

BW 17

Ymchwiliad i Fudd-daliadau yng Nghymru: opsiynau i'w cyflawni'n well

Inquiry into Benefits in Wales: options for better delivery

Ymateb gan: Sefydliad Bevan

Response from: The Bevan Foundation

Bevan Foundation and Joseph Rowntree Foundation consultation response to The Equality, Local Government and Communities Committee inquiry - Benefits in Wales: options for better delivery

Introduction

The Bevan Foundation is an independent, charitable think-tank that develops solutions to Wales' most challenging problems.

The Joseph Rowntree Foundation is an independent organisation working to inspire social change through research, policy and practice.

We are grateful for the opportunity to respond to the Equality, Local Government and Communities Committee's call for evidence as part of its inquiry "Benefits in Wales: options for better delivery". Our response is based on the insights gathered through our extensive work on poverty, and draws on expertise that was shared at a recent seminar organised by the Bevan Foundation on devolving powers over the administration of Universal Credit to Wales.

The response is formed of two parts and an annex. Part 1 considers the importance of welfare benefits and sets out some of the shortcomings with the present system in Wales. Part 2 examines some of the key questions that must be considered when deciding whether powers over welfare benefits should be devolved to Wales. Annex 1 is drafted by the Joseph Rowntree Foundation which sets out some lessons that can be learned from the devolution of some social security powers to Scotland.

1. Why do welfare benefits matter?

Welfare benefits are of critical importance to the people of Wales. They provide a social anchor, guaranteeing a safety net for everyone at time of need. Of people of working age, over 200,000 people claim some form of out of work benefit,¹ with many thousands more claiming other types of benefit e.g. Working Tax Credit or Housing Benefit.² When the rollout of Universal Credit is complete it is estimated that some 400,000 households in Wales will be eligible to some form of support, nearly 30% of all households.^{3 4}

With so many people of working age receiving some form of social security payment, we believe it is vital that the system is designed so as to provide the best possible support.

¹ Bevan Foundation, State of Wales Briefing, Out of Work Benefits, March 2019

² Including housing benefit and disability benefits.

³ <https://gov.wales/sites/default/files/publications/2019-03/impact-of-welfare-reform-on-households-in-wales.pdf>

⁴ In addition, almost all people over retirement age receive a state pension as well as universal benefits such as Winter Fuel Allowance. Those eligible may also receive means-tested benefits such as Pension Credit or disability benefits such as Attendance Allowance.

To ensure that the social security system works effectively, our view is that the system should be based on a set of principles. The Social Security (Scotland) Act 2018 sets out principles which could be a sound basis upon which any social security system should be built. The principles are:

- social security is an investment in the people of Scotland,
- social security is itself a human right and essential to the realisation of other human rights,
- the delivery of social security is a public service,
- respect for the dignity of individuals is to be at the heart of the Scottish social security system,
- the Scottish social security system is to contribute to reducing poverty in Scotland,
- the Scottish social security system is to be designed with the people of Scotland on the basis of evidence,
- opportunities are to be sought to continuously improve the Scottish social security system in ways which—
 - (a) put the needs of those who require assistance first, and
 - (b) advance equality and non-discrimination,
- the Scottish social security system is to be efficient and deliver value for money.

The social security system in Wales does not reflect these principles despite some welcome changes in approach by the Department for Work and Pensions. For example, many claimants report feeling that they are not treated with dignity and respect, and some families are left with as little as £2 per month after covering their essential housing costs.⁵

2. Devolving powers over welfare benefits – the key issues to consider

In 2016 we published a report looking at whether benefits for working age people should be devolved to Wales.⁶ We considered some of the advantages and disadvantages of devolving powers over welfare benefits and concluded that whilst some aspects of the welfare benefits system could better meet the needs of the people of Wales if powers were fully devolved, other aspects of the system could be more effectively managed if only administrative powers were devolved, whilst some benefits were best remaining reserved to the UK Government.

Since the publication of the report there have been significant changes to the UK's welfare benefits system, in particular the roll out of Universal Credit. The findings of the original Bevan Foundation report remain relevant however.

