



## Child Poverty Action Group (CPAG) in Scotland evidence Scottish Affairs Committee: Welfare in Scotland inquiry

Child Poverty Action Group works for the one in four children in Scotland growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good.

Throughout this submission, we have included examples (in blue boxes) from CPAG in Scotland's Early Warning System which collects and analyses case evidence about how welfare changes are affecting the wellbeing of children, their families and the communities and services that support them. To date over 5,000 case studies have been gathered from frontline workers, including welfare rights advisors, housing officers and support workers.

### Key messages

- It is vital that UK and Scottish systems work seamlessly together. Good partnership working, data and information sharing, as well as a full understanding of entitlements under both systems will be vital for agencies to ensure that claimants receive what they are entitled to.
- Between April 2017 and April 2018, 3800 households in Scotland were affected by the two-child limit in Scotland. Recent research suggests that the vast majority of these families will struggle to afford basic necessities as a result.
- CPAG evidence demonstrates that the benefit cap is having a disproportionate impact on already vulnerable households, such as those who have experienced domestic abuse and parents of disabled children under three.

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

#### Drivers of poverty and inequality

Poverty rarely has a single cause. A range of factors including low pay, lack of work, inadequate social security benefits as well as rising living costs, together mean some people do not have enough resources to protect themselves from poverty.<sup>1</sup>

The importance of each of these factors will vary across the UK and across communities in Scotland. For example, housing costs, employment opportunities and availability of transport or childcare will vary hugely from one locality to the next.

Lower housing costs in Scotland have helped contribute to lower levels of child poverty compared to the rest of the UK<sup>2</sup>. Nevertheless housing costs have grown faster for low-income families in Scotland than for more affluent families. This has been driven by rising costs for private renters and the percentage of families who are renting privately due to a lack of social housing and the costs of buying a home. At the same time, the amount that social security provides for housing costs has been

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<sup>1</sup> <http://www.healthscotland.scot/population-groups/children/child-poverty/child-poverty-overview/causes-of-child-poverty> ; <https://cpag.org.uk/child-poverty/causes-poverty>

<sup>2</sup> <https://policyscotland.gla.ac.uk/wp-content/uploads/2014/04/Lower-Poverty-in-Scotland-report.pdf>

weakened.<sup>3</sup> As a result, over the past ten years the proportion of the poorest fifth in Scotland who spend more than a third of their income on housing costs has risen.<sup>4</sup>

More general living costs also vary. For example a report by Highlands and Island Enterprise found that a minimum acceptable standard of living in rural Scotland required between a tenth and a third more household spending than urban parts of the UK.<sup>5</sup>

However, concerted effort with the right policies and political will can, and has, made a significant impact. Real reductions toward ending poverty in Scotland and across the UK, particularly child and pensioner poverty, were achieved between the mid-1990s and 2011/12. In Scotland child poverty rates fell from 33% (360,000 children) to 19% (190,000 children), pensioner poverty fell from 290 000 (33%) to 120,000 (12%) and poverty amongst all people fell from 25% to 16%.<sup>6</sup> This progress was achieved as a result of policy interventions resulting from a clear political commitment. Amongst the key interventions put in place were the introduction of the UK National Minimum Wage and substantial increases in universal Child Benefit as well as means-tested benefits for low-income families. Significant examples include increases in income support and the introduction and expansion of the tax credit system.<sup>7</sup> The initial UK Government target – the reduction of child poverty by one quarter by 2004/05 from its 1998/99 level – was only narrowly missed. Over the next three years, child poverty levels stopped falling and the 2010/11 target of reducing it by one half from its 1998/99 level was missed. Despite this, the number of children in relative poverty across the UK fell from 3.4 million in 1998/99 to 2.3 million in 2010/11. In Scotland, the percentage of children in poverty decreased from 28% to 17%.<sup>8</sup> Had this early commitment and momentum been maintained, the goal of halving the proportion of people living in poverty according to national definitions could feasibly have been met. However, poverty is now rising, especially amongst children. Almost one in four (240,000) of Scotland's children are now officially recognised as living in poverty. In the absence of significant policy change, this figure is likely to continue to increase in the coming years, with the Scottish Government's own forecasts indicating that it will reach 38% by 2030/31.<sup>9</sup> Recent analysis by the Resolution Foundation also suggests the Scottish child poverty rate will be at 29% by 2023/24 – the highest rate in over twenty years.<sup>10</sup> This would reverse the fall in child poverty observed in the UK since the late 1990s. Importantly, these projections note that UK-wide benefit policy is the key cause of this, with the benefit freeze, two-child limit and other welfare cuts taking substantial amounts of

