



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# SCOTLAND BILL COMMITTEE

Tuesday 4 October 2011



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**SCOTLAND BILL COMMITTEE**  
**7<sup>th</sup> Meeting 2011, Session 4**

**CONVENER**

\*Linda Fabiani (East Kilbride) (SNP)

**DEPUTY CONVENER**

\*James Kelly (Rutherglen) (Lab)

**COMMITTEE MEMBERS**

\*Richard Baker (North East Scotland) (Lab)  
Nigel Don (Angus North and Mearns) (SNP)  
\*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)  
\*Alison Johnstone (Lothian) (Green)  
\*John Mason (Glasgow Shettleston) (SNP)  
\*Stewart Maxwell (West Scotland) (SNP)  
\*Joan McAlpine (South Scotland) (SNP)  
David McLetchie (Lothian) (Con)  
Willie Rennie (Mid Scotland and Fife) (LD)  
  
\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

David Griffiths (Ecas)  
Maggie Kelly (Scottish Campaign on Welfare Reform)  
Matt Lancashire (Citizens Advice Scotland)  
Martin Sime (Scottish Council for Voluntary Organisations)  
Kate Still (Wise Group)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

Committee Room 1



## Scottish Parliament

### Scotland Bill Committee

*Tuesday 4 October 2011*

[The Convener *opened the meeting at 14:30*]

### Scotland Bill

**The Convener (Linda Fabiani):** Good afternoon and welcome to the seventh meeting of the new Scotland Bill Committee. I remind everyone to switch off their mobile phones and BlackBerrys, as they interfere with the sound system, and I inform members that we have received apologies from Nigel Don and David McLetchie.

First, I must apologise to our witnesses. I have forgotten my glasses so you will have to excuse me if I get you mixed up with someone else.

We are joined by Martin Sime from the Scottish Council for Voluntary Organisations; David Griffiths, a member of the SCVO policy committee and chief executive of Ecas; Kate Still, who is a replacement for Laurie Russell, the chief executive of the Wise Group—thank you for coming, Kate; Maggie Kelly, co-ordinator of policy and campaigns officer for the Scottish campaign for welfare reform and the Poverty Alliance; and Matt Lancashire, social policy officer with Citizens Advice Scotland. I thank everyone for coming and invite each of you to make a short opening statement.

**Martin Sime (Scottish Council for Voluntary Organisations):** It is a pleasure to come before the committee and discuss this important bill.

As I was preparing for this afternoon's meeting, I realised that this would be the fourth time that the SCVO had given evidence on the Scotland Bill. From the establishment of the Calman commission to the Scottish Affairs Committee's inquiry to the Scottish Parliament's previous inquiry, our comments have been consistent. In fact, because of other events, our propositions, which amount to a critique of the whole bill and the processes that have led up to it, seem more relevant now than they have in the past.

Our basic understanding is that this is not a good bill. Its approach is not consistent; it does not address real issues; there has been a failure to engage people in the process leading up to its introduction; it is driven by narrow political concerns; it looks out of kilter with broader questions about Scotland's future; it does not address the areas in which devolution is not working; and it fails to tackle the future divergence of healthcare and other policies under devolved

and reserved powers. My colleagues here this afternoon have much more expertise than I have in the impact of particular aspects of welfare reform on Scotland. Nevertheless, I can tell the committee that that is a very good example of the bill's failure to engage with the issues that affect real people in Scotland.

The issues that the bill covers are narrow and partial—the partial control of speed limits is a particularly odd example—and I think that in the world of the third sector in Scotland you will not find many people who understand what the taxation proposals mean or how they will work. The fact that there are still some grey areas in that respect simply highlights how marginal the bill is to the much bigger questions around how Scotland is to be governed in future.

**David Griffiths (Ecas):** I have very little to add to that, except to say that I have always been particularly concerned about the fact that disability benefits, for example, have been reserved while health, social care, transport and other key issues for disabled people have been devolved. There is a danger in such divergence. Indeed, I am now greatly concerned that in this area the risk of divergence will become a reality with the introduction of the Welfare Reform Bill, which is not in tune at all with the Scottish self-directed support bill. The people I speak to have welcomed the latter, but not the former. Such divergence simply confuses people.

We should be looking at what is right for the people of Scotland and then working out the powers that should be devolved, instead of stating the powers that we wish to devolve and trying to make the system work around them. We have got things the wrong way round.

**Kate Still (Wise Group):** Thank you for the opportunity to give evidence. Although we welcome the intention to devolve more powers, we are concerned about how such moves relate to Jobcentre Plus. Indeed, picking up on recommendations that were made by the Christie commission, we want responsibility for that and for welfare in general devolved for a number of reasons.

There is poor integration of policy intent as well as divergence at United Kingdom and Scottish levels. Barriers related to legal and institutional frameworks and funding streams make it quite difficult to align policy intent and affect the bigger picture of how we make life simpler and easier for customers who are trying to access services. Because education, skills, training and employability policies are not joined up or aligned in the right way, we are getting gaps and duplication in services and customers are not getting the best of what can be pulled together. Moreover, because we do not have those controls,

we do not have the flexibility or agility to react to changing circumstances.

As for welfare reform, we believe that the situation in Scotland should fit its people's needs.

**Maggie Kelly (Scottish Campaign on Welfare Reform):** Thank you for inviting SCOWR to give evidence.

SCOWR represents a fairly substantial part of civic society and has 60-odd members covering key third sector groups, faith groups, unions, charities and so on. Our manifesto sets out five key principles: first, that the welfare system should be adequate to protect people from poverty; secondly, that it should respect human rights and treat people with dignity; thirdly, that it should be simplified; fourthly, that it should enable everyone to participate in society; and finally, that it should take account of Scotland's different policy and legislative frameworks. Although we support the need for reform of the welfare system, we believe that the current approach is failing to deliver against those principles. Coupled with the reforms in the Welfare Reform Bill, the unprecedented £18 billion-worth of cuts that are being made will have a very negative impact on people in Scotland who are living in poverty.

Our key concern is the impact of welfare reform on individuals, communities and families living in poverty in Scotland. As a broad-based coalition, we have not taken a view on where welfare and benefits powers should lie. However, given that the Welfare Reform Bill proposes to devolve significant aspects of the welfare system to Scotland, we have very clear ideas about what should be done with those powers.

Obviously, questions arise over whether the bill contains the right powers to deliver the kind of system that we want in Scotland. We argue that replacements for council tax and social fund payments should take the form of a national scheme that protects eligibility and entitlement across Scotland, but the question for the committee is whether we have the right powers to do that at the moment.

The Scottish Government has welcomed the devolution of social fund payments and council tax benefit to Scotland. However, we must be cautious, because the devolution settlement terms for financial arrangements and the interrelation between those benefits in the current system may prove very difficult for the Scottish Government. The committee might like to consider that.

There are wider issues around the Welfare Reform Bill. The proposals will have a very negative impact in a whole raft of devolved policy areas including anti-poverty policy, our duties under the Child Poverty Act 2010, Scottish housing and homelessness legislation and the

Scottish focus on disabled people's right to independent living.

We have argued that welfare reform in Scotland must take account of those different legislative frameworks. Unfortunately, there has been a divergence in policy between Westminster and Scotland in this area. We hope that the committee will consider the impact of any recommendations that it makes with regard to those wider impacts and the growing number of Scots who are living in poverty.

