

# Response to the call for evidence from the Expert Working Group on Welfare



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This paper has been prepared by Professor Paul Spicker, who holds the Grampian Chair of Public Policy in the Robert Gordon University. Professor Spicker is the author of several academic studies of social security policy, including *Poverty and social security* (Routledge, 1993), *Poverty and the welfare state* (Catalyst, 2002) and *How social security works* (Policy Press, 2011). He has acted as an adviser for the States of Guernsey (1995-99), the House of Commons Work and Pensions Committee on benefit simplification (2007), the Welfare Reform Committee of the Scottish Parliament (2013) and the Scottish Federation of Housing Associations. The paper is submitted in a personal capacity.

## *Question 1*

*What should be the high level purpose(s) of the benefits system in an independent Scotland? What key outcomes should such a system aim to achieve?*

In *How social security works*, I outline ten principal purposes associated with social security provision - though, as the book makes clear, there are further criteria beyond that. The ten are

- the relief of poverty
- the prevention of poverty
- social protection
- compensation
- redistribution
- income smoothing
- economic policy
- shaping people's behaviour
- solidarity, and
- promoting social cohesion.

Some of the subsidiary principles considered later in the book include rehabilitation, management of the labour market, recognition of desert or the finance of other social policies.<sup>1</sup> The bane of policy in this field has been over-simplification. Benefits are complicated for good reasons; any attempt to impose a small handful of over-riding principles tends to run foul of the others.

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<sup>1</sup> P Spicker, 2011, *How social security works*, Bristol: Policy Press.

### *Question 2*

*What are the main principles that should underpin the benefits system?*

Benefits are not meant to provide for all people's basic needs - some important needs are met through other public services, such as health, education and social care. Benefits operate primarily through the maintenance of income, and consequently the tests that apply have to be about income.

Benefits need both to provide a secure income, and to respond to different types of need. Governments in the UK have increasingly systems that are personalised, frequently changing and conditional. This arrangement is insecure (and administratively unworkable) - the very opposite of what a benefits system needs to do. The practical solution is to offer different benefits for different purposes, in ways that can be combined differently according to the circumstances of the claimant. In the literature of comparative social policy, benefits are generally understood in terms of 'income packages'.<sup>2</sup> Different benefits can be given, in different proportions, for people in different circumstances. That makes it possible to produce a wide variety of outcomes from different combinations of a range of benefits.

### *Question 3*

*Which areas of policy are fundamental to the delivery of a system that meets the principles you have set out? What evidence do you have to support that view?*

The UK government has committed substantial resources to the impossible dream of benefits that are personalised, rapidly responsive to changes and able to change in 'real time'. Over 45 years ago, Richard Titmuss attacked the folly of 'expecting the computer to solve the problems which human beings have not yet adequately diagnosed'.<sup>3</sup> When the decision to develop Universal Credit was mooted, I explained that "a computer programme can only respond as quickly as the information that goes into it. ... The attempt to resolve complex social problems with nothing more than technology is wishful thinking."<sup>4</sup> Realisation has started to dawn belatedly in the DWP: Howard Shiplee told the Work and Pensions Committee on Monday, "As the potential for claimants to change circumstances, for things to change ... the more complicated it becomes."<sup>5</sup> The problems of the Universal Credit system are not simply down to a failure of technology, but a failure to understand that the computers are being asked to do something that is beyond the capacity of any administration.

Security of income can be guaranteed most effectively in two ways. One is to favour benefits which do not alter when people's conditions or work status changes. The clearest

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<sup>2</sup> L Rainwater, M Rein, J Schwartz, 1986, *Income packaging in the welfare state*, Oxford: Oxford University Press.

<sup>3</sup> R Titmuss, 1968, *Commitment to welfare*, London: Allen and Unwin, p 114.

<sup>4</sup> P Spicker, 2011, *The Universal Credit scheme is only half baked*, Guardian <http://www.theguardian.com/society/joepublic/2011/jan/19/universal-credit-half-baked>

<sup>5</sup> Reported in <http://www.independent.co.uk/news/uk/politics/iain-duncan-smith-insists-benefit-reform-is-on-track-8992509.html>

example is Child Benefit, which has been described as a ‘lifeline’ precisely because it can be relied on when other benefits can’t be. The other is to slow down the responsiveness of the system - Family Income Supplement formerly granted entitlements for six-month periods, Pension Credit makes some of its tests last five years. This is, of course, the opposite of the policy currently being pursued within the Department for Work and Pensions.