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<sup>3</sup> <https://www.jrf.org.uk/report/uk-poverty-2018>

<sup>4</sup> <https://www.jrf.org.uk/data/housing-costs>

<sup>5</sup> <http://www.hie.co.uk/regional-information/economic-reports-and-research/archive/a-minimum-income-standard-for-remote-rural-scotland---a-policy-update.html>

<sup>6</sup> Scottish Government. (2019) Poverty Tables. Online from <https://www2.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty/povertytable>

<sup>7</sup> Joyce, Robert. (2014) Child poverty in Britain: recent trends and future prospects. IFS Working Paper W15/07. Online from <https://www.ifs.org.uk/uploads/publications/wps/WP201507.pdf>

<sup>8</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2012/06/poverty-income-inequality-scotland-2010-11/documents/statistical-publication-poverty-income-inequality-scotland-2010-11/statistical-publication-poverty-income-inequality-scotland-2010-11/govscot%3Adocument/00394961.pdf>

<sup>9</sup> Scottish Government. (2018) Tackling child poverty delivery plan: forecasting child poverty in Scotland. Online from <https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-forecasting-child-poverty-scotland/pages/2/>

<sup>10</sup> Corlett, Adam. (2019) Wrong direction: can Scotland hit its child poverty targets? Resolution Foundation. Online from <https://www.resolutionfoundation.org/publications/wrong-direction-can-scotland-hit-its-child-poverty-targets/>

money from lower income parents. In short social security policy has been the key factor both in reducing child poverty, and then more recently in increasing child poverty.

In contrast, the Scottish Government has used devolved social security powers in some areas to mitigate UK Government cuts to social security, which is discussed below. Most notably, the Scottish Government has recently committed to using new social security powers to specifically tackle child poverty. The 'Scottish Child Payment' will be paid at £10 per week per child, for families who receive qualifying benefits such as universal credit (UC). It is intended that the payment will be available for all eligible families with a child under 16 by the end of 2022. Scottish Government estimate that the payment will cost £180 million in 2023-2024, lifting 30,000 children out of poverty and reducing the relative child poverty rate by an estimated three percentage points.<sup>11</sup> This is a significant recognition of the role that social security can have in reducing poverty.

## **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?**

In 2017/18, over 20% of claimants of UC in Scotland were very or fairly dissatisfied, which was not significantly different from the rest of Great Britain.<sup>12</sup> UK wide issues, reported by our Early Warning System, about the roll out of universal credit (UC) include:<sup>13</sup>

- The wait for the first payment of UC
- Making and maintaining claims online
- Monthly assessment periods effectively penalising people in work
- Lack of support for self-employed people
- Confusion amongst claimants and staff about whether to claim UC or the benefits it is replacing
- Administrative errors including underpayments and overpayments
- Deductions causing financial hardship

There are however a number of issues which are unique to Scotland outlined below.

### **Scottish flexibilities**

One of the key differences in the Scottish system is the [Universal Credit \(UC\) Scottish Choices](#). While these flexibilities are welcome they have not been entirely unproblematic. UC claimants can choose to have their housing costs paid directly to their landlord and/or to have their UC payment made twice monthly.

DWP pay housing costs direct to landlords on a four weekly cycle, which can result in apparent rent arrears. In the example below there is no payment made to the landlord on the 27<sup>th</sup> October because the landlord payment date falls before the claimant payment on 28<sup>th</sup> October. The landlord does not receive the payment covering 22<sup>nd</sup> September to 21<sup>st</sup> October until 24<sup>th</sup> November. Anecdotal evidence suggests this delay makes landlords reluctant to promote Scottish choices.