**Matt Lancashire (Citizens Advice Scotland):** I thank you all for allowing Citizens Advice Scotland to give evidence today. We welcome the Scotland Bill Committee's examination of the area of welfare and benefits and its recognition that the many legislative changes proposed at Westminster will impinge on people's services and communities and on legislation and financial arrangements in Scotland.

We have four major concerns about the proposed reforms: the impact that they will have on the people of Scotland; the impact on services that are provided by the public and voluntary sectors in Scotland; the impact that devolving various benefits to the Scottish Government will have on people and services; and the impact on devolved areas that have not been considered or taken into account.

It is clear that the UK Government's Welfare Reform Bill will have a lasting impact in those four areas that goes far beyond the changes to the benefits system. Inclusion Scotland estimates that £2 billion will be lost to the Scottish economy during the UK Government's stay in power. We would like to cover those factors today.

**The Convener:** I thank all of you. I know that David Griffiths attended our informal round-table discussion, when the committee met representatives of the sector. Those issues came through loud and clear in that discussion, which is why we agreed that the Scotland Bill Committee should hold a formal session to consider them.

The committee felt that two specific issues should be addressed: first, the merits of devolving welfare and benefits to Scotland, and secondly, the problems that arise in the current mixed system in which some things are devolved and some are reserved. I thank David Griffiths for giving us very good examples during the round-table discussion that made us realise that the difficulties are inherent.

I will open up the meeting to questions. I ask members to indicate when they want to speak on a question that has just been asked, so that we can keep it quite tight. If any of the witnesses would like to jump in on a particular question, they should indicate that to me. If I do not see you, I am

assured that Stephen Imrie will use his right elbow effectively.

John Mason has indicated that he would like to begin.

**John Mason (Glasgow Shettleston) (SNP):** Thank you, convener. I welcome all the panel members. A number of you have used the word “divergence”, and the SCVO submission mentions health and care and welfare and employability. Health and care are mainly a devolved matter, whereas welfare and employability are mainly reserved. Can you give us some practical examples of where you see a clash between those areas?

**Martin Sime:** I am happy to do that. Our view is that employability is unhelpfully split. The Scottish Government, local authorities and others support employability programmes in Scotland, and the Cabinet Secretary for Finance, Employment and Sustainable Growth has an ambition to make jobs and job creation the centre of his strategies. The UK Government runs some programmes in Scotland, including the work programme, so there is dual—or almost contested—responsibility. The two Governments have chosen to take rather different approaches.

The UK Government’s approach is sanctions based and is backed up by powers to withdraw benefits, whereas the Scottish Government’s approach tends to be more positive and encouraging. Therefore, there are already difficult areas in which services intersect, but from a client’s perspective, they are not connected at all. If a person goes to one end of the high street to visit Jobcentre Plus and to the other end to visit Careers Scotland and Skills Development Scotland, that is a problem. It is not a useful experience for unemployed people not to be able to get all their services in an integrated way and not to have an overarching policy approach being taken.

14:45

Another example has been around for a while. When MSPs voted for free personal care, there was a squabble about attendance allowance. Free personal care rather overtook attendance allowance, of course, and resources were lost to the Scottish block grant. As health and care policies diverge—we use that word advisedly—it is all very well to look at the situation now, some 12 years after devolution, but we ought to look at the situation 12 years further down the line and ask ourselves whether the arrangements in which welfare benefits are reserved and health and care policy is devolved will be fit for purpose. The plans for how the health service in England will be run are markedly different from how the health service

in Scotland will be run. There are complex areas to do with insurance, charging policies and access to services that will be significantly different in the future as the existing proposals gradually have effects. That is what we mean by the word “divergence”. A Scotland Bill that is worth its salt should have done some future proofing around those agendas to work out whether the current arrangements are sufficient.

**Matt Lancashire:** I am not sure that what I am about to say will answer John Mason’s question in the fullest detail, but I want to highlight something. We can talk about employability and its being devolved to Scotland, but currently nine people are going for every job in Scotland, and the bill proposes to push more people back into work. We have serious concerns about where those jobs will come from in Scotland, especially with the £2 billion that I mentioned being lost to the economy.

**Maggie Kelly:** John Mason asked for specific examples of where the current divergence might be causing problems. I give the example of employability. The Scottish Government has been working hard on employability for some time, and certain things in the bill will have a detrimental impact on the efforts that have been made in Scotland to improve it. The cuts in support for childcare costs are one example. That support has already been cut from 80 to 70 per cent for families that receive tax credits. Unfortunately, from the way that the bill is going it looks as if that support will be cut even further for most people. Therefore, for most families on low incomes, the incentives to move into work will decrease rather than increase under the bill. If people are trying to improve employability and incentives for people to move into work, that is a major blockage to doing so. There will be a particular problem for women, who tend to be the main carers, and lone parents. There will be a big and disproportionate impact on women who are seeking to move into work. That is just one example.

Martin Sime spoke about the sanctions approach to employability. The ratcheting up of sanctions in the bill is quite dramatic, but we have seen very good examples of alternative approaches in Scotland, such as the working for families approach. That was a positive approach to employability that resulted in good outcomes without the use of sanctions.

**The Convener:** I ask panel members to remember to say that they are talking about the Welfare Reform Bill. If they say that the bill is problematic, they should say which bill they are talking about, for the sake of clarity in the *Official Report*.

**David Griffiths:** It is difficult to talk about specific examples from the Welfare Reform Bill,

because so much is to come in secondary legislation. Many people have made that criticism.

**John Mason:** Are there divergences right now between healthcare, welfare and so on?

**David Griffiths:** The closure last year of the independent living fund to new entrants is a classic example. The independent living fund is to help disabled people to live independently; in many cases it helps people to go to work, by offering extra support. Its closure seems to me to oppose completely the whole concept of the self-directed support bill in Scotland, which is designed to help people to live independently. As far as I can make out, no replacement for the independent living fund was proposed for new entrants. Indeed, the City of Edinburgh Council conducted its own survey and concluded that if it were to replace those funds—as the ministerial statement implied that it should—it would cost the council about £2.4 million a year. The council does not have that money. As a result, not only is direct support to individuals being affected, their ability to live independently and to work is being affected too. There is a knock-on effect on Scottish policy. As far as I can make out, a decision has been taken in Westminster with very little consultation. That involves the Welfare Reform Bill, but some measures have already been enacted. I think that that was about 18 months ago, in March last year.

**Kate Still:** Mr Mason asked about what was happening right now. Projects funded by European social fund programmes were commissioned before the implementation of the work programme, and there has been a sense that the two do not necessarily align for customers. A customer might be receiving services, but might also be work programme eligible. There is no alignment, because the timing was out.

Questions have also arisen over people's eligibility to access some of the national training for work programmes if they were also on the work programme. It has not been clear whether the two fit. It is complicated for customers to know what support they can get and who can provide it. That is still happening.

**John Mason:** Martin Sime talked about a person going to one door on the high street for one bit of advice, and then having to go to another door afterwards. Is there a split at both national policy level and local level? Is the Department for Work and Pensions at all flexible in trying to fit in with the council or whichever agency is doing things locally?

