

CONSULTATION ON SOCIAL SECURITY

1.0 EXECUTIVE SUMMARY

1.1 The Scottish Government launched a consultation on the future of social security in Scotland on 29 July and this closes on 28 October 2016. The consultation is in three parts:

- Part 1: a principled approach – this section contains questions about the principles for the new Social Security Agency, outcomes and the user experience, delivery of social security in Scotland, equality and low income, and independent advice and scrutiny.
- Part 2: the devolved benefits – this section contains questions on each of the powers being devolved to Scotland in the area of Social Security.
- Part 3: operational policy – this section contains questions covering advice, representation, advocacy, complaints, reviews and appeals, residency and cross-border issues, overpayments and debts, fraud, protecting information and uprating of benefits.

1.2 The Council should welcome this opportunity to contribute. The draft response is attached for consideration.

CONSULTATION ON SOCIAL SECURITY

2.0 INTRODUCTION

2.1 The Scottish Government launched a consultation on the future of social security in Scotland on 29 July and this closes on 28 October 2016. A draft response is attached for consideration.

3.0 RECOMMENDATIONS

3.1 Policy & Resources Committee is asked to consider the draft response attached at Appendix 1 and comment on it.

4.0 DETAIL

4.1 The consultation is in three parts:

- Part 1: a principled approach – this section contains questions about the principles for the new Social Security Agency, outcomes and the user experience, delivery of social security in Scotland, equality and low income, and independent advice and scrutiny.
- Part 2: the devolved benefits – this section contains questions on each of the powers being devolved to Scotland in the area of Social Security.
- Part 3: operational policy – this section contains questions covering advice, representation, advocacy, complaints, reviews and appeals, residency and cross-border issues, overpayments and debts, fraud, protecting information and uprating of benefits.

4.2 A draft response is attached for consideration which is summarised below by section:

Part 1: A Principled Approach

1. Fixing the principles in legislation

- We support the proposal for a claimant charter similar to the charter for patient rights and responsibilities
- This could also be supported by statutory guidance which has been helpful with Scottish Welfare Fund ensuring consistency of approach across local authorities. There is less of a need for this if there is to be a single Scottish Social Security Agency responsible for delivery.

- Duty to treat claimants with dignity and respect should be placed on Scottish Ministers as this is where responsibility for designing the system lies.

2. Outcomes and the user experience

- The outcomes should also include the need for the social security provision to be affordable and viewed as equitable – this links closely to the outcome for “people resident in Scotland to view the benefit and those who receive them positively”
- It would be advantageous for a one-stop shop approach to be followed wherever possible linking both benefits and social care assessments. Local authorities are ideally placed to act in this co-ordinating role. Employability and advice hubs could be created to bring relevant partners together in a single location on a local basis.
- There is a role for face to face contact when trying to help people make positive changes in their lives – it shouldn’t just be about payment of benefits

3. Delivering social security in Scotland

- Not all benefits are being devolved so there needs to be close liaison with DWP who will continue to deliver the majority of benefits in Scotland with data sharing and partnership working.
- It would be helpful to offer goods as an alternative to cash through providing access to certain national public sector contracts (e.g. domestic furnishings contract used by Scottish Welfare Fund). But people should have choices.
- Assessments required for disability related benefits should be co-ordinated i.e. don’t have separate ones for PIP and other ones for blue badges.
- Local authorities should be key partners in delivery.
- Roles need to be clearly defined and easy to follow from user viewpoint, with as few handoffs of the user to other organisations as possible.

4. Equality and low income

- Disability and age are key characteristics around which benefits need to be designed and detailed engagement with relevant user groups is required to ensure this is done well.
- The partial EQIA has little consideration of other protected characteristics such as religion and belief, sexual orientation, gender and these aspects need to be considered to ensure that equalities groups are not disadvantaged in terms of being able to access the new services and being treated fairly.
- Must ensure that any new system is not costly for the user to access, especially users in rural areas, and those with no digital access.

5. Independent advice and scrutiny

- An expert body could provide helpful advice and scrutiny.
- There should be clear appeals mechanisms to challenge decisions as well as a formal complaints process, and these should link to reviews of standards.

Part 2: The Devolved Benefits

6. Disability Benefits

- We agree that there should be a smooth transition to any new benefits for existing recipients.

- Any assessments should be co-ordinated so that a single assessment for one benefit provides access to as wide a range of benefits as possible.
- There needs to be a balance between lengthy awards and unnecessary re-assessments.
- Not all disabilities prevent people from working, and those of working age should be encouraged to be able to work where they can, with assistance provided to make this possible / easier which could include assistance to employers to make modifications, access to motability schemes etc.

7. Carer's Allowance

- We agree that Carer's Allowance should be the same as Job Seekers Allowance or equivalent amount of Universal Credit payment for those of working age who aren't eligible for JSA or UC.
- Do not agree that it should not be means tested in any way.
- Agree that alternatives to cash could be offered provided this is a choice.

8. Winter Fuel & Cold Weather Payments

- Winter fuel payments total £184m and cold weather payments total just £7m in 2014-15. There should be a new benefit targeted to address households affected by fuel poverty.
- Need to have a simple system so people can plan for their fuel costs, and get help to access better value fuel tariffs.