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<sup>11</sup> <https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-first-year-progress-report-2018-19/>

<sup>12</sup> DWP Claimant Service and Experience Survey, 2017/18, Table 1.4.

<sup>13</sup> <https://cpag.org.uk/policy-and-campaigns/report/universal-credit-what-needs-change>

Assessment period	22 <sup>nd</sup> Aug – 21 <sup>st</sup> Sep	22 <sup>nd</sup> Sep – 21 <sup>st</sup> Oct	22 <sup>nd</sup> Oct – 21 <sup>st</sup> Nov	22 <sup>nd</sup> Nov – 21 <sup>st</sup> Dec
Claimant paid	28 <sup>th</sup> Sep	28 <sup>th</sup> Oct	28 <sup>th</sup> Nov	28 <sup>th</sup> Dec
Landlord payment date	29 <sup>th</sup> Sep	27 <sup>th</sup> Oct	24 <sup>th</sup> Nov	22 <sup>nd</sup> Dec

Kinship carer lives with her adult son and a looked after child in a two bedroom flat that is too small for them. The client has been unable to get re-housed because erratic payment cycles of UC make it look like she has rent arrears. #2018 (01/11/18)

Client has an arrangement to pay £15 a month towards existing rent arrears. UC payment cycles mean that it look like he has two months arrears. The housing association are pressurising the tenant to increase his standing order towards the arrears even though his entitlement has not changed. #18786 (15/6/18)

In response to problems arising with payment of rent, the Scottish Government has called for direct payment dates to landlords to be synchronised with UC payment dates.<sup>14</sup>

Other issues the Early Warning System has noted regarding the administration of Scottish flexibilities include:

- Requests for payment direct to landlord not being actioned
- Ongoing housing costs being paid direct to the landlord, but any arrears of housing costs owed by UC being paid direct to the tenant rather than the landlord.
- People in shared ownership properties being told that they cannot have their housing costs paid direct to their landlord
- Deductions being taken from only one of the twice monthly payments

Client has requested that payments be made direct to her landlord, but this has not been actioned as DWP are insisting she provides a reference number from her tenancy agreement that does not exist. #5199

Couple who opted to have their UC paid twice monthly find that deductions for rent and council tax arrears are coming off one of their twice monthly payments meaning they get one normal payment and one of next to nothing. Deductions should be taken from the monthly calculation before the payment is split. #1351

A lone parent who is getting twice monthly payments is finding it difficult to budget. The first payment is made on the same date every month, but she never knows when the second payment will be made. She has asked in her journal, but never receives an answer to the question. #3109

If a claimant chooses to have the housing costs paid direct to the landlord, the amount that is paid will be the amount of the housing element.<sup>15</sup> However, there are instances where a DHP may be appropriate but the full housing element will be paid direct to the landlord. For example, the benefit cap is deducted from the whole UC award rather than the housing element. Paying the whole housing element to the landlord might leave the tenant with very little to live on. However, the rent has been paid in full so it is not apparent that the tenant may be entitled to a DHP.

### Universal credit and childcare

Under universal credit, parents whose children are aged three or over are expected to look for work. In England some children age three and four are entitled to 30 hours free childcare a week.<sup>16</sup> In Scotland children age three and four are currently only entitled to 16 hours free childcare a week. This is planned to be extended to 30 hours in 2020.

Children in England start school in the September following their fourth birthday whereas children in Scotland do not start until they are between the ages of four and a half and five and a half.<sup>17</sup> Parents in Scotland may find it financially more difficult to commit to work due to the currently lower entitlement to free childcare and due the fact that they would have to pay for childcare for a longer period, until their child starts school.

The number of hours a parent will be expected to work will be determined at their work coach's discretion. The guidance for work coaches' states that the expected hours for the lead parent of a 3 to 4 yr old is 16 hours<sup>18</sup>, but does not mention the variation of free childcare entitlement in the different countries. The Early Warning System has a number of examples of work coaches' use of discretion varying widely. It is important they are equipped with the necessary information to make informed decisions about expected hours.