**Martin Sime:** As with all public services, there are some examples of good practice—for example, where Jobcentre Plus is working closely with a local authority, or where Skills Development Scotland and Jobcentre Plus have managed to get

themselves together. However, the core of the overall service remains separated. The core operating environment, the conditions for customers or clients, and the processes, are all completely separate. That has happened because of the split in employability and because of the absence of devolved responsibility for benefits.

While listening to my colleagues, I thought of another example that I think is germane to a major social policy agenda in Scotland—to enable older people to remain in their own homes for longer. Reforms to housing benefit will introduce penalties for people who live in homes that are underoccupied, and people's housing benefit will be cut. That will undermine families in which children have grown up and moved on; people will be forced to move in the most difficult of circumstances. Such issues must be more customer focused. We need to think about devolution in terms of best serving the needs of the people of Scotland, and those kinds of difficulties do not help with that.

**Matt Lancashire:** I will pick up Martin Sime's point about housing benefit. Through the Welfare Reform Bill, the UK Government intends to reduce payments to tenants who are considered to underoccupy homes, which will mean that 110,000 households in Scotland will receive an average cut of £13 a week.

That diverges in impact on devolved matters because Scotland has a significant lack of one-bedroom properties. Although 44 per cent of working-age housing association tenants need a one-bedroom property, only 24 per cent occupy one. Those who cannot move will have to supplement their rent payment from other income, which could include another welfare payment—such as disability living allowance—that has been reduced. If a tenant cannot make up the difference, that will mean rent arrears for local authorities.

**Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP):** I will return to one of the real issues that affect real people—Maggie Kelly mentioned it. The Welfare Reform Bill's proposals seem to push a general reduction in support for childcare and yet to require parents—including lone parents—to return to work when their youngest child reaches school age, which will push demand for childcare higher. How is that circle squared? The bill seems to contain contradictions.

We must recognise the context in which we operate. Public spending and support for services are being squeezed, so a drive is taking place to integrate services and to produce holistic solutions for individuals and families. Martin Sime suggested that a disconnect between reserved and devolved policies would act against such a



joined-up approach. Will the witnesses develop their thoughts on that a little?

**Maggie Kelly:** The council tax benefit issue provides another example of our concerns about the Welfare Reform Bill's impact not only on entitled individuals but on spending in Scotland. The proposal is to devolve council tax benefit to Scotland, although the detail about how that will happen is still extremely sketchy. The Scottish Government estimates that 16 per cent of council tax income comes from benefit recipients, so a big question mark hangs over that.

We argue for a scheme that protects the current entitlement of the most vulnerable families and of people who live in poverty, regardless of where they live, and for a right of appeal, as at the moment. However, we have been told that Scotland will—unfortunately—receive a 10 per cent cut under the settlement in the Welfare Reform Bill. First and foremost, we want entitlements to be protected, but we are certainly keen to raise our voices with the Scottish Government to promote consideration of the issue of insufficient funding to make the scheme happen, which will put local authorities in a difficult position.

One issue is how the scheme might work—whether we have the correct powers for it. I understand that amendments to the Scotland Bill might be needed. That is not the only way to proceed and ways around it exist, but it might be the best way.

I agree that, when we are faced with cuts across the board, it is difficult to ensure that individuals in poverty are protected, and aspects of the Welfare Reform Bill make the situation worse. The 10 per cent cut is a particular difficulty.

I do not know whether that answers your question; it may just raise more problems. However, the issue is an interesting example and something that is critical.

15:00

**Matt Lancashire:** I want to return to the original question about children and childcare, to show you some of the effects of the legislation on children. Responsibility for childcare is devolved to the Scottish Government. There is now an urgent need to improve the level and availability of childcare provision throughout the UK, but particularly in Scotland, and particularly for children requiring out-of-school care. It is another area in which resources need to be found if claimants are to avoid being penalised under the provisions of the Welfare Reform Bill, either as a result of missing out on key support to help them to move into work or by suffering the ramped-up sanctions in the bill—which Maggie Kelly

mentioned—for failing to participate in work-related activity. It is a catch-22 situation. Can a parent find childcare? Will it cost X amount? Should they stay on benefits or move back into work? There is a real issue, particularly in Scotland, with the lack of available childcare.

The Welfare Reform Bill proposes that, by 2012, all lone parents will move from income support to jobseekers allowance when the child is five years old. In 2008, that happened when the child was 16 years old—it has moved 11 years in just a couple of years. The change will affect around 75,000 lone parents in the UK, who will experience a £620 million reduction in benefit payments. That means that more parents with young children will require affordable childcare to enable them to move back into the jobs market and into secure, suitable jobs.

I do not know whether that answers your question.

**Adam Ingram:** I guess that I was looking for a response to the argument of the Christie commission and others that we need to integrate services on the ground in order to provide the support that particularly vulnerable families require. Is the current set-up preventing that from happening?

**Martin Sime:** There are all kinds of ways in which services, Governments and everybody can work to produce more efficient solutions—more synergy—and I am supportive of the Christie commission's recommendations on joined-up services, especially given your earlier point about our being in a climate of declining public expenditure, which affects everybody in the UK. However, I put the question back to you in a slightly different way. What does the Scotland Bill add to the effective and efficient delivery of public services? My answer to that is that it adds not one iota; rather, it preserves in aspic a system that is grossly inefficient and not joined up, that does not deliver for people and that wastes public money.

**David Griffiths:** In Scotland at the moment, there is a drive towards outcomes-focused work in social work departments and so on. I spent most of this morning at a meeting with the City of Edinburgh Council discussing the personalisation and outcomes approach that it is developing. That is fantastic, but it needs somebody to take an holistic view of an individual or family and look at the cumulative impacts on that person or family. That is precisely what does not happen in, for example, the passporting system, in which one entitlement passports someone to other entitlements. It is bad enough that each of the 32 local authorities has different passporting arrangements under the current system. When we move to a universal credit, all those passporting arrangements will go in the bin and the system will have to be rethought. What is happening at

Westminster is affecting not only what is happening at the Scottish level, but what is happening at the level of the 32 local authorities, which have different passporting regimes.

Who can take that holistic view? Our system is moving in a slightly different direction from the system in England, and it is almost inevitable that the DWP will design a system for England, because that is where 90 per cent of the people are. I am not necessarily criticising the DWP for doing that; it will inevitably go that way.

**Adam Ingram:** I previously had responsibility for helping to support kinship carers in Scotland, which is another example—

**David Griffiths:** —of divergence—

**Adam Ingram:** —of a benefit system that has been designed for the legislative context in England and Wales, which is different from the Scottish context.

**David Griffiths:** Absolutely. If I may say so, it is a good example of divergence. It makes it much more difficult for anyone to look holistically at the individual or family, and I think that that is what we have to do.

**Adam Ingram:** Does Kate Still want to comment?

**Kate Still:** You talked about joined-upness and integration, but to some extent there is duplication in certain service areas and there are gaps in others, such as childcare. It might take some bravery to stop providing some services because they are being provided through the work programme or whatever, and shift some of the resource into the services that have gaps. We know that parents will suffer because there is a lack of accessible and affordable childcare.

