply to any new claim to UC from April 2017, where the claimant has housing costs at the start of their claim or subsequently acquires them. Full details of this policy have still to be announced by the UK Government

- limiting **backdating of housing benefit to 4 weeks** (from 6 months) from April 2016

[Spending Review and Autumn Statement]

- **the household benefit cap will be lowered from 2016-17**. The cap limits the amount of benefits out-of-work working-age families can receive. Currently, the limit is £26,000 per year for couples and households with children and to £18,200 per year for single member households. The cap will be reduced to £20,000 per year for couples and households with children (from £26,000) and to £13,400 per year for single-member households (from £18,200), except for London where the maximum will be £23,000 per year for couples and households with children and £15,410. The cap works by reducing housing benefit until the maximum benefit level is met. Estimates of the number of households in Scotland that will be affected by the lower benefit cap levels have been produced by the DWP (2016a). The change will be implemented from Autumn 2016.

- **the amount of rent that Housing Benefit will cover in the social sector will be capped to the relevant Local Housing Allowance rate that applies in the private rented sector.** This will apply to tenancies signed after 1 April 2016, with Housing Benefit entitlement changing from 1 April 2018 onwards.

  The impact of the measure will depend on the difference in social sector housing rents and the LHA rate for a similar size property and future changes in social sector rents and the LHA rate. Generally, in Scotland social sector rent levels are lower than the corresponding LHA rate so this measure would currently be unlikely to affect a substantial number of tenants. Single social sector tenants under 35 might be more likely to be affected as they would be restricted to the shared room rate which is nearer to social sector rents– the impact would partly depend on how social sector rents change in the future. A particular impact is on supported accommodation. Some organisations, such as Scottish Women's Aid have raised concerns about the impact of this measure on refuge accommodation where rent and service charges are significantly higher than the comparable LHA rate. For example, they estimated that in a rural area, introducing a cap linked to the LHA rate would result in an annual loss of £5,800 for a 2 bedroom refuge flat (Scottish Women's Aid 2016).

On 1 March 2016, Lord Freud announced that the Government will put in place a year-long exception for all tenants of supported accommodation in the social sector so that this measure will only apply to these tenancies from April 2017, rather than April 2016. This was to allow the Government time to decide on any protections needed for those in supported accommodation pending the outcome of a research project and policy review. (HL Deb, 1 March 2016)

- **From April 2016, the duration for which HB will be paid for a claimant who is temporarily absent from Great Britain from 13 weeks to 4 weeks from April 2016**. Exemptions will apply in particular circumstances for up to 26 weeks, for example, for the death of a family member, if a claimant or their dependant requires medical treatment abroad, or for members of certain professions who spend time abroad.

ANNEX 2

Extract from the Scotland Act 2016

29 Universal credit: costs of claimants who rent accommodation

(1)A function of making regulations to which this section applies, so far as it is exercisable by the Secretary of State in or as regards Scotland, is exercisable by the Scottish Ministers concurrently with the Secretary of State.

(2)This section applies to—

(a)regulations under section 11(4) of the Welfare Reform Act 2012 (determination and calculation of housing cost element), so far as relating to any liability of a claimant in respect of accommodation which the claimant rents, and

(b)regulations under section 5(1)(p) of the Social Security Administration Act 1992 (payments to another person on behalf of the beneficiary), so far as relating to the payment of an amount of universal credit in respect of any such liability.

(3)For the purposes of this section—

(a)a claimant “rents” accommodation if he or she is liable to make rent payments (with or without other payments) in respect of it, and

(b)“rent payments” has the meaning given from time to time by paragraph 2 of Schedule 1 to the Universal Credit Regulations 2013 (S.I. 2013/376).

(4)The Scottish Ministers may not exercise the function of making regulations to which this section applies unless they have consulted the Secretary of State about the practicability of implementing the regulations.

(5)If—

(a)the Scottish Ministers make regulations to which this section applies, and

(b)the Secretary of State considers that it is not practicable to implement a change made by the regulations by the time that change is to start to have effect, the Secretary of State may by regulations made by statutory instrument amend the regulations so that the change is to start to have effect from a time later than the time originally set.

(6)The altered time must be no later than the Secretary of State considers necessary, having regard to the practicability of implementing the change.

(7)The Secretary of State may not exercise the function of making regulations to which this section applies in or as regards Scotland unless he or she has consulted the Scottish Ministers.

(8)Where regulations are made by the Scottish Ministers by virtue of subsection (1)—

(a)section 43(1) of the Welfare Reform Act 2012 (in the case of regulations referred to in subsection (2)(a)) and section 189(3) of the Social Security Administration Act 1992 (in the case of regulations referred to in subsection (2)(b)) do not apply, and

(b)the regulations are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

30 Universal credit: persons to whom, and time when, paid

(1) A function of making regulations to which this section applies, so far as it is exercisable by the Secretary of State in or as regards Scotland, is exercisable by the Scottish Ministers concurrently with the Secretary of State.

(2) This section applies to regulations under section 5(1)(i) of the Social Security Administration Act 1992, so far as relating to the person to whom, or the time when, universal credit is to be paid.

(3) The Scottish Ministers may not exercise the function of making regulations to which this section applies unless they have consulted the Secretary of State about the practicability of implementing the regulations.

(4) If—

(a)the Scottish Ministers make regulations to which this section applies, and

(b)the Secretary of State considers that it is not practicable to implement a change made by the regulations by the time that change is to start to have effect,

the Secretary of State may by regulations made by statutory instrument amend the regulations so that the change is to start to have effect from a time later than the time originally set.

(5) The altered time must be no later than the Secretary of State considers necessary, having regard to the practicability of implementing the change.

(6) The Secretary of State may not exercise the function of making regulations to which this section applies in or as regards Scotland unless he or she has consulted the Scottish Ministers.

(7) Where regulations are made by the Scottish Ministers by virtue of subsection (1)—

(a)section 189(3) of the Social Security Administration Act 1992 does not apply, and

(b)the regulations are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

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