### Universal credit and careleavers

Usually you cannot get UC under the age of 18, unless you meet one of the exceptions. Careleavers are specifically excluded from the exceptions in the regulations, however there have been misunderstandings regarding the definition of a careleaver in Scotland.

A 16 year old has been refused universal credit on the basis that she is a careleaver and therefore should be excluded from benefits. She was 'looked after' by the local authority in her own home<sup>19</sup> and therefore should not be classed as a careleaver for benefit purposes as she has not been looked after away from home. #4135

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<sup>15</sup> Where the housing element may not be equal to the rent, for example if the housing element is restricted by the local housing allowance or has been reduced by the bedroom tax. The shortfall between the housing element and the rent in these instances will help identify that a DHP may be appropriate.

<sup>16</sup> <https://www.gov.uk/30-hours-free-childcare?step-by-step-nav=f517cd57-3c18-4bb9-aa8b-1b907e279bf9>

<sup>17</sup> <https://www.gov.uk/schools-admissions/school-starting-age> ; <https://www.mygov.scot/register-your-child-for-a-school/>

<sup>18</sup> <http://data.parliament.uk/DepositedPapers/Files/DEP2019-0465/CC - Expected hours v3.0.pdf>

<sup>19</sup> Due to concerns for a child's welfare they remain at home, but under the supervision of social work

Being ‘looked after’ at home appears to be a specifically Scottish measure.

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

As noted above, the benefit cap is one of the policies which independent projections outline are driving up child poverty in Scotland. Yet while one of the stated aims of the cap is to incentivise people to move into work, only 19 per cent of people in receipt of legacy benefits affected by the benefit cap are receiving jobseeker’s allowance and therefore expected to look for work.<sup>20</sup> The vast majority of people affected by the cap are not otherwise expected to look for work because of disability or ill-health or because they have very young children. These communities are already more likely to be living in poverty. Specific evidence on impacts is outlined below.

#### Lone parents

Nearly three quarters of people affected by the benefit cap are lone parents; almost half have a child under the age of three.<sup>21</sup> Parents in this group are relatively unlikely to work considering the needs of very young children and that there is no free childcare provided for under twos and currently only 16 hours a week for two to four year olds.<sup>22</sup> These parents would not be required to work or look for work in return for income support.

Households subject to the cap in Scotland (HB)	
90%	Families with children
64%	Families headed by a lone parent
Households subject to the cap in Scotland (UC)	
90%	Families with children
51%	Families headed by a lone parent

<https://www.gov.scot/publications/2018-annual-report-welfare-reform>

A lone parent with four children, who lives in a remote area, was working but is unable to sustain her hours due to childcare costs and logistics. Stopping work means that she will be subject to the benefit cap. #613

The amount of benefits people are paid is usually calculated according to need in relation to their personal circumstances, but the arbitrary level of the cap means that the more money people need to live on, the more likely they are to be affected by the cap.

68% of households affected by the cap are living in council or housing association accommodation, so whilst high private rents may be the cause of 32% of households being affected by the cap, for the majority there is no cheaper accommodation to move to<sup>23</sup>. For those living in the private rented sector, there may not be the option of moving to cheaper social rented accommodation due to its short supply.

<sup>20</sup> DWP benefit cap statistics release May 2019

<sup>21</sup> DWP benefit cap statistics release May 2019

<sup>22</sup> <https://www.mygov.scot/childcare-costs-help/funded-early-learning-and-childcare/>

<sup>23</sup> Scottish Government annual report on welfare reform 2018

SA is a lone parent of four children. Due to a shortage of social housing she moved into a private tenancy after she and her children were forced to leave the family home by domestic abuse. She worked in the care sector for four years, then enrolled at college in an attempt to improve her employment prospects. When the support she was receiving from housing benefit reduced dramatically, leaving her paying for food with her credit card, she had to leave college and return to work in the care sector in order to afford her housing costs. OPFS client

### Kinship carers

Kinship carers are also potentially subject to the benefit cap if not in receipt of guardian’s allowance. Guardian’s allowance is only applicable where the child is an orphan (or effectively an orphan) and not many kinship carers are likely to be eligible.

