

We are housing Scotland



SUBMISSION TO THE SCOTTISH AFFAIRS COMMITTEE INQUIRY INTO WELFARE POLICY IN SCOTLAND

August 2nd, 2019

Who we are

- SFHA leads, represents and supports Scotland's social housing providers. We want to see a thriving housing association and co-operative sector providing sustainable and affordable homes.
- Our ambition is that everyone has a good home in a successful community, with a range of high quality, affordable, safe and accessible homes that meet people's changing needs and aspirations throughout their lives.
- Social housing providers are central to achieving this, going way beyond the bricks and mortar with social justice built in and delivering from generation to generation.
- We work with government and others to achieve the legislation, regulation and funding necessary for our members to be strong, resilient and independent social businesses housing Scotland.

Executive Summary and Recommendations

Welfare implementation in Scotland is an added complexity to what are already challenging conditions created by the UK Government's welfare reform programme. Like the rest of the UK, Scotland is experiencing the challenge of the transition to Universal Credit, whilst it relies on the co-operation of the DWP to implement Scottish UC Choices to mitigate some of the more rigid aspects of the system, while at the same time preparing to have devolved key disability benefits.

There is potential for confusion and wrong advice because of the complexity of the system. SFHA would therefore urge that care is given to providing clear and comprehensive advice to benefit advisers so that they in turn can ensure that claimants can make informed decisions.

Proposed mitigation measures for Scotland, such as Scottish UC Choices and the effective abolition of the bedroom tax at source, have yet to be fully implemented due to limitations in the DWP's development capacity. It is urged that improvements are implemented without further delay.

It is crucial that Scottish UC Choices are properly incorporated into the managed migration process in order to make the transition from legacy benefits to Universal Credit as seamless as possible.

The current UK welfare system has a number of shortcomings in its operation that leave many who rely on it open to the danger of destitution. SFHA, along with partner organisations in England, Wales and Northern Ireland have Six Asks – changes to the system to make it fit for purpose. These are:

- 1) End to the five week wait for money. People should be able to get a payment in the middle of this period and there should be greater flexibility on payment frequency for all.
- 2) More data sharing between DWP and social landlords and the restoration of implicit consent will mean landlords can better support tenants and prevent problems. This is key to the success of managed migration.
- 3) Where benefit is paid direct to the landlord, we need a system that is fit for purpose with the landlord receiving the payment on the same cycle as the tenant.
- 4) Increased funding for support and advice to make sure people do not miss out on entitlement, including allowing backdating for more claims.
- 5) Making sure that work pays for everyone, by matching monthly assessments to earnings within that period, improving work allowances and reducing the taper.
- 6) Restore inflation linked uprating to working age benefits from April 2020.

Main Report

In response to the questions raised by the Scottish Affairs Committee's Inquiry

1. *What are the unique drivers of inequality in Scotland? Does Scotland have different welfare needs from the rest of the UK?*

Life expectancy in Scotland is lower than the UK average – 77.0 for men, compared to a UK average of 79.2 and 81.1 for females, compared to a UK average of 82.9.¹ It is argued that austerity has had a detrimental effect on mortality and health and that reductions in the real value of benefits and increased conditionality are associated with worse health outcomes.² Early in 2019, Eildon Housing Association completed a tenant census, with a response rate of 68%. From this it found that 29% of tenants had found it more difficult to pay their rent in the past year than the previous year. When money was short, 29% chose not to put their heating on; 17% missed meals or ate less; 5% used a food bank and 11% missed rent payments.

The particular challenge facing Scotland is the price premium associated with remote rural and island living. In evidence to the Scottish Parliament Local Government and Communities Committee consultation on the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill, the submission by the Highlands And Islands Housing Associations Affordable Warmth Group highlighted that in five local authority areas – Argyll & Bute, Highland, Western Isles, Orkney and Shetland – 51% (92,270 households) were living in basic fuel poverty, over a third of whom were living in extreme fuel poverty i.e. spending 20% or more of their income on trying to keep their homes warm³.