We suggest that there is a series of questions that the Committee should consider. The first is whether devolving powers over a welfare benefit to Wales would allow better alignment with the principles set out in section 1. Experience from Scotland does suggest that devolving powers over some welfare benefits can allow for the development of a system that is more consistent with them. For example, the Scottish Government has introduced 'Scottish Choices' which provides Universal Credit claimants with the option to have their housing benefit paid directly to their landlord and to

⁵ Presentation by Michelle Lewis of Citizens Advice Cymru at Bevan Foundation seminar on devolving powers over the administration of Universal Credit to Wales. (27th March 2019)

⁶ <https://www.bevanfoundation.org/publications/making-welfare-wales-benefits-people-working-age-devolved/>

receive their Universal Credit payment fortnightly. These flexibilities tackle two of the major weakness within Universal Credit.⁷

The second question is whether devolving powers would strengthen alignment between social security benefits and powers that have already been devolved to Wales. In a 2018 report the Bevan Foundation found evidence that Universal Credit impacts on as many as ten different devolved policy areas.⁸ Our latest project on the various support schemes delivered by the Welsh Government and local authorities, such as Council Tax benefit, Free School Meals and the Pupil Development Grant,⁹ is expected to highlight that there are significant issues for families at the interface of the two systems. Devolving powers over a welfare benefit to Wales could allow the Welsh Government to better manage the interaction between the social security system and devolved policy areas.

A third consideration is whether devolving powers over a welfare benefit to Wales would provide claimants with a greater opportunity to shape the system. One of the key arguments in favour of establishing the National Assembly for Wales was that it would move decision making closer to the people. Devolving powers over welfare benefits could also offer similar advantages. For example, following the devolution of powers over welfare benefits to Scotland, the Scottish Government have established a claimant panel of some 2,500 claimants to gather their views on policy proposals and to gather their experiences of engaging with the welfare benefits system.¹⁰ With a wealth of research suggesting that people's experiences of interacting with the welfare benefits system on a day to day basis matters greatly to them, having an opportunity to develop a more sympathetic approach in Wales could be a significant advantage of devolving powers over welfare benefits to Wales.

Fourth, a key consideration is the financial implications of the decision. Fiscal accountability was one of the key reasons why powers over taxation were recently devolved to Wales, and there are similar arguments in favour of devolving some powers over welfare benefits. If through their policies the Welsh Government is able to reduce expenditure on a particular benefit – e.g. by increasing employment of disabled people or reducing housing costs - the Welsh Government should benefit.

At the same time, full devolution of powers potentially brings the risks of additional and potentially significant costs. In our 2016 report, we highlighted that devolving benefits that reflect the economic cycle of a particular risk.¹¹ The Welsh economy is relatively sensitive to cyclical changes that are beyond the control of the Welsh Government, so there would be some risks from devolving full powers over JSA (and the UC equivalent) to Wales. The report did highlight, however, that devolving powers over other forms of benefit such as housing benefit would present a lower risk, and could result in financial gains. More recent analysis by the Wales Governance Centre has found that devolving similar powers over welfare benefits to Wales as has been devolved to Scotland, on the

⁷ Joseph Rowntree Foundation, Briefing: where next for Universal Credit and tackling poverty? 20 February 2019. Available for download at - <https://www.irf.org.uk/report/where-next-universal-credit-and-tackling-poverty>

⁸ <https://www.bevanfoundation.org/publications/universal-credit-implications-for-devolved-policies-and-services/>

⁹ <https://www.bevanfoundation.org/current-projects/support-schemes-for-low-income-families/>

¹⁰ Presentation by Dr Jim McCormick and Deborah Hay at the Bevan Foundation's seminar on devolving powers over the administration of Universal Credit to Wales.

¹¹ <https://www.bevanfoundation.org/publications/making-welfare-wales-benefits-people-working-age-devolved/>

same financial settlement, could lead to a £200 million a year budget surplus for the Welsh Treasury by 2023-24.¹²

The final question that we believe that must be considered is the possible impact on the UK's social union. It has been argued that devolving benefits could weaken the social union, leading to citizens in Wales having different rights from citizens elsewhere in the UK.¹³ However divergence in the NHS and in the education system is long established and has not eroded a common entitlement. This concern has been further weakened by the devolution of some welfare benefits to Scotland, which means that there is already degree of variation. In this discussion, we suggest there is a distinction to be made between those benefits which are arguably part of the 'social contract' e.g. benefits which are based on National Insurance contributions and those which are variable top-up payments designed to support people in specific circumstances, e.g. to manage high housing costs.

¹² https://www.cardiff.ac.uk/_data/assets/pdf_file/0010/1476352/devolving_welfare_final2.pdf

¹³ For example see the Welsh Government's evidence to the Silk Commission

Annex 1

LEARNING FROM SCOTLAND

Legislative Context

The Scotland Act 2016 devolved significant new welfare powers to the Scottish Parliament, enshrined in the Social Security (Scotland) Act 2018¹⁴. Eleven benefits were to be fully devolved, largely those related to disability and carers, but also including Sure Start maternity grant and discretionary housing payments.