*Example:*

A couple’s benefit entitlement might look like this:

(Rent of £120 per week)

Income-based JSA:	£114.85
Child tax credit:	£223.23 (for four children)
Child benefit:	£ 61.80 (for four children)
Housing benefit:	£120.00
Total	£519.88

The benefit cap for them is £384.62 per week. Excess over cap: £135.26. Therefore their housing benefit entitlement would be wiped out.

A young couple with two children of their own, who also have their nephew living with them, subject to the benefit cap and the local housing allowance cap on their private sector tenancy. Any financial support they receive for the child they provide kinship care for is having to go towards paying their rent alongside a chunk of their benefit. #Mii167

### Groups disproportionately impacted by the benefit cap

Outlined below is some of the evidence gathered from the Early Warning System, as well as other sources, which could indicate that the following groups are disproportionately affected.

#### Those recently granted refugee status

Evidence demonstrates that poverty and destitution are significant issues affecting refugees in the UK,<sup>24</sup> while a recent Refugee Council response to the Work and Pensions Select Committee on the

<sup>24</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2019/05/refugee-integration-evidence-scotland-study-evidence-available-support-new-scots-refugee-integration-strategy-2018-2022/documents/refugee-integration-evidence-scotland-study-evidence-available-support-new-scots-refugee-integration-strategy-2018-2022/refugee-integration-evidence-scotland-study-evidence-available-support-new-scots-refugee-integration-strategy-2018-2022/govscot%3Adocument/refugee-integration-evidence-scotland-study-evidence-available-support-new-scots-refugee-integration-strategy-2018-2022.pdf>

benefit cap outlines that refugees are “more likely to face the impact of the cap”.<sup>25</sup> People recently granted refugee status may be disproportionately impacted by the benefit cap if they have a larger family. They may be also further away from the labour market if English is not their first language.

A refugee family with six children, who are about to move into a permanent tenancy, will be affected by the benefit cap. There is no exemption for new refugees. #10524

### **Parents of disabled children under three**

People who are in receipt of a disability benefit are exempt from the benefit cap. However, children under three are not entitled to the mobility component of child DLA and must have greater care needs than a child of the same age in order to qualify for the care component. As all children under the age of three have very high care needs, this is a very difficult test to satisfy.

A lone parent has four children between the age of one and ten, the youngest of whom has recently been diagnosed with a severe disability, but is not yet entitled to disability living allowance. Despite receiving a discretionary housing payment, she is supposed to find £172 a month from her child tax credits and income support to pay towards her £900 a month rent. To be able to work the client would require childcare for her four children, including someone who is specially trained to look after the child who is disabled. #11008

### **Seasonal workers in periods between employment**

Workers can be exempt from the benefit cap for 39 weeks if they have been working for 50 out of the previous 52 weeks. This does not assist people in seasonal work.

A couple with five children are both seasonal workers, but are subject to the benefit cap during periods they are not working. They work from February to October each year but this is less than the period of work required to be exempt from the cap.

### **People in temporary accommodation**

Temporary accommodation costs are usually higher than permanent tenancies, indeed research by Shelter Scotland showed that temporary accommodation costs can be 282% higher than the local housing allowance rate.<sup>26</sup> Higher accommodation costs mean the people are more likely to be affected by the benefit cap. There are exemptions from looking for work for people who are experiencing homelessness, but not from the cap itself. Recent evidence provided to the Work and Pensions Committee also outlines that people who attempt to move elsewhere to escape the cap risk homelessness as they may be deemed to be intentionally homeless which would result in them losing priority for housing.<sup>27</sup>

Sarah is a lone parent with seven children. They were evicted from their private tenancy after Sarah found herself unable to pay her rent when her housing benefit was reduced from £750 to £100 a month. They are now staying in overcrowded local authority temporary accommodation in which