¹ <https://www.nrscotland.gov.uk/files//statistics/nrs-visual/life-nat-tabs-15-17/nat-life-tabs-15-17-info.pdf>

² <https://www.scotpho.org.uk/population-dynamics/recent-mortality-trends/>

³ https://www.parliament.scot/S5_Local_Gov/Inquiries/LGC_S5_18_FPB_20_HIHAAW.pdf

It is not only an issue of energy cost – an additional factor is the remoteness and cost of access to services for remote activities. For example, an individual living in Kinlochbervie who needs to attend an interview at a Job Centre would need to travel to Invergordon, which would involve no considerable expense and, depending on the public transport schedule and time of interview, it may not be possible to complete a round trip in one day. Even in cities such as Glasgow, getting to a job centre can be problematic following the DWP's estate rationalisation.

Whilst the prevalence of use of the internet is growing, there are still a significant number who are likely to be dependent on social security support who do not access the internet. According to the 2017 Scottish Household Survey, whilst overall 14% do not use the internet, the proportion doubles to 28% for those who have a physical or mental health condition lasting or expecting to last 12 months or more.⁴

Access to support is patchy – for example those living in Glasgow have access to four Law Centres. There is no such provision in the Scottish Borders.

2. *How well is Universal Credit working in Scotland? Are there issues with Universal Credit that are specific to Scotland compared to the rest of the UK?*

Members of the committee will be well acquainted with the less than favourable press coverage that Universal Credit has received. SFHA has been conducting monthly surveys of the impact of Universal Credit on its members and whilst those returning the surveys may vary from month to month, the consistent message is that those on Universal Credit who fall into arrears have far higher an average level of arrear than those in arrears who are not on Universal Credit. This is echoed by the reports of other organisations, most recently the National Federation of Almos, in its report [Patching the Safety Net](#).

These problems may not be unique to Scotland and can be attributed to two aspects of Universal Credit that SFHA has urged should be changed: the first is the five week wait which, especially for those households that may have either been used to the fortnightly payment cycle of benefits or who have had employment that has been based on a weekly or fortnightly payment cycle, has been a shock to the system. The DWP is keen to point out that the majority of those in arrears were in arrears before they went onto Universal Credit – but a significant proportion had not had a history of arrears prior to applying for the new benefit. The second is the rigid monthly benefit assessment process, which only takes into account when a claimant gets a payment from their employer rather than the period that the payment is for, or, for the self-employed, is tied to the minimum income floor assumption.

Disabled people and those with mental health and other problems face particular difficulties applying for UC and maintaining payments. Currently, they may be required to carry out work related activities before going through a Work Capability Assessment and may face sanctions as a result. Attending assessments in person or being required to present information in person may be particularly challenging for those with mental health problems. Work coaches have the power to use their discretion to make alternative arrangements and to pare back the claimant commitment, but there needs to be clear guidance about when to use this discretion. It would be preferable to remove the sanction regime completely for disabled people and those with mental health problems.⁵

The Help to Claim Service, which has superseded Universal Support Delivered Locally, is provided by Citizens Advice Scotland and is funded through a grant from the DWP. The rationale for having Citizens Advice deliver the service was to provide a greater level of consistency in the quality of

⁴ <https://www.gov.scot/publications/scotlands-people-annual-report-results-2017-scottish-household-survey/pages/8/>

⁵ https://www.samh.org.uk/documents/ItWasAConfusionReport_ONLINE_VERSION.pdf , March 2019

service provided – a criticism of Universal Support Delivered Locally was that its quality varied from place to place – though one of the concerns of SFHA members is that the level of service that Citizens Advice Scotland can deliver may vary from one part of the country to another. A greater concern is that there is no protected date of claim, so an individual approaching Help to Claim for support will still have to apply to the DWP directly for their claim to start. Again, this is especially problematic for those living in remote rural areas with no ready internet access.