**Adam Ingram:** So essentially you would like the Scotland Bill to have dealt with such issues, and it is not doing so.

**David Griffiths:** Yes. I am not particularly advocating one way or another. Politicians at the House of Commons have pointed out to me that we can always go backwards as well as forwards. However, the current devolution settlement is not fit for purpose. We need to discuss how we can develop a welfare system for Scotland that is fit for purpose. Individuals will suggest their own way of doing that, but we must have the discussion.

The Scotland Bill is a missed opportunity for having that discussion. We have discussed our concern with the SCVO, Calman and the Scottish Affairs Committee down south, and our concern is getting more real as the Welfare Reform Bill goes through the process. The Scotland Bill does not seem to address what are very real problems for people on the ground. We need to decide how we

can best support people, then worry about the powers and whether they go backwards, forwards, sideways, upside down or whatever. Let us get it the right way around.

**The Convener:** Before I bring in Matt Lancashire and Martin Sime, Joan McAlpine has a supplementary.

**Joan McAlpine (South Scotland) (SNP):** I actually wanted Maggie Kelly to clarify something. You said that you think that the Scotland Bill needs amendments to take into account the changes to housing benefit. What might those amendments be?

**Maggie Kelly:** That came out of the welfare reform scrutiny group discussions, of which SCOWR is a member, along with the Scottish Government and the Convention of Scottish Local Authorities. I was talking about council tax benefit, rather than housing benefit specifically. The advice from Westminster was that the budget was being devolved and that it was up to the Scottish Government to decide what it wanted to do with it. The Scottish Government had some concerns about whether the Scotland Act 1998, as it stands, gives it the powers to do what it might want to do with that budget. As far as I know, the Scottish Government hoped that the mechanism to implement that would be an order in council under section 30 of the Scotland Act 1998, which would enable Scotland to run a national scheme.

As I said, that might be something that the committee can look into, but there is more than one way that we could make the change work for people in poverty in Scotland. For example, ring fencing the budgets in the way that we do for certain health payments or benefits is another way of doing it. The scrutiny group was concerned about the issue, but there seems to be a different view from Westminster.

Although Calman recommended the devolution of council tax benefit and the Scottish Government has welcomed that, we are concerned that, just because a chunk of money gets devolved here, that does not necessarily guarantee improved outcomes for people in poverty. That is central to our argument. Mr Swinney has said the same thing: having the money in the purse does not necessarily mean better outcomes for people. We want to press upon the committee the fact that it is what you do with the powers or, in this case, a budget—it is more likely, in this case, to be described as a budget rather than as a power—that is the crucial question for people in poverty in Scotland. Does that answer your question?

**Joan McAlpine:** I suppose so—yes, it does.

**Martin Sime:** On Adam Ingram's question, I ask myself whether the Scotland Bill was ever going to be the vehicle to make devolution fit for purpose.

Was the intention behind the bill to bring devolution up to date? That is what you would expect. Let us remember that the architects of the bill expected it to close the debate for a generation. The bill was meant to be the way in which devolution moved on, yet we find that all the issues that affect real people are unaffected by the bill.

In the new political circumstances, which have opened up an opportunity to revisit the debate in a slightly wider and different context, I am left asking myself what the purpose of the bill is. Do we need to proceed with it? Would we be better off parking the bill and getting on with a discussion about the issues that really matter?

**Adam Ingram:** How would you answer my question?

**Martin Sime:** My advice to the committee, unremarkably, would be to kill the bill now. Get rid of it and let us talk about the real issues that matter.

**Matt Lancashire:** There is obviously increasing divergence between devolved policy and UK welfare reform. That is especially the case in Scottish health and social care policy, which appears to be travelling in a different direction from UK benefits policy.

For example, on self-directed support, the Welfare Reform Bill represents a move towards an outcomes-focused personalised care system that individuals can control and direct. Local authorities are moving towards such a system. However, the UK Government's proposed replacement for DLA, the personal independence payment, has been criticised for its exclusive focus on the applicant over any social or external barriers that inhibit personal independence. Such issues keep cropping up everywhere—we have already mentioned kinship care, passported benefits and an array of other issues.

Citizens Advice Scotland is calling for more scrutiny of the Welfare Reform Bill by the Scottish Parliament and for it to set up a Welfare Reform Bill committee to focus on the divergences and on the impacts on devolved legislation and what is being devolved to Scotland through the Scotland Bill. The Welfare Reform Bill has not received enough scrutiny at Westminster, so we hope that it gets a bit more scrutiny in Scotland than it has at Westminster.

**The Convener:** Before I move on to Alison Johnstone, I clarify for everyone that the Parliamentary Bureau, which is a Scottish Parliament institution, has extended the remit of the Health and Sport Committee to cover not only the legislative consent motion for the Welfare Reform Bill but the impact of the bill.

The Parliament's other committees will also feed into the process. We are happy to take views on the matter as part of this discussion and relay them back to those who make such decisions for the Parliament, if you think that that would be useful.

15:15

**Alison Johnstone (Lothian) (Green):** It is fair to say that the Welfare Reform Bill highlights some important issues that are not covered in the Scotland Bill and which must be addressed if we are to correct the misalignment of powers and policies that is preventing us from helping some of the most vulnerable people in our communities.

The Citizens Advice Scotland paper talks about the lack of scrutiny of the Welfare Reform Bill as it went through the House of Lords. I am not an expert on the House of Lords but, apparently, it was dealt with in Grand Committee, which meant that there were not many seats for members of the public, it was difficult for all the peers to get in and so on. Do you think that that had an impact on the bill's eventual wording?

We are beginning to face some deep cuts, and services such as yours are being impacted on. Obviously, if we cut debt and advice services, we will be paying for that in the long term with regard to homelessness and so on. Your comments on that would be appreciated.

Mr Sime, you have said quite clearly that we should just park the Scotland Bill. Do you think that there is any point in progressing with the current bill and then engaging in another purpose-based process to investigate further options for devolution, or do you think that nothing should be done until that further investigative process has been undertaken?

**Matt Lancashire:** We were extremely disappointed with the Welfare Reform Bill going to the Lords' Grand Committee, because that ensured a lack of scrutiny of some of the policies in the bill. We have been extremely disappointed throughout the passage of that bill. I do not think that any Scottish organisation has been invited to give evidence to any committee that has considered the Welfare Reform Bill at Westminster, which means that the Scottish angle has not been heard. That is why I suggested that there be a Welfare Reform Bill committee in the Scottish Parliament.

On service delivery, you are right to say that, as local authorities' budgets are being cut, there is a potential for the budgets of citizens advice bureaux to be reduced as well. However, it is far cheaper to fund welfare advice than it is to pay for bankruptcy advice or homelessness advice. We need to get to people before they get to the stage

at which they are being evicted from their property, having their home repossessed or going bankrupt. The way to do that is to continue funding citizens advice bureaux and their advice services in every community in Scotland, as is the case at the moment. Without that, the bill could result in complete disarray.

**Martin Sime:** Politicians must make a finely nuanced decision about whether to park the Scotland Bill or give it grudging support and let it go through.

How is the Scotland Bill being sold to the public? The killer blow is that the major power in the bill, around taxation, is not properly understood, because it has not been properly articulated yet and would not come into play until after a referendum. In the run-up to a referendum, we can have a proper debate about how powers are organised and what powers Scotland should have and make a more informed and rounded choice about which options the people of Scotland would prefer to have. That seems to me to be much better than going through a process that concerns itself with powers that would not be in play until later. It would be a more inclusive process.