<sup>25</sup> [https://www.refugeecouncil.org.uk/wp-content/uploads/2019/03/WP\\_Select\\_Committee\\_Benefit\\_Cap\\_Inquiry\\_-\\_Refugee\\_Council\\_submission\\_final.pdf](https://www.refugeecouncil.org.uk/wp-content/uploads/2019/03/WP_Select_Committee_Benefit_Cap_Inquiry_-_Refugee_Council_submission_final.pdf)

<sup>26</sup>

[https://scotland.shelter.org.uk/professional\\_resources/policy\\_library/policy\\_library\\_folder/funding\\_homelessness\\_services\\_in\\_scotland\\_policy\\_response](https://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/funding_homelessness_services_in_scotland_policy_response)

<sup>27</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1477/1477.pdf>



Sarah has to share a room with her two children. The temporary accommodation is not close to the children's school, so paying for bus fares is further impacting on Sarah's financial situation. She is currently only receiving 50p a week housing benefit towards her temporary accommodation with discretionary housing payments covering the rest for now. OPFS client

#### Individuals or families who have fled domestic abuse

People who have recently experienced domestic abuse can be exempt from looking for work, yet they are not exempt from the cap. The exemption from looking for work recognises that they may have fled with just the clothes they were wearing, have been subject to financial abuse and in some cases not allowed to work.

A lone parent with five children staying in temporary accommodation having left her husband due to domestic abuse, had her housing benefit reduced to 50p a week once the benefit cap was applied. Even when she finds permanent accommodation, it is unlikely that she will receive full support with her rent because the size of her family means she is likely to continue to be affected by the cap #69

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

Between April 2017 and April 2018, 3800 households in Scotland were affected by the two-child limit. A further 200 would have been affected by the policy had they not met one of the exemptions.<sup>28</sup>

Recent research by CPAG and the Church of England, All Kids Count, outlines the scale of suffering in families affected by the policy. The research includes new quantitative analysis by IPPR which projects that one million children who already live in poverty will be pushed further below the poverty line by the time universal credit is fully rolled out in 2023/24 as a result of the two-child policy. Of the 430 families surveyed, including families in Scotland, it also notes that 95 per cent said that the two-child limit had affected their ability to pay for basic living costs, including 88 per cent who said it had affected their ability to pay for food and clothing. Families are facing severe and ongoing financial difficulty and being forced into debt just to cover basic living costs each month.<sup>29</sup>

Paula lives with her three children in a council flat in Perth, Scotland. Before having her youngest child, Ben, who recently turned one, Paula and her then-husband were not worried about money. Unfortunately, Paula had a bad pregnancy and a difficult birth when she almost died. Paula and her husband separated shortly after the birth, having been together for a number of years. This took her by surprise and changed her circumstances drastically: *'I'm really feeling the brunt of it because how I'd planned it to be at the time is worlds away from the situation we are now.'*

Without the extra support for Ben, Paula struggles to afford the basics for her family and has turned to credit cards to keep afloat: *'I didn't have any credit cards this time last year. I've now got two. They're maxed out... I'm in a good bit of debt now, it's not possible to make it work at the end of the month.'*

<sup>28</sup> <https://www.gov.scot/publications/2018-annual-report-welfare-reform-9781787812628/>

<sup>29</sup> <https://cpag.e-activist.com/page/43566/action/1?chain>

There is also evidence through the Early Warning System that a number of families affected by the two-child limit could afford to have a third or subsequent child, when that child was conceived, but were then met with unexpected circumstances, such as illness, disability, bereavement, domestic abuse and relationship breakdown.

A client was made redundant shortly before his partner stopped work to give birth to their son. She has two children from a previous relationship so child tax credit is not payable for the new baby. #14126

A Mum with four children recently separated from her partner. She will not be entitled to an amount of universal credit for the fourth child because they were born after the two-child limit was introduced. #4663

CPAG in Scotland has welcomed Scottish Government's decision not to impose a two-child limit on the Best Start Grants or recently announced Scottish child payment. This is welcome additional support for families who will be affected by the two-child limit in universal credit, tax credits and housing benefit.