Full details of the benefits will be set out in Regulations made under the Act. For a comprehensive list of the benefits to be devolved and the current policy papers relating to each benefit, please see: <https://www.gov.scot/publications/social-security-policy-position-papers/>

In addition, other powers were devolved:

- Power to provide discretionary payments and assistance (beyond those under which the Scottish Welfare Fund is currently delivered)
- Power to top-up reserved benefits
- Power to create other new social security benefits (other than pensions) in areas not otherwise connected with reserved matters
- Power to legislate for welfare foods
- Powers to vary the housing cost element of Universal Credit for rented accommodation and
- Powers to change the payment arrangements for Universal Credit

Powers to vary housing costs element and payment arrangements: Scottish Choices

Universal Credit Scottish Choices gives people living in Scotland the option of:

- Being paid their Universal Credit (UC) twice a month, rather than monthly
- Having their UC housing element paid directly to their landlords (social and private).

The power to vary how UC is paid, and to whom under the Scotland Act (2016) also gives Scottish Ministers the ability to offer 'split payments' – i.e. to split the payment of a couple's UC award, into individual payments. These powers are still being designed and discussed.

Scottish Choices were sought explicitly to address concerns raised in evidence to the Smith Commission and the subsequent consultations around devolution of social security powers, about the impact that the design of UC would have on claimants (namely single monthly payments, housing costs paid to claimants and single payments to couples).

These choices, then, are intended to offer UC claimants greater choice and control – which is an important feature but requires claimants to have access to high quality advice and support throughout their claim (not least to understand the implications of each combination).

Scottish Choices also sit alongside existing UK payment flexibilities (Alternative Payment Arrangements). These can be requested by claimants or landlords, or instituted by work coaches if there are clear reasons (related to arrears, or vulnerability) why direct payments to landlords, more frequent payments or indeed split payments within a household are required. They are discretionary, however and if implemented, reviewed periodically to check they are still relevant.

¹⁴Social Security (Scotland) Act 2018 <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

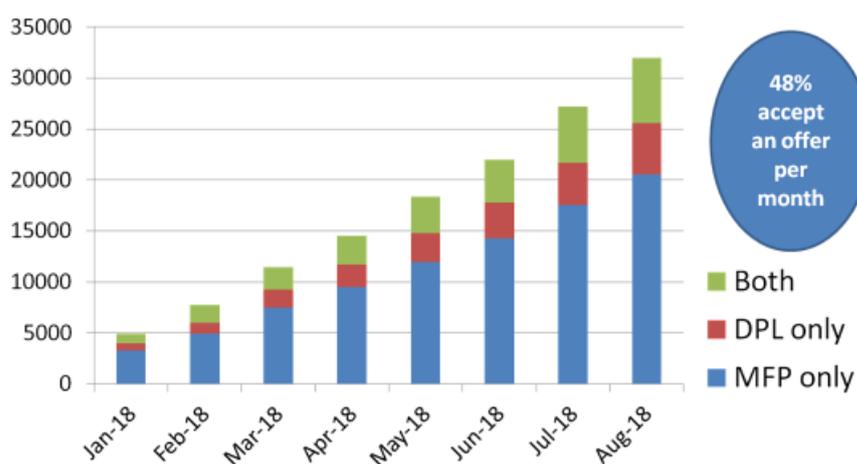
Scottish Experience of payment flexibilities

A review of the evidence available so far suggests that the impact of Scottish Choices flexibility is positive, although not without strain:

- Take up is relatively high
- More frequent payments can see claimants having to survive lengthy periods on reduced awards, early on in their claim
- Payment system is not currently working well enough for landlords or tenants
- Their impact could be improved with better integration with proposed 'run on' of benefits

Take up is relatively high

Cumulative number of UC full-service UC recipients taking up Scottish Choices since Oct-2017



Approximately half of all eligible UC claimants are taking up one or more option (48%).

Twice monthly payments (MFP) are the more popular choice, confirming that for many low income households, more frequent payments can be a key tool in helping them manage their finances. A significant number are also opting for payments direct to landlords (DPL).

What the published data shows is a cumulative total of all those opting for a Scottish choice. DWP and the Scottish Government should also explore (and publish) the extent to which claimants opt back out of those choices, and the reasons why. We have some anecdotal evidence that this is happening but not the sense of the scale or rationale.

It is worth noting that while Scottish Choices are now available to all UC claimants, the profile of UC claimants is still heavily weighted towards single, unemployed people and therefore the full impact on a wider set of household types working and not working (women, disabled people, couples with children, self-employed) hasn't yet been seen.