The delay of managed migration (now termed as ‘Move to UC’ by the DWP) means that more will be naturally migrated without the benefit of transitional protection. Although a gateway has been put up for claimants receiving Severe Disability Premium, there are others who will lose out – in particular single parents under the age of 25 and the recently bereaved.

The delays to the rollout have also cost social housing providers. Profiling exercises carried out in 2016 in anticipation of the start of Managed Migration are now out of date. Changes to welfare benefits incur costs, for example in respect of profiling and targeting information and support to couples who straddled the state retirement age ahead of the change to Pension Credit entitlement in May 2019.

What are specific to Scotland are the Universal Credit flexibilities that the Scottish Government has agreed with the UK Government – the option for claimants to have more frequent (twice monthly) payments, payment of housing costs directly to the landlord and split payments. Unfortunately, the positive impact these initiatives could have is being undermined by the inadequacy of the systems underpinning Universal Credit.

Scottish UC Choices are only offered to the claimant (via their journal) after their first benefit assessment period. They will therefore have had to wait five weeks already for their first payment, during which they would have had the responsibility to pay their rent. It would therefore not be surprising if the claimant felt that more frequent payments were not an attractive option, in that they would then wait a further month before getting half a month’s Universal Credit. Nevertheless, in February 2019, 22% - 32,000 households⁶ opted for more frequent payments.

The effectiveness of direct payment to landlords has been blunted by a totally inappropriate payment system that means that landlords do not receive the housing costs for up to four weeks after they have been deducted from the claimant’s Universal Credit payment – and on occasion the delay stretches to eight or twelve weeks. The payment system runs on a four week cycle making a bulk payment of all Universal Credit housing cost deductions (that have to be reconciled with individual rent accounts), so it is impossible to synchronise with the monthly payment of Universal Credit and it means that for one payment cycle there is no payment.

The problem is further exacerbated by the paucity of information from the DWP. The Landlord Portal has yet to be developed to provide any feedback information. The DWP can disclose without explicit consent when a direct payment will be paid and for how much⁷, but it can only be via individual enquiry, which is totally impractical to do for every tenant on Universal Credit. Landlords therefore have to assume that no arrear is technical, creating more work for them and distressing tenants who thought in good faith that their housing costs had been paid. Landlords also have to reconcile the schedule of payments that they receive from the DWP, a time consuming process which has been made all the more stressful as the schedule, thanks to manual processes used, have not been accurate, with mispostings and transposing of reference numbers being frequent occurrences, compounded by the DWP not having the capacity to respond timeously to stop notifications by landlords. Landlords are accumulating considerable sums in suspense accounts for money which may be an overpayment or a misdirected payment. Again, this is another administrative overhead social housing providers are having to shoulder. Link Housing Association, for example, has identified

⁶ Source Stat-Xplore

⁷ <https://www.gov.uk/guidance/universal-credit-consent-and-disclosure-of-information#when-dwp-can-share-your-information-without-consent>

around 30 overpayment cases per month (in the main because the tenant has moved), but the DWP seems unable to act upon. This in turn makes arrears work more difficult as the overpayments create a false impression.

No agreement has yet been reached between the Scottish and UK Governments over split payments. As it is, the use of split payments by the DWP has been almost non-existent – according to Stat-Xplore, just 6 of the 147,611 households in receipt of Universal Credit in Scotland in February 2019 had a split payment in place. As split payments were originally meant to ensure that members of a household would be protected from financial abuse by a partner, this extremely low level of use must raise grave concern.

A further complication has been the lack to date of an agreed mechanism to allow the mitigation of the bedroom tax at source. As a result, there is still a reliance on the administration of Discretionary Housing Payments by local authorities. When tenants were in receipt of housing benefit, administered by local authorities, the application for Discretionary Housing Payment (and Council Tax Reduction, for that matter) was an automatic process. With housing cost entitlement now handled by the DWP, the process is no longer straightforward and there is a concern that take-up of DHPs and Council Tax Reduction will erode as a result.