9. Funeral Payments

- We are concerned that current levels do not cover the costs of a funeral.
- We suggest that a standard "package" might be developed with undertakers where costs would be covered, and payment then made direct to undertakers.
- We agree that it is not right to make deductions for contributions from family members.

10. Best Start Grant

- The proposals are much more generous than the existing Sure Start Maternity Grant and therefore should be targeted to families on low incomes rather than covering all families in receipt of Universal Credit which can include families with incomes of over £30,000.
- We agree that the requirement to obtain advice from a medical professional should be a condition.
- There should be an option to obtain goods rather than cash.

11. Discretionary Housing Payments (DHPs)

- The bulk of DHPs relate to bedroom tax cases. It should be possible to remove all the administration associated with the imposition of the social sector size criteria restriction and then the award of the DHP which re-instates the entitlement.
- Discretion needs to be retained.

12. Job Grant

- Costs of taking up a new job include the need for suitable clothes as well as travel and to cover the gap until first pay is received.

13. Universal Credit (UC) flexibilities and housing element

- We agree that UC claimants (both social rented sector and private sector) should have the option to have housing costs element paid direct to their landlord.
- Payments should default to UC claimant with an option at their choice to split between household members.

Part 3: Operational Policy

14. Advice, representation and advocacy

- DWP research has shown clearly the value of co-location of advice services in providing better take up of advice and benefits. We consider that provision of employability and advice hubs should be encouraged.
- We agree that it is helpful to be clear on the differences between signposting, case work and formal representation and advocacy.

15. Complaints, reviews and appeals

- We agree that a complaints handling procedure should be based on the SPSO principles for complaints handling.
- Re-considerations (or internal reviews) are an important step in the process and there should be strict timescales for these just as there are for Scottish Welfare Fund first stage reviews.
- The appeals tribunal also hears appeals for council tax reduction (CTR), and it is beneficial if there is a single body which hears all appeals. We would welcome consistency of decision making - we have had some cases where there have been different decisions for a housing benefit appeal and a CTR appeal where the facts have been identical because they have been heard separately by different panel members. Would it be possible for a number of appeal matters to be grouped together where they relate to same time period and same claimant?

16. Residency and cross-border issues

- There are a number of options for determining residency and it should be consistent with UK benefits unless there are good reasons for difference.
- In terms of looking at the Scotland-England border, could possibly consider residency for council tax purposes as the test for this of “sole or main residence” is very similar in Scotland and England.

17. Managing overpayments and debt

- It is difficult to recover overpayments, and most recoveries are made from ongoing benefit payments. This means that the system needs to be designed to minimise the risk of overpayments occurring .
- Recoveries should be made for some official errors, as is the case with housing benefit. Where an individual should have known that an error has been made and does not correct it, then it is equitable to recover an overpayment.
- There should be a facility to make a recovery by a direct earnings arrestment for someone who is in work and there is no ongoing benefit in payment.
- There should be some discretion in the system to reduce a recovery where this is causing undue hardship.

18. Fraud

- We suggest that the opportunity is taken to work closely with DWP’s Single Fraud Investigation Service

- We support the protection afforded through carrying out interviews under caution although this is stressful for the individual.
- We agree that penalties for committing fraud in relations to Scottish benefits should be similar to penalties in relation to fraudulent claims for reserved benefits.

19. Protecting your information

- There should be data sharing with DWP to enable passporting of benefits and simplification of access to benefits, reducing the burden on applicants.
- Further data sharing should be with the consent of individuals, and should be encouraged where it is to their benefit.
- Any new system should be designed as digital first. Authentication of identity should be by the national “MyAccount” service run by the Improvement Service and driven by NRS data.
- Assisted digital should be offered for those who would otherwise be excluded.

20. Up-rating

- Where devolved benefits are operated in line with the rest of the UK, then similar up-rating should apply. Where the benefits are quite distinct or standalone, then a more flexible approach should be taken which is commensurate with policy objectives and affordability.

5.0 CONCLUSIONS

5.1 Policy & Resources Committee is asked to consider and comment on the draft response attached at Appendix 1.

6.0 IMPLICATIONS

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| 6.1 | Policy: | Affects levels and types of social security benefits to be paid in Scotland. |
| 6.2 | Financial: | About £2.7bn of benefits are being devolved. It is important that the new or changed benefits will be affordable |
| 6.3 | Legal: | New legislation would be required to put any agreed changes into effect. |
| 6.4 | HR: | A new devolved social security agency is to be set up to deliver the new benefits. Local authorities could have a significant part to pay in delivery. |
| 6.5 | Equalities: | Changes will need to be subject to a full equalities impact assessment (EQIA) at a national level. A partial EQIA has been presented for consideration. |
| 6.6 | Risk: | Continuity of payment will be very important for existing recipients of benefits to be devolved. |

6.7 Customer Service: The Scottish Government is keen that respect for the dignity of individuals is at the heart of the new agency and the new / reformed benefits. High levels of customer service will be key in achieving this.

Appendices

1 Draft response to consultation questions

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12 September 2016

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