*Question 4*

*Which areas of welfare should be delivered as services and which through cash transfers, and why?*

Benefits are provided in the form of cash, rather than goods in kind. That implicitly assumes that the things that people will need - such as food, energy or clothing - are provided through a market. However, that assumption does not work for every kind of need. For example, water is paid for through the same mechanism as Council Tax, but in Scotland water rates are not eligible for Council Tax Reduction, meaning that even if a householder is entitled to Council Tax to be paid in full, there will still be a residual amount to pay.

Benefits should be used for those items which it is intended to distribute through the market; they should not be used for services distributed by other routes. The model of this approach can be seen in the distribution of NHS prescriptions, formerly dealt with by a complex combination of charges, benefits and exemptions, but now free. The most problematic area is social rented housing, which is now substantially reliant on Housing Benefit for its finance rather than for grants made for provision. This arrangement is unsound, insecure both for tenants and for social housing providers. The Scottish Government ought to be looking for ways to reduce the emphasis placed on personalised benefits and to increase the emphasis made on social provision of goods and services.

*Question 5*

*Of these services and/or transfers which should be means-tested support and which should be universal provision?*

Although the literature in social policy often refers to a basic contrast of ‘means testing’ with ‘universal’ benefits, the position is not straightforward. Many of the criticisms addressed to means tested benefits - failure of take-up, boundary problems and stigmatisation<sup>6</sup> - apply to other benefits which are not means-tested (such as Disability Living Allowance, or the insurance-based income replacement benefits for people of working age). The problems with means testing are that they commonly fail to reach their target group, and that they require a level of administration that no system can deliver - in an increasingly precarious labour market, the benefits are particularly ill-equipped to deal with rapidly changing circumstances.

There are different types of means-tested benefits. One category of means-tested benefits are income replacement benefits, intended to provide minimum income support: as Income Support is being phased out, this is mainly now the role of JSA, ESA, Carers Allowance and Pension Credit. The other category is based on a ‘taper’, so that benefits reduce as income increases, and typically they are available to people both in and out of work.

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<sup>6</sup> W van Oorschot, 1995, *Realizing rights*, Aldershot: Avebury.

They include Housing Benefit, Tax Credits, Council Tax Reduction and the proposed Universal Credit system. The administrative problems posed by tapered benefits are substantially greater than those of minimum income benefits. People cannot tell clearly what they are entitled to, whether they are being paid the right amounts, or when their entitlement stops. The proposals for Universal Credit combine all the worst features of benefit reform over the last forty years - the Unified Housing Benefit (described in its day as ‘the greatest administrative fiasco in the history of the welfare state’<sup>7</sup>), the Child Support Agency (too many moving parts - an impossible means-test requiring information about the income, composition and circumstances of two households) and the Tax Credit scheme (which the Parliamentary Ombudsman condemned as being fundamentally unsuited to the needs of low income families.<sup>8</sup>)

Benefits do not have to be all delivered to the same formula, but by the basic tests of predictability, security and practicality, the best arrangement would look for a combination of benefits that are straightforward, relatively unconditional once eligibility has been established and - crucially - slow to change. There are examples in retirement pension (insurance-based), Child Benefit (universal) and the former system of student grants (means-tested).

#### *Question 6*

*How important is it that benefits relate directly to the contributions paid by an individual, and if important, which benefits and why?*

Beveridge, like Roosevelt before him, thought that contributions would guarantee the popularity and security of benefits.<sup>9</sup> That has proved not to be the case. The National Insurance system for unemployment and incapacity have proved highly vulnerable to opposition from politicians; the rights of claimants have not been protected; the system effectively failed for unemployed people in the 1990s. Contributions could help to respond to some problems, including differential entitlements of EU residents, and arguably they would help to legitimate the new system. At the same time, it is in the nature of contributory systems that everyone cannot qualify, and so that there must be at least a two-tier service to cover basic needs.

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<sup>7</sup> The Times, cited R Walker, 1986, Aspects of administration, in P Kemp (ed) The future of housing benefits, Glasgow: Centre for Housing Research, p 39.

<sup>8</sup> Parliamentary and Health Service Ombudsman, 2007, Tax Credits - Getting it Wrong? HC 1010.

<sup>9</sup> Cmd. 6404, 1942, Social insurance and allied services, London: HMSO, para.21; L Gulick, 1941, Memorandum on conference with FDR concerning Social Security taxation, at <http://www.ssa.gov/history/Gulick.html>.