More frequent payments can see claimants having to survive lengthy periods on reduced awards

As is clear from the examples used in the UK Government guidance¹⁵, if you opt for more frequent payments in Scotland, you can wait two weeks longer for your full month's award (once those choices are implemented) than those receiving a single monthly payment – potentially causing greater hardship early in the claim, even if longer term the payment pattern would be helpful.

This underlines the need for choices to be better integrated into the other design features of UC (see final section).

Payment system is not currently working well enough for landlords or tenants

In their evidence to the Scottish Parliament Social Security Committee inquiry into social security support for housing, SFHA¹⁶ suggest that the effectiveness of UC Scottish Choices has been adversely affected by the way in which housing costs are paid directly to the landlord and the misalignment in the systems through which payments are made e.g. Third Party Creditor (Deductions) scheme.

Relevant housing costs are deducted from a tenant's UC payment, but are made to landlords some time later as part of a 'batch' payment to landlords which does not relate to rent due dates and can require significant manual reconciliations (to ensure the right payment is attached to the right tenant, for the correct period). The (12) monthly awards of UC do not match with the (13) four week cycles of the Third Party database, creating a gap in payment, where tenants appear in arrears. In some instances, these delays and misalignments can see tenants issued with arrears notices and threatened with eviction.

This risk of indebtedness-by-design is compounded by tenants having to pay their first rent themselves with their initial award (as choices are only offered from the second payment cycle onwards) and made more complex, where tenants have taken up advance payments, or have variable income and thus reduced or fluctuating awards. We know that as Universal Credit has rolled out, local authorities and landlords have highlighted the spike in rent arrears and impacts on their own costs and risks they're carrying.

SFHA highlight that the new proposed payment system¹⁷, if successful, could make direct payments to landlords more attractive for both landlords and tenants, as they move to monthly cycles and offer the opportunity to better align individual payments, but further detail is required.

The design and delivery of split payments

The payment of the household UC entitlement to only one account has been particularly controversial from the beginning of UC, potentially undermining women's independence and putting at particular risk women in households where there is domestic or financial abuse.

While the existing UK Alternative Payments Arrangements allow for split payments to be made, the number of arrangements in place is unfeasibly small¹⁸ (20 households, as of November 2018).

¹⁵ See 'If you live in Scotland' <https://www.gov.uk/universal-credit/how-youre-paid>

¹⁶

https://www.parliament.scot/S5_Social_Security/Inquiries/SSCS519SSH10_Scottish_Federation_of_Housing_Associations.pdf

¹⁷ See <https://www.insidehousing.co.uk/news/news/dwp-agrees-to-change-universal-credit-direct-payments-schedule-59623>

¹⁸ See <https://www.gov.uk/government/statistics/universal-credit-29-april-2013-to-14-march-2019>

The design and delivery of this aspect of Scottish Choices is under careful consideration at present, with on-going negotiations between the Scottish Government, the UK Government and DWP on the right policy, implementation timetable and IT solutions.

The principle of effective social security as an individual entitlement is enshrined in Scotland's social security and devolution legislation, but fully realising that right in the context above can be problematic.

Conclusion

JRF have commissioned Glasgow University and the Poverty Alliance to conduct a small qualitative study exploring the experiences of Universal Credit in Glasgow (January 2019 – September 2019) from the perspectives of claimants, work coaches and support agencies. One key area will be their knowledge of, and experience with Scottish Choices and we would be happy to share what we are learning, so far. We expect to be able to publish the finalised research in Autumn 2019.

The flexibilities around payment are designed to try and improve the effectiveness of support for claimants, but their ability to do this is constrained by the way Universal Credit is currently designed and delivered.

More frequent payments, payments of housing costs directly to both social and private landlords and individualised payments cannot of themselves address the issues around lengthy delays to first or subsequent payments, the adequacy of those payments, allowable deductions, or the transfer of risks to landlords, local authorities and claimants themselves.

However

- 1) If the new payments system for landlords is designed effectively, in conjunction with landlords and tenants, and results in faster and more accurate payments that may begin to de-risk UC for landlords and improve the situation for claimants. And
- 2) If we extended the run-on payments of other low-income benefits (IS, ESA, JSA) alongside HB for the first two weeks, now rather than in July 2020, that starts to improve the transition for claimants - and changes how fortnightly payments are experienced (as no longer in arrears compared with those receiving UC monthly).

Finally, it is worth reflecting again that the capacity for UC to offer all claimants 'choices' exists already through the APA and there may be a number of options for ensuring that claimants in Wales (or elsewhere) can access those choices.