There is an opportunity to smooth the transition from legacy benefits to Universal Credit in the managed migration process by using Scottish UC Choices from the very start of the Universal Credit claim (currently UC Choices are offered after the first benefit assessment period for new claims). If more frequent payments and direct payments to the landlord were offered from the very start, then, combined with the two week run-on that is to be provided for ESA and JSA claims from 2020, disruption to payment patterns can be minimised.

3. What impact has the Benefit Cap had in Scotland? Have certain communities been more disproportionately affected than others?

There is little direct evidence from SFHA members of the impact of the Benefit Cap in Scotland. Many of those severely affected may be living in temporary homeless accommodation, where rents tend to be higher; those subject to the Benefit Cap are effectively being penalised for having to live in less than ideal accommodation. An example of a case that a member has experienced is that of a single parent with three children who faces a shortfall of £50 per month as a result of the Benefit Cap. The tenant is being helped to apply for a Discretionary Housing Payment, but there is no guarantee that the application will be successful.

In the case of claimants on legacy benefits, the breach of the Benefit Cap limit meant a clawback of housing benefit up to the 50p minimum award (which entitled the claimant to be eligible to apply for a Discretionary Housing Payment). With Universal Credit being a single payment, the clawback can go beyond the housing cost element, leaving claimants even more worse off.

The rationale for the Benefit Cap was to encourage claimants to take up work – the cap does not apply if the claimant is working 16 hours or more per week. Yet 82% of those affected by the Benefit Cap are not able to work, which prompted the Work and Pensions Select Committee to recommend the DWP to waive the cap in such cases. The request was rejected⁸.

The Benefit Cap will inevitably affect larger families – for example a family with three or more children on ESA or JSA will be close to the Benefit Cap limit before housing costs have been considered. In February 2019, 24% of Housing Benefit claimants – 20,000 households - had three or more child dependents⁹. The concern is that the policy discriminates those from communities where large families are more common.

⁸ <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/2209/2209.pdf>

⁹ Source Stat-Xplore

4. *What is the impact of the Two-Child Limit on families in Scotland?*

As with the Benefit Cap, a significant percentage of claimants with children potentially could be affected by this measure. The rationale for this policy was that parents should be more aware of the financial consequences of having a large families, though in practice it is the children as much, if not more so than their parents, who will suffer the consequences. As a recent report by CPAG and other organisations pointed out, 300,000 children across the UK may be pushed into poverty with a further million already in poverty being pushed further in.¹⁰ The concern of SFHA members is that this will be a further strain on tenant sustainability, with social housing providers already adopting initiatives such as collaboration with food banks supporting school holiday hunger initiatives¹¹ and referrals to school uniform banks in an attempt to mitigate the harshest effects.

5. *How effective has cooperation been between the UK and Scottish Governments on the devolution of new welfare powers to Scotland?*

As referred to earlier, the potential benefit of Scottish UC Choices has been blunted by the lack of an adequate payment system. The fact that a landlord may wait several weeks before a deduction from an individual's housing costs from their UC payment is passed on to them, makes UC Choices direct payments unattractive. The failure, so far, to agree a split payment process is testament to the challenge facing the two administrations to devolve what is a very complex system.

The failure to implement, so far, a solution to allow effective abolition of the bedroom tax is another example undermining confidence. Although existing Discretionary Housing Payment claims may be rolled on automatically, the loss of the direct connection of the bedroom tax and DHP entitlement through local authorities causes difficulty in verifying that the right payment has been made, as there is insufficient information in the claimant's journal to identify the bedroom tax deduction in the DWP's calculation of housing costs.

Unlike legacy benefits, Universal Credit is not a passported benefit, so claimants run the risk of missing out on other benefits such as free school meals.