SCVO's members strongly believe that we need to animate debate about what we would do with powers, what issues need to be addressed, which powers are required for which issues and where those powers should lie. That would be preferable to the sterile debate about the powers themselves, which we sometimes hear politicians having. We need to have a different way of building a consensus in the country about what works. The engagement of people in that debate is the bit that has been conspicuously absent over the past year's consideration of the Scotland Bill. It is difficult to get people involved in a discussion about income tax powers when it is not clear how those powers will be exercised.

**Maggie Kelly:** Alison Johnstone mentioned the way in which the Welfare Reform Bill was scrutinised in the House of Lords. She was right to point that out. Everyone who has been lobbying on the bill has encountered problems with the physical space that is available for members of the public.

The other issue is the lack of detail in the Welfare Reform Bill. The convener mentioned that there will be more scrutiny, and we are delighted to hear that, as we have pressed for it for some time. That further scrutiny is helpful, but the problem for the Health and Sport Committee and the other committees that will need to examine the bill is that it is difficult to judge some of the impacts of the reforms because the measures will be in regulations, not the primary legislation.

The Scottish Parliament is being asked to consider the bill, decide what impact it is likely to have in Scotland and vote on a legislative consent motion when it does not have enough information to do that. We want to press Westminster for much more clarity on what the regulations will look like as well as challenge a number of the key elements in the bill.

We have made clear our position on the legislative consent motion. It is essential that the Parliament examine the bill in some detail. A lot of evidence is available from our members and other organisations, and the Scottish Government has done some work of its own. It is critical that before they vote on a legislative consent motion all parties take the time to consider the bill's impacts very carefully and think about whether we want such impacts in Scotland. As we have said, there is large divergence, and the scrutiny of the bill gives us an opportunity to examine that in more detail.

**James Kelly (Rutherglen) (Lab):** Martin Sime made the point that the debate would be better served if all the issues were put into the mix and we discussed them in the run-up to a referendum. As things stand, the referendum will be held towards the end of this parliamentary session—possibly in 2015 or 2016. Would it be better if the Government sped up the timetable for the referendum so that we could have it sooner, bring more focus to the issues and resolve the debate about independence for Scotland and the powers linked to that?

**Martin Sime:** Absolutely not, because there is a process that needs to mature: the process of how to take the arguments—which are sometimes quite complex—relate them to people, engage people, build consensus and build understanding before we make a very important set of decisions on the future of our country. I fail to see the benefit of rushing that.

One of the problems with the Scotland Bill is that it failed to address that process. The Calman commission carried out some marginal consultation. It then went off into a huddle and produced some reports that were not the subject of that consultation. The commission's recommendations were then translated into the Scotland Bill, but that process lacked transparency, and we were all asked to deal with the consequences.

For me, that is bad politics and bad process. I would much rather take our time and get it right, because we do not want to have interminable discussions about particular powers or issues. We have a one-off opportunity to get a properly engaged debate and the right process.

**James Kelly:** So you are content to have a four-year debate on the issues and to take that time to resolve them. Is that correct?

**Martin Sime:** Whether it is three years or four is immaterial. However, to try to do it in six months or one year would be unnecessarily rushed and would curtail debate. After all, we have begun to consider only this afternoon the fundamental impact that welfare reform will have on the people of Scotland. To rush into a debate with ill-thought-through proposals that are put to a referendum would be the worst thing possible. When we make changes to devolution, there is a particularly heavy responsibility on everybody who is involved to ensure that the process is inclusive and that efforts are made to animate debate among the communities of Scotland so that people get an opportunity to understand the issues rather than simply accept what they read in the press. That takes time.

**Kate Still:** I concur with what Matt Lancashire and Maggie Kelly said about greater scrutiny of the Welfare Reform Bill and the impact of the reforms in Scotland. I think that the reforms will have not only intended but unintended consequences. There needs to be an on-going mechanism to look at how the reforms will affect people throughout Scotland, so that interventions can be planned to deal with the unintended consequences. It is a highly complex area, and although we can try to scrutinise the reforms in advance, there will need to be a mechanism for on-going monitoring and consideration of their actual impact.

**Matt Lancashire:** I echo those points. I go back to the idea of a Welfare Reform Bill committee. We are happy that the Scottish Government will delegate to the Health and Sport Committee and have secondary committees to scrutinise parts of the—

**The Convener:** Just to clarify, it is Parliament that delegates to committees.

**Matt Lancashire:** My mistake—I knew I would get caught out.

However, I am not sure that that goes far enough. As has been suggested, welfare reform cuts across education, health, social care, transport and housing. I am not sure that the Health and Sport Committee and secondary committees can focus on the bill and scrutinise it as much as a Welfare Reform Bill committee could. As was suggested earlier, we are not just talking about the period during which the bill goes through; this is about delivery and implementation. It is not about six months or 12 months but next year and the year after, and it is about studying the impacts of the bill, including the impacts on devolved legislation.

The second point I wanted to make goes back to the scrutiny aspect. Since the Welfare Reform Bill was introduced, CAS has published 24 reports, including evidence, consultation responses and briefings for MSPs, lords and MPs, and not once has it been asked to give evidence. That is why we are calling for the establishment of a Welfare Reform Bill committee, both for the duration of the passage of the bill and for future years.

**The Convener:** The Commission on Scottish Devolution recommended that a formal consultation role be built into DWP's commissioning process and so on. The previous Scotland Bill Committee wanted the creation of an intergovernmental forum for dialogue on the interface of devolved and reserved matters, such as welfare and benefits. The UK Government's response is that it will strengthen intergovernmental dialogue in areas of mutual interest on welfare. Will each of you quickly give a view on how useful that would be?

Martin Sime is raring to go.

**Martin Sime:** I am very much in favour of the Governments talking to each other. I am not sure why the solution needs to be so structured. I would have thought that the Governments need to co-operate very closely. At a time of reduced public expenditure the public would be outraged by the idea that the Governments are not talking to each other.

**The Convener:** Do you think that strengthening intergovernmental dialogue puts any real responsibility on them compared to, for example, the previous Scotland Bill Committee's view that there should be a proper intergovernmental forum?

**Martin Sime:** I am not sure that I have a view about the way to do it, but it needs to be done.

**Kate Still:** Greater dialogue between the Governments and very much more involvement in commissioning of services are absolutely required.

**David Griffiths:** I can see where such a forum might achieve things. To an extent it is happening through the welfare reform scrutiny group that has had meetings with DWP and so on. However, at the end of the day you are still leaving the decisions at DWP, which might note that it is located largely down alongside the Department of Health and that 90 per cent of the population do not live in Scotland. I do not quite see how such a forum would solve the problem beyond its giving the Scottish Government more opportunity to express the problem.

15:30

**Maggie Kelly:** To pick up on what has been said, the Scottish Federation of Housing

Associations and other of our members wrote to the Scottish Affairs Committee to express their concern about the fact that they had wanted to give evidence at the committee stage of the bill. As far as I am aware, no Scotland-specific organisations were given an opportunity to give oral evidence. That is a pretty damning indictment of the lack of consideration of the impacts on devolved issues in Scotland, which is extremely concerning.