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

The governments appear to have worked well together in terms of legislating for devolved benefits, for example the UK Government has legislated to disregard Scottish payments ahead of the introduction of each new benefit. However, there has not yet been co-operation between governments in terms of independent scrutiny of regulations. The Social Security Advisory Committee (SSAC) advises the UK Secretary of State for Work and Pensions on benefits that remain reserved to Westminster and on benefits devolved to Northern Ireland. The UK Government decided not to permit SSAC to advise Scottish Ministers on devolved benefits. The Scottish Government has set up a new body, the Scottish Commission on Social Security to scrutinise devolved benefits. While this ensures there is no gap in scrutiny in relation to regulations, there is no longer oversight of the system as a whole and neither body is tasked with advising on the interaction between the two jurisdictions.

The UK and Scottish governments should co-operate to equip both scrutiny bodies to collaborate to provide this advice. We note that while there are agreements on arrangements for national auditors and for parliamentary oversight, there is no agreement on arrangements for national independent scrutiny bodies.<sup>30</sup>

Where there is no legal duty to consult the Scottish Government on new DWP regulations, but nevertheless potential impacts on areas of legislative competence and policy, it is important that

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<sup>30</sup> <https://www.gov.scot/publications/scottish-devolution-framework-audit-accountability/pages/2/> ; <https://www.gov.uk/government/publications/memorandum-of-understanding-social-security-and-employment-support-services-in-scotland/memorandum-of-understanding-between-scottish-ministers-and-the-department-for-work-and-pensions-on-social-security-and-employment-services-in-scotland#audit>

information on policy development is shared at an early stage. We welcome the MoU<sup>31</sup> which refers to the need for a shared understanding of policy development (para 12.6) but suggest this could be strengthened to ensure that impacts on individuals in Scotland are fully taken into account while regulations are still in development.

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

We understand that the Scottish Government have requested that the bedroom tax be mitigated at source by DWP varying the calculation of the housing element of universal credit, but implementing this has been delayed somewhat.<sup>32</sup> Mitigation at source will alleviate the bedroom tax for everyone affected in Scotland, whereas in the meantime, mitigation is reliant on claimants applying and often having to re-apply after a period of time, for discretionary housing payments. There is also a small number of claimants who are not entitled to housing benefit after the bedroom tax has been applied and are therefore not entitled to discretionary housing payments. Mitigation at source will mean they are also no longer affected by the bedroom tax.

## **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?**

It is clear that good information sharing and partnership working between the agencies will be vital.

In addition there will need to be a willingness by both agencies to advise clients appropriately about the different systems. An individual should be able to gain information about all of their entitlements no matter which agency they are in contact with. Alongside this, there will need to be very robust data sharing about entitlement as some Scottish benefits such as best start grants and funeral payments are dependent on entitlement to a UK benefit.

There is also a need for processes that ensure that no one falls through the gaps, as has happened with the transfer from DLA to PIP. In this case, some vulnerable claimants who did not respond to an invitation to claim PIP found that their DLA stopped. There must also be an agreement which protects claimants from being left without benefit in the event that it cannot be agreed which agency is responsible.

Client is currently staying in a homeless unit, which is run by a charity, where he receives support. The client receives UC for his living costs, but neither the local authority nor DWP will accept a claim for help with housing costs each saying it is the other's responsibility.

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<sup>31</sup> <https://www.gov.uk/government/publications/memorandum-of-understanding-social-security-and-employment-support-services-in-scotland/memorandum-of-understanding-between-scottish-ministers-and-the-department-for-work-and-pensions-on-social-security-and-employment-services-in-scotland#annex-a---record-of-associated-annexes>

<sup>32</sup>

[http://www.parliament.scot/S5\\_Social\\_Security/General%20Documents/20180605\\_Minister\\_for\\_Social\\_Security\\_to\\_SOSWP.pdf](http://www.parliament.scot/S5_Social_Security/General%20Documents/20180605_Minister_for_Social_Security_to_SOSWP.pdf)

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

Diverging welfare policies in Scotland have included full mitigation of the bedroom tax, the Scottish Welfare Fund and the introduction of Scottish Choices. Perhaps the single most significant indication of diverging policies is the recent commitment to introducing a Scottish Child Payment.