6. *What challenges are posed by the DWP administering benefits on behalf of the Scottish Government? How can these challenges best be managed?*

The recent report of the Work and Pensions Committee on Natural Migration¹² highlights an overriding concern: that the system is complex and there is a very real danger of claimants getting the wrong advice and losing out as a consequence. With the devolution of benefits such as PIP possibly coinciding with the migration to UC, it is vital that the DWP heeds the recommendation of the Committee and develops clear and comprehensive guidance on the circumstances which will lead an existing benefit claimant being forced to reapply for their entire benefit entitlement in the form of Universal Credit. Allied to this it is vital that the Scottish Social Security Agency provides comprehensive advice, as it assumes responsibility for devolved benefits, so that social landlords can invest wisely now to build up necessary capacity. As things stand there is no strategy and organisations have difficulty sustaining services.

7. *What changes might be necessary to help manage the transfer of claimants and data from the Department of Work & Pensions to Social Security Scotland?*

SFHA would reiterate its plea that there is a more rational approach to data sharing and implicit consent. In April the Information Commissioner's Office gave the opinion that "The DWP appears to

¹⁰ http://www.cpag.org.uk/sites/default/files/uploads/All%20Kids%20Count%20report%20FINAL_0.pdf

¹¹ For an example, please see <https://www.scottishhousingnews.com/article/thistle-housing-association-joins-glasgow-hunger-campaign>

¹² <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1884/1884.pdf>

be taking an unduly restrictive view of the definition of consent under data protection.”

8. *What impact could diverging welfare policies in Scotland and the rest of the UK have on welfare claimants in Scotland?*

The hazard, for claimants and advisers alike, is the potential for confusion. SFHA welcomes the commitment in the Scottish Social Security Charter to “ensure staff are knowledgeable about social security to help you get what you're entitled to¹³”, but in order to fully meet that commitment, they will need to be conversant with DWP benefits, which makes the Work and Pensions Select Committee recommendation, that the DWP provide comprehensive guidance, all the more important. The fact that Scotland is developing its own approach to the delivery of PIP and DLA presents the UK with an opportunity to see how a social security system can function in a more transparent and fair way, particularly for disabled people and those with mental health problems. There is scope for the delivery of Work Capability Assessments under UC to be adjusted accordingly. This would, at the very least, mean that people’s experience of the processes associated with PIP, DLA and WCA would be more consistent in Scotland.

Conclusion and Recommendations

The mitigations that the Scotland wishes to see in respect of Universal Credit have yet to be properly implemented. It is recommended that the necessary improvements to the processes underpinning Universal Credit are implemented as soon as possible.

It is crucial that Scottish UC Choices are properly incorporated into the managed migration process in order to make the transition from legacy benefits to Universal Credit as seamless as possible.

The recommendation of the Work and Pensions Select Committee that the complexity of the transition from legacy benefits to Universal Credit needs to be addressed by the provision of comprehensive guidance. Such guidance must also cover Scottish flexibilities.

SFHA has identified six essential improvements that need to be made in order to ensure that the welfare system works for those that need it. These are:

- 1) End to the five week wait for money. People should be able to get a payment in the middle of this period and there should be greater flexibility on payment frequency for all.
- 2) More data sharing between DWP and social landlords and the restoration of implicit consent will mean landlords can better support tenants and prevent problems. This is key to the success of managed migration.
- 3) Where benefit is paid direct to the landlord, we need a system that is fit for purpose with the landlord receiving the payment on the same cycle as the tenant.
- 4) Increased funding for support and advice to make sure people do not miss out on entitlement including allowing backdating for more claims.
- 5) Making sure that work pays for everyone by matching monthly assessments to earnings within that period, improving work allowances and reducing the taper.
- 6) Restore inflation linked uprating to working age benefits from April 2020.

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¹³ <https://www.gov.scot/publications/charter/pages/2/>