As has been said, the previous Scotland Bill Committee recommended that a more formal consultation process be set up. Given some of the issues that we have raised—particularly the fact that major parts of the welfare system are being devolved now, which I keep coming back to—I suggest that more and better communication is essential. Regardless of what recommendations the committee might make about devolution and the future of the bill, the reality is that the reforms are due to start coming in in 2013. We are talking about major chunks of the budget being devolved, so although a forum that would improve communication on those issues is essential, it will not be enough. We need to do more to progress that because the issues are critical. Regardless of whether the bill is the right way forward, substantial budgets are being devolved, and that will have major impacts on people in poverty.

**Matt Lancashire:** We are delighted that we can feed our thoughts into the Scottish Government's welfare reform group and its housing benefit reform group and that those thoughts can be taken forward, whether by Scottish or UK Government departments. The issue that I have with both groups is that I am not sure how far that process is shaping the delivery side of the DWP's thoughts on implementation of the Welfare Reform Bill in Scotland. To be quite honest, it seems that people from the DWP just come to give us presentations then go away again. I am not sure to what extent we are shaping their thoughts—

**The Convener:** That is assuming that they turn up in the first place.

**Matt Lancashire:** Yes, indeed.

I am not sure to what extent we are shaping the DWP's thoughts, which is why I keep banging on about the setting up of a welfare reform committee. It could provide extra scrutiny and could push to shape the bill's delivery and implementation.

**The Convener:** This committee was set up to scrutinise the Scotland Bill as introduced by the UK Government. One of the issues that has arisen is whether a welfare system should be devolved to Scotland under the terms of the Scotland Bill, which I understand is what Ms McAlpine wants to discuss.

**Joan McAlpine:** That is basically what I want to ask about. You have outlined clearly how divergence between welfare policy in Scotland and that in the rest of the UK causes problems. I want to drill down to look at how that divergence affects Government incentives in Scotland. If the Scottish Government takes action to address a particular problem through, for example, our preventative agenda for the early years, or our creation of community jobs Scotland, that will save the UK Government money. We are putting more money into a preventative agenda, but we are not getting anything back in terms of welfare savings. Will that cause policy problems?

**Martin Sime:** Of course it will, and community jobs Scotland is a perfect example of that. The Scottish Government has funded that scheme, which offers, at a cost of £6,500 per individual, six months paid work in the voluntary sector. We think that it is a great scheme. It is built on the future jobs fund, which was a scheme of the last UK Labour Government that the current UK Government closed down. Six months' work makes a huge difference to the life of an unemployed young person and improves their prospects and employability. That is evident. It also provides additional resources for the third sector at a time when we are facing many constraints and much greater demand.

However, half the money turns up as savings to the UK Exchequer as a result of a wide range of benefits being foregone and through the individuals' tax and national insurance contributions. In deciding whether to fund or refund community jobs Scotland, the Cabinet Secretary for Finance, Employment and Sustainable Growth has to make a difficult calculation because, in effect, half the cost of it subsidises the UK Government. As it is run in Scotland at the moment, the scheme appears to be quite expensive; however, if it were run in a Scotland that was responsible for benefits policy and taxation, its costs would halve. There is a perverse incentive to shut it down—which I very much hope does not happen—when there should be an incentive to progress more such proposals, given the difference that they make to people's lives.

**Maggie Kelly:** In direct response to your question whether welfare should be devolved, and as I said right at the beginning, the coalition that I represent has not taken a position on that. However, your example of preventative spending is quite interesting and throws up a number of critical problems for the Scottish Government.

Although we very much welcome the budget's focus on preventative spending and the early years, we are very aware of the hierarchy of needs. We cannot focus on people's wider needs

at the expense of their being able to put food on the table or clothes on children's backs; in its current form, the Welfare Reform Bill will certainly undermine the ability to fulfil the basic needs of people in poverty. The £18 billion of cuts that are being made between now and the bill's implementation are going to impact very negatively on families in Scotland and will clearly cut across any moves towards preventative spending. To my mind, preventative spending is a much bigger issue. It is not just about the wider support that families might need but about the very basics of having sufficient food on the table for children, school clothing grants and so on. All those things need to come into play and it will be really difficult to maintain a focus on preventative spending if it does not include the basics—

**Joan McAlpine:** In that case, everything should be devolved. After all, you are saying that it will be difficult to implement preventative spending measures if London is cutting benefits.

**Maggie Kelly:** That is one interpretation. Regardless, there is a lot that Parliament can do just now. It is not just a question of saying, "We've got a really good preventative spending programme, but it's being undercut by what's happening at Westminster." We have to look at how we utilise current budgets to mitigate the impact of the reforms that are already in place. As those of you who have looked at the evidence will have seen, there have already been large cuts in people's benefits entitlements and we argue that the Scottish Government's budgetary decisions should consider and mitigate such impacts.

It is not a case of arguing that, because UK welfare reform is cutting across preventative spending policies in Scotland, the solution is devolution—and that is the end of the matter. We need to examine how budgets are being deployed, because this is all happening now. People's incomes are being cut right across the board. Given the 10 per cent cut in council tax benefit, for example, we want individuals' entitlements to be protected. That decision can be taken.

Similarly, whatever the devolution settlement turns out to be, the Scottish Government will have powers with regard to the social fund and will be able to make decisions on supporting the budget for those vulnerable individuals.

Does that answer your question?

**Joan McAlpine:** It does not, really. Perhaps you could suggest what parts of the Scottish Government's budget should be cut to alleviate the cuts from London.

**The Convener:** Please do not feel obliged to answer that question.

**Maggie Kelly:** I could give you a response in private after the meeting, but as a representative of the coalition I do not think that I can—

**Joan McAlpine:** I asked the question because you said that the Scottish Government could address the problems just now. I am interested in hearing concrete examples, because obviously that would mean cuts being made elsewhere.

**Maggie Kelly:** I absolutely understand why you are asking the question, but as a representative of the coalition, I am constrained in suggesting exactly where cuts should be made. However, my view—which I think is shared by the coalition—is that in setting budgets the Government should look at their impact on the poorest and most vulnerable people. In other words, we want the Government to poverty-proof its decision making. The intention behind "Achieving Our Potential", for example, was to reduce inequality in Scotland; if we are really serious about that, we should bear that intention in mind when setting budgets. I could give you a number of personal examples in response to your question, but what I am arguing for is an approach to budget setting that examines how decision A will impact on the poorest people and whether it would be better to deploy that money elsewhere.

**Kate Still:** Just to answer the question—

**The Convener:** Which question was that, Kate?

**Kate Still:** I mean the question whether welfare should be devolved. Members will not be surprised to hear that my answer is yes. As I explained earlier, the Scottish Government could invest the savings in benefits from its preventative work in other benefits that suit the people of Scotland.

**Matt Lancashire:** Citizens Advice Scotland does not really take a view on what aspects of welfare should be devolved or, indeed, on whether welfare itself should be devolved. It is not up to us to make those decisions; we are here simply to comment on some of the aspects and impacts of welfare reform.

However, what I will say is that the devolution of aspects of the social fund and council tax benefit provide a real opportunity for Scotland. The social fund, in particular, has been a notorious issue for the past decade or so and many clients have come to bureaux across Scotland to highlight serious problems with it. I am not going to go into all our concerns about how the social fund is implemented, but its devolution and the devolution of council tax benefit give us a real opportunity to put something better in place.