### *Question 7*

*When considering the cost of welfare in the future, what are the most important considerations which Governments in an independent Scotland should take into account, and why?*

Most benefits go to pensioners, and the numbers of older people are set to increase. By contrast, ‘out of work’ benefits have been static for some time, and have actually declined as a proportion of national income.<sup>10</sup>

The costs of benefits should not be seen in isolation. Tax Credits have grown because of a deliberate policy to supplement low wages rather than raising them. Another important contributory factor has been the decision not to provide child care directly. The costs of support for housing have increased partly because of the withdrawal of housing subsidies, and partly because of a deliberate policy in England of raising rents in order to establish a level playing field between social renting and the private sector. The costs of supporting people with disabilities have been increased because of policy and provision intended to keep people out of institutional care. The costs of benefits would fall if the minimum wage was higher, or social housing was subsidised directly, or if more jobs were created. That may or may not mean that social expenditure reduces.

There is a profound danger in making undertakings about cost or the maintenance of specific benefits. If costs are held constant, benefits can only be improved for some groups by making other groups worse off. If payments are maintained to pensioners, the effect of any economies on people of working age will be magnified. If governments are committed to maintaining the shape and form of existing benefits - for example, the pledge to abolish the bedroom tax - it also commits itself to mirror the UK system of benefits. The Republic of Ireland found itself in a similar position, moving in lock step with the UK system for more than seventy years after independence; that is a trap to be avoided.

### *Question 8*

*How should benefits be delivered in this system? (e.g. Through a new or existing national public body? Through existing public or third sector organisations? Localised delivery based on national guidelines) What would this entail? Are there barriers to such a structure?*

In *Scotland’s Future*, the Scottish Government makes commitments about benefits which may prove to have unintended consequences. One is the pledge in respect of pensions that “All accrued rights will be honoured and protected.”<sup>11</sup> A young adult working at age 21 has already accrued rights; those rights may be realised at age 68, 47 years in the future, and pensions relating to those rights may still be deliverable at age 95. This is then a commitment to rely on contribution records held in England for the next fifty years, and to retain aspects of

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<sup>10</sup> DWP 2013, Benefit expenditure and caseload tables 2013: Medium term forecast for all DWP benefits, Benefit summary table, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/222845/expenditure\\_tables\\_Budget\\_2013.xls](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/222845/expenditure_tables_Budget_2013.xls)

<sup>11</sup> Scottish Government, 2013, *Scotland’s Future*, pp 10, 24, and 140.

the UK system for the best part of a century. Another is the commitment to retain the structure of Housing Benefit.<sup>12</sup> Housing Benefit and its predecessors have presented continuing problems of complexity, inequity and difficulties in housing finance. What the government needed to pledge was protection of the circumstances of people who receive these benefits - not the retention of a specific pattern of benefit delivery.

There is the potential for a new and distinctively Scottish model for benefit delivery on local terms, in line with national guidelines. Some remarkable things have been happening in the delivery of benefits in Scotland in the course of the last few months. From a standing start, local authorities in Scotland have been asked to develop safety net services to replace the Social Fund. Several have done this by combining existing benefit structures - for Housing Benefit and Council Tax Reduction - with welfare rights and advice, rent collection and council tax collection. With the absorption of Housing Benefit into Universal Credit, these units may cease to be viable, and there is a risk that these initiatives might be extinguished before they are clearly established; but there is something here worth developing, and if either independence or devolution follow the referendum, it offers scope for that development.

There may be scope, too, to import an aspect of the French social security system at a local level. The *Centre Communal d'Action Sociale*, is a local authority body that offers benefits advice, assists claimants in the preparation of claims and is paid by the benefits agencies for the completion of administrative procedures that would otherwise have had to be done by benefits officials.

#### *Question 9a*

*What are the advantages and challenges of the delivery system you propose?*

The UK government has fixed on the idea of one complex, unified benefit, delivering payments that will alter rapidly and responsively as long as the computer can keep up. This approach is fraught with problems. Benefit levels will be unpredictable; the system has to depend on firm answers to questions about circumstances and situations which are anything but clear. Any mistake in benefit delivery, or stoppage in benefit because of lack of information, could be devastating.

The principles I have outlined argue for a very different approach. People should be receiving a collection of small, simple, predictable benefits; their total income will depend on the accumulation of a range of benefits, but the loss of one benefit will not leave people penniless. To make the system more predictable and manageable, there should be common pay days - every benefit should have the same pay day for everyone.

The advantage of such a system would be the provision of a relatively secure, predictable, stable income