While independent projections demonstrate that UK government social security cuts are driving rising child poverty, Scotland has shown a commitment to using its devolved powers to mitigate some of the worst impacts and to specifically tackle child poverty. Early Warning System cases also demonstrate that policies such as the two-child limit and benefit cap are having substantial impacts on families.

It is also worth noting that the Scottish Government has committed to creating a social security system that is based on the principles of dignity and respect, which EWS cases demonstrate can be lacking in the current system. As Professor Phillip Alston, the UN Rapporteur on Extreme Poverty and Human Rights noted in his UK report:

*"[Scotland] has also used newly devolved powers to establish a promising social security system guided by the principles of dignity and social security as a human right, and co-designed on the basis of evidence. The system eschews sanctions entirely and, in contrast to Universal Credit, is decidedly not digital by default. Rather, the stated goal is to make benefits equally accessible however people want to access them."*<sup>33</sup>

It is not an overstatement therefore to note that the impact diverging welfare policies could have is significant. As the two systems move forward, there are specific issues to consider which are outlined below.

### Protecting and enhancing rights to social security

The Scottish Government has committed to the development of a rights based social security system. In order to ensure this principle is translated into practice it is vital that Scottish social security regulations ensure that, at the very least, the legal rights claimants currently have will continue for individuals who claim disability assistance in Scotland as benefits transition to the Scottish agency. As CPAG has highlighted in our response<sup>34</sup> to the Scottish Government's consultation on disability assistance, if conditions of entitlement, definitions of terms and processes for determining entitlement are only included in guidance, individuals in Scotland will have fewer rights than claimants currently enjoy.<sup>35</sup>

### Confusion on entitlements

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<sup>33</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E>

<sup>34</sup> <https://cpag.org.uk/policy-and-campaigns/consultation-response/response-scottish-government-consultation-disability>

<sup>35</sup> <https://cpag.org.uk/sites/default/files/files/policypost/CPAG-Scot-Briefing-Disability-Regulations.pdf>



Evidence from our Early Warning System highlights confusion in the current system about which agency to claim benefits from - the local authority, DWP or HMRC. The addition of a further agency, Social Security Scotland potentially adds to this confusion. It will be important that staff in all of the different agencies are clear about which benefit it would be appropriate to apply for, from which agency and direct claimants appropriately.

Client who is paraplegic with learning difficulties had her claim for HB refused and was notified that she needed to claim UC instead. The HB claim should not have been refused as the client is currently living in specified accommodation (Housing costs in specified accommodation are covered by HB rather than UC). Furthermore the client is excluded from claiming UC as she is in receipt of the severe disability premium in her current benefit award. #3490

### **Staff awareness across agencies**

With Scottish benefits such as carer's allowance supplement being dependent on receipt of carer's allowance and best start grant being dependent on receipt of a qualifying benefit such as UC, it is vital that staff of all the agencies administering benefits have an awareness of the Scottish Social Security system.

The Early Warning System has received a number of cases of DWP telling claimants in Scotland that they cannot get carer's allowance and UC at the same time and just to claim UC as they can get carer element in their UC at the same rate. However if people only claim UC and do not claim carer's allowance they will not receive carer's allowance supplement. So DWP advice is losing carers significant sums of money. Carers in Scotland should be encouraged to claim carer's allowance.

In the future, the level of award of a UK benefit may also be dependent on receipt of a Scottish benefit. For example receipt of Disability Assistance for Children and Young People may entitle a claimant to the disabled child element of UC. Early Warning System evidence shows that claimants are sometimes underpaid universal credit, despite receipt of a benefit that qualifies them to a higher amount. It is important this is not exacerbated by the divergence of social security systems.

A family are being underpaid UC because the disabled child element has not been included in their award. It is evident that UC are aware of the child DLA award, because they have included the carers' element for the parent since the beginning of the claim. #4814

These issues demonstrate that it is vital that UK and Scottish systems work seamlessly together. Good partnership working, data and information sharing, as well as a full understanding of entitlements under both systems will be vital for all agencies to ensure that claimants receive what they are entitled to.

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