**Joan McAlpine:** I find the difference between the responses to be very interesting. The organisations that are represented by Maggie Kelly and Matt Lancashire submitted written

evidence on welfare reform that was political. However, although you are critical of the bill's effects—which is a political issue—you feel that, unlike Kate Still and Martin Sime, you cannot comment on another political issue: that is, the full devolution of benefits. Why is that issue so tricky for you when you do not have a problem—

**The Convener:** I think that I have to intervene, Ms McAlpine.

**Joan McAlpine:** I ask the question in the nicest possible way, of course.

**The Convener:** I think that everyone has answered that question as they have wished; after all, they are representing organisations and their views. Perhaps you should have a coffee with them afterwards, Ms McAlpine.

**Richard Baker (North East Scotland) (Lab):** Basically, Matt, you need to be more like Kate Still and Martin Sime. [*Laughter.*]

The panel does not disagree on the damaging consequences of the Welfare Reform Bill. However, from the evidence, it strikes me that again and again we come back to the bill's financial implications and its very damaging consequences for individuals, rather than to the question of powers. Even if the Scottish Parliament had the powers in question, we would still have to deal with the financial implications of the bill. Is it not the case that we have a really bad bill that needs to be dealt with and that we cannot escape the fact that the problem lies with its provisions rather than with the devolution of powers? Whatever you do, the financial penalties will remain because of decisions that are taken by the coalition at Westminster.

15:45

**David Griffiths:** The answer is yes and no, in that the Scottish Parliament has already gone down different routes in provision of support. The concessionary travel and free personal care schemes are different. Therefore, the Parliament might not make the same decisions. As has been hinted at, you might allocate different priorities that take account of differences between what the Scottish people wish and what people in other parts of the United Kingdom wish. I agree that the amount of money that is available is unlikely to be different. When we talk about devolving welfare, that is quite wide-ranging—some people take that to include public sector pensions and others do not. I go back to the beginning and say that we need to consider what we want to achieve and then work out what to devolve.

I can tell by Richard Baker's expression that I am not making myself clear.

**Richard Baker:** You are.

**David Griffiths:** We need to work out what to devolve to achieve the aim, but we have not worked out what the aim is. I do not entirely agree that the Scottish Parliament would necessarily come to the same conclusions as another Parliament, given that the Parliaments have already diverged in key areas.

**Maggie Kelly:** I am sorry. Could Richard Baker ask the question again because—

**The Convener:** Because David Griffiths confused us terribly.

**Maggie Kelly:** No, it was not that. I wanted to ask Richard Baker for clarification.

**Richard Baker:** We are discussing the impacts of the Welfare Reform Bill. David Griffiths says that we could take different decisions in Scotland because we have done so in other areas, but the fact is that the budget flexibility is not great, as we saw in the spending review. In the theoretical devolution in which we have control of welfare, whatever we did, we would take the financial penalty of the Westminster consequential, so we would have reduced spending. Really, I am saying that the problem is not the Scotland Bill or the issue of powers, but the fact that the UK coalition Government has made wrong decisions in the Welfare Reform Bill, which is part of a more generally wrong approach to spending.

**Maggie Kelly:** We certainly agree that the coalition Government has taken completely the wrong view. The fact that it has diverged from what we are doing in Scotland is somewhat unsurprising. We have a much more equalities-focused approach here and we are concerned about issues such as the right to independent living for disabled people. You are absolutely right that the Welfare Reform Bill is completely at odds with our approach in many policy areas. Your point about the financial implications is absolutely right, too. Inclusion Scotland estimates that about £2 billion is likely to be taken out of the Scottish economy as a result of welfare reform, of which £1 billion will hit disabled people. I could not agree more that the Westminster bill is absolutely wrong.

**Martin Sime:** I am not clear whether Richard Baker is suggesting that, if benefits were devolved, there would be a subsequent further reduction in resources beyond those under the Welfare Reform Bill.

**Richard Baker:** There would be the consequential.

**Martin Sime:** Yes, so we would have the same resources available.

**Richard Baker:** That is not true.

**Martin Sime:** I am sorry—we would have the same resources as we are about to have.



**Richard Baker:** I am sorry. I see what you mean.

**Martin Sime:** We are all in the same ballpark.

I therefore ask whether it is rational to have health and care policy devolved but not benefits. The answer, based on all the evidence that you have heard from us, is that that does not make a lot of sense. The two areas must work in complete synergy to achieve the best outcomes for individuals from the fewest possible resources. That is the fundamental cornerstone of how health and social policy in Scotland is developing, although we do not have all the instruments at our disposal. Some of the instruments are being used to hinder, rather than to assist, the achievement of the objectives of health and social policy.

**Richard Baker:** Given the importance that you place in having the powers devolved—beyond the financial implications—why do you think that the Scottish Government did not include welfare as one of its six key demands for additional powers in the Scotland Bill?

**Martin Sime:** I can answer that very clearly—

**Richard Baker:** You have on-going dialogue with the Government on these issues.

**Martin Sime:** I carry no mandate for the Government. You ought to direct your question to the Government. I am simply providing evidence from my members, who feel very strongly that there is a practical need—not a political one—to align responsibility for benefits with health and care policy.

**Richard Baker:** You think that welfare should have been part of the Government's key demands.

**Martin Sime:** I think that welfare should have been part of the original devolution settlement.

**The Convener:** Thank you very much. To clarify as I did before, I say that it is interesting that the minority report from the previous Scotland Bill Committee recommended the devolution of powers over welfare. Stewart Maxwell has a supplementary question.

**Stewart Maxwell (West Scotland) (SNP):** Given that there are no Tories or Lib Dems here today, I think that we all agree that the Welfare Reform Bill is a bad bill. My opinion is contrary to what Richard Baker's seems to be, which is that the bill is a bad one but, if there were a different one, everything would be okay, or if there were a different Government, it would be a better bill. Does anybody have any comments on how good the previous Labour welfare reforms were? Were they good or bad? The reason I ask is—

**The Convener:** You had better have a good reason, Mr Maxwell.

**Stewart Maxwell:** I think that they were dreadful, but the reason I ask about them is that surely that undermines Richard Baker's point. While we are at the beck and call of decisions by UK Governments, we will always be in the position of either fighting against or supporting bills that, frankly, are the responsibility of somebody else. If welfare were devolved, we could make decisions along the lines of some of the other things that we want to do and are doing with our current powers.

**The Convener:** Would anyone like to respond?

**Matt Lancashire:** I am not going to touch the devolution question, but I will comment on what has happened with employment and support allowance, which was part of the Labour Government's Welfare Reform Bill in the previous Parliament. Employment and support allowance replaced incapacity benefit as an out-and-out work benefit in October 2008 for sickness benefit claimants. The principle behind ESA was that many sickness benefit claimants were capable of a level of work and should be supported to achieve that. Although we at CAS support the principle behind ESA, in practice it fails to assess many clients correctly.

