

Scotland Bill

Chartered Institute of Housing Scotland

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1. General Comments

- 1.1 CIH Scotland welcomes the opportunity to submit our views on the Scotland Bill which seeks to devolve further powers to the Scottish Government as per the recommendations of the Smith Commission. As a representative of the housing sector, our response will focus on issues relating to welfare, taxation and borrowing.
- 1.2 We have been involved in discussions around the devolution of powers to Scotland throughout the process of the Smith commission, the publication of legislative clauses and now the introduction of the Scotland Bill. Our aim throughout the process has been to ensure that the powers transferred to the Scottish Government will support our vision of creating a housing system that works for everyone. This involves the delivery of enough good quality homes to meet the needs of our growing population and a social security system that enables people to live in a suitable home with support if and when they need it. These principles are outlined in the diagram below.



- 1.3 While the devolution of further powers presents a positive opportunity to create a housing system in Scotland that better reflects political aims and ambitions at a national level and can be tailored to meet needs more locally, we feel that some of the concerns that have been raised previously are still valid and that there is merit in repeating these here.
- 1.4 In our submission to the Smith Commission's call for views on the devolution of welfare and taxation powers, we made three key points:
- Housing Benefit should not be devolved in isolation;
 - The welfare system should continue to be delivered by the UK Government with Scotland having the option to 'top up' Housing Benefit with revenue raised in Scotland; and
 - In order to be able to make viable changes to the welfare system, the Scottish Government would need to be given adequate powers to raise enough revenue through taxation.
- 1.5 We are satisfied that the legislation goes further than simply transferring Housing Benefit and the administrative flexibilities around Universal Credit amount to a similar scenario to the one that we suggested whereby the UK Government will continue to deliver the basic framework of the social security system across the UK and the Scottish Government will have the option to 'top up' the housing element. It is less clear whether the legislation will allow sufficient revenue to be raised to support the changes that need to be made to create a housing system that works for everyone.
- 1.6 Our concerns are outlined below.

2. Powers over Taxation and Borrowing

- 2.1 One of our main concerns remains around a lack of clarity on how some of the powers will work in practice particularly in relation to taxation and borrowing which are vitally important in enabling the Scottish Government to fund housing development and changes to the social security system.
- 2.2 We accept that if the Scottish Government decides to make changes to the way in which social security is calculated or delivered in Scotland that the cost of these decisions must be met by the Scottish Government. This is a fair and rational position. It makes sense that in order to fund increased spending on social security, the Scottish Government will be given powers over Income Tax rates and thresholds and that a proportion of VAT raised in Scotland will be retained.
- 2.3 However, what is less clear is how the use of powers over taxation will impact on Scotland's block grant and therefore how any significant change can be realistically achieved. The Smith Commission made a very clear recommendation (paragraph 95) for a fiscal framework to be set out for Scotland and it is disappointing that no details have been included in the

Scotland Bill. We believe there is still a danger that the Scottish Government may appear to have the power to make changes to the social security system in Scotland but lack sufficient fiscal levers to put changes into practice.

- 2.4 The Smith Commission recommendations also called for the fiscal framework to provide Scotland with sufficient borrowing powers to allow for fluctuations in income and to support capital investment. Again, the Scotland Bill lacks any detail to this effect. Our submission to the Smith Commission sought taxation and borrowing powers to support much needed development of new homes across all tenures to address Scotland's growing housing need. It is unclear whether any significant programme of house building could be supported under the current proposals.
- 2.5 In addition to funding mechanisms for new build homes, our submission to the Smith Commission also called for powers to vary VAT for improvements to existing homes. This measure would have helped to support much needed maintenance and improvement of homes across Scotland, a particularly pertinent issue in the private sector and one which needs to be addressed if we are to improve on current fuel poverty levels which contribute directly to poor health and inequality. We are disappointed that this opportunity has not been taken up on this occasion and hope that it can be revisited in future.
- 2.4 The issue of 'no detriment' has been raised on numerous occasions by colleagues working in the housing and social security sector. How will detriment be defined and who will decide the levels of reimbursement to be paid to or from the UK Government? These are important questions that must be answered before Scottish Ministers can make decisions about whether or not the use of devolved powers is financially viable.

3. Discretionary Housing Payments

- 3.1 We noted in additional evidence submitted to this Committee following a meeting on 19 February 2015 that the draft legislative clauses set out in the previous Government's command paper which retained existing restrictions on DHPs did not appear to fulfil the principles of the Smith Commission report which recommended that:

The Scottish Parliament will have complete autonomy in determining the structure and value of the benefits at paragraph 49. [including DHPs]

- 3.2 We felt that by including existing limitations on how DHPs could be awarded, the Scottish Government would not be granted 'complete autonomy'. We are pleased to see that in the drafting of the Scotland Bill, some restrictions appear to have been removed. However, there still remain limitations regarding eligibility for DHPs and payments to people who have had their income reduced as a result of sanctions or conditionality.
- 3.3 This remains a source of concern especially given the extent of sanctions being issued in recent years (over 58,000 adverse sanctions were applied to

JSA and ESA claimants in 2014)¹. In addition, with the roll out of Universal Credit, sanctions will be applied to a household's total income which is likely to increase the risk of rent arrears, possible court action and even homelessness.

- 3.4 Discussion with our members suggests that greater flexibility in how DHPs can be awarded would be welcome.

4. Practicalities of Implementing Changes

- 4.1 Consideration of the practicalities around the powers to change certain aspects of Universal Credit in Scotland raises further questions. CIH has previously acknowledged the potential for positive outcomes arising from the implementation of Universal Credit, particularly with regards to the application of a single taper rate and reducing the withdrawal of benefits as a person moves into work. But it is unclear how a single taper rate could be applied if the housing element of Universal Credit was separated out to allow variances in Scotland.
- 4.2 We understand that the Scottish Government is in discussions with the Department for Work and Pensions (DWP) to identify options for varying the administration of Universal Credit in Scotland. We look forward to working with the Scottish Government in exploring the possibilities for the use of new powers.

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¹ <http://www.gov.scot/Topics/People/fairerscotland/analysis>