From the spring of this year, ESA began to be rolled out to existing incapacity benefit claimants in Scotland, so 190,000 claimants in Scotland will be reassessed for ESA over the next three years at a rate of 250 a day. We are finding in our citizens advice bureaux that hundreds and thousands of people are coming in wanting advice about failing their work capability assessment. We take those people to a tribunal and win 70 per cent of the cases. We can see that there are issues with ESA, but the Welfare Reform Bill is taking ESA even further than the Labour Government did.

**Stewart Maxwell:** I agree with your point. The current situation arose from the previous Labour Government's welfare reforms, which are causing dreadful problems. As you noted, you are successful in 70 per cent of the cases that you appeal. Irrespective of whether it is the current welfare reform situation, which stems from the previous Labour Government, or whether it is the future problem that we face because of the current welfare reform proposals from the Tory-Liberal Government, the problem is not one bad bill over another bad bill but the fact that somebody else is deciding for us. If we made such decisions, we could draw together our own proposals that would be in line with some of the other things that we are doing, which diverge from the positions of the previous and current UK Governments.

**Matt Lancashire:** I can see where you are going with that, but I cannot comment on it, unfortunately.

**The Convener:** Before Maggie Kelly and David Griffiths comment, Richard Baker has a supplementary.

**Richard Baker:** It just seems to me that there is an alternative here. Stewart Maxwell would suggest that there would be a land of milk and honey in a devolved or independent Scotland.

**Stewart Maxwell:** That is not what I said.

**Richard Baker:** What work has been done to establish what the financial consequences would be of devolving the entire welfare budget to Scotland? For example, what relationship would that have to taxation in Scotland? I am not asking you for the numbers, by the way, because that would be unfair. However, what research has been done into the financial consequences of devolving welfare?

**David Griffiths:** You are right to suggest that research needs to be done. Matt Lancashire has mentioned ESA, but we could talk about the disability living allowance or the draft assessment procedure for PIP, which will be a very lengthy assessment along the lines of the one for ESA. Intriguingly, the same firm that is doing ESA has been contracted to do the trial for PIP. Alongside that, local authorities will conduct assessments, and so on. Therefore, the single gateway that has been long talked about, to which a disabled person or any other group trying to get on benefits goes to be given one assessment that works out what they are entitled to, just ain't happening.

If we could reduce the process to one assessment, there would be a massive saving in bureaucracy apart from anything else. At the moment, we have different levels producing their own assessments, including 32 local authorities in Scotland with 32 different passporting systems and a Westminster Government with separate systems for PIP and ESA—which will, I think, require two different assessments, although I hope not. Logically, there would be a saving if we could bring some of those things together.

**The Convener:** I will let Maggie Kelly have the last word on this, as we are going into issues that would be addressed far better in scrutiny of the Welfare Reform Bill than in scrutiny of the Scotland Bill.

**Maggie Kelly:** I will follow up what Matt Lancashire said. SCOWR has been in existence since 2006 and has been involved in lobbying and campaigning on welfare during the terms of the present and previous UK Governments. We were critical then, as we are now, of ESA, which is an example of a legacy from the previous Government the problems with which have not been resolved. How people are being treated under that scheme is quite appalling—that is the only way I can describe it—and the Welfare

Reform Bill proposes a similar testing system for people who currently receive DLA. I agree with what Matt Lancashire said about that.

On the other hand, some of the welfare changes that were made under the previous regime were good. For example, the introduction of tax credits brought a lot of children who had been in poverty out of poverty. There is accepted evidence that child poverty levels were helped by the introduction of child tax credits. The picture is mixed. As I have said, our main concern is the impacts of the Welfare Reform Bill and how we are going to deal with those in Scotland.

**The Convener:** Let us hope that the scrutiny that will be applied by the Health and Sport Committee and the secondary committees will go into that in more detail.

I know that John Mason has views on what Maggie Kelly has just said, but I do not want a discussion of that—I want questions to relate to the Scotland Bill.

**John Mason:** Yes, I will move on. We have had a very general discussion so far. David Griffiths asked whether we should devolve everything, including pensions, or nothing. I would like to pin this down. What would be the three main issues? Nobody is talking about pensions, so I take it that pensions are far down the list. What would be at the top of the list if we could add three powers or whatever to the Scotland Bill?

**Martin Sime:** The question is premature. The central point of our evidence is that we need to talk about the kind of Scotland that we want and then ask what powers are needed to get us there. A pretty solid case has been made this afternoon for benefits to be devolved because of their alignment with health and care policy. On the other side of the coin, it makes sense to devolve specific responsibility for a large number of tax-raising powers so that the Parliament is both accountable and able to spend in an efficient way on the programmes that it establishes. All Governments do good and bad things, in my experience, but that changes over time. We should not have a debate about the here and now; we should have a debate about what kind of Scottish Parliament we need in 10 years' time, and what powers it should have.

16:00

**John Mason:** I accept that that has been the theme of your evidence all afternoon. I respect that and I largely agree with it. However, the reality is that we have a bill before us and we are not going to get the whole thing rethought in six months. Would you say that we should leave the issues to do with welfare to one side and revisit

them later? Is there any specific element that you would insert into the current Scotland Bill?

**Martin Sime:** Absolutely not. I have made my view clear. The bill should be parked and we should move on to a proper debate about what powers would make sense in Scotland. I see no possibility of the bill taking on some of the substantial areas of new powers that we have been talking about today.

**David Griffiths:** Without wishing to contradict Martin Sime's "kill the bill" position too much, if we assume that the bill is staying alive, my preference—which was put forward by the SCVO before—is for an enabling measure that allows benefits to be devolved by mutual agreement, following a debate. That would save me having to pick my top three. However, as you have asked me to do that, I will say disability living allowance, or PIP; ESA; and housing benefit. I am sure that there will be some disagreement to my right. It is difficult to come up with a list of three. I have always preferred the idea of some sort of enabling clause that would allow us to have a mature decision about what we need and then implement that.

**Kate Still:** I suppose that we should think about which benefits have the most impact. Housing benefit is probably one of the top benefits in that regard. Apart from that, the management of Jobcentre Plus, as an entity, could fit in the here and now.

**John Mason:** So things would be more joined up, even though the basic framework would remain the same.

**Kate Still:** Yes.

**Maggie Kelly:** I am not going to say, "I think that A, B and C should be devolved," for reasons that I stated earlier. However, the committee ought to take a view and make recommendations on the benefits that are being devolved. You could certainly call for proper funding of the council tax benefit settlement. You ought to look into the financial settlement for social fund devolution—I will quickly say something about that, if I may. Crisis loans are due to be devolved and I am concerned that there might be a huge call on them because of the introduction of a new benefits system. Westminster has said that it will be taking care of that end of it. However, without going into the technicalities, I am concerned that we might be faced with huge numbers of people needing crisis loans because of problems in the new system. We certainly need to look into the financial arrangements for any devolution in that regard. We could find ourselves in a difficult position if we do not.

**The Convener:** The last word goes to Matt Lancashire—no, the last word will go to me; that is

my job. The penultimate word goes to Matt Lancashire.

**Matt Lancashire:** We do not have a list of big three asks, so we cannot comment on that. I will echo Maggie Kelly's points about the social fund and council tax benefits and leave it there.

**The Convener:** I thank the members of the panel for their attendance. They have given us a lot to look into and think about.

The next meeting of the committee is on 25 October.

16:04

*Meeting continued in private until 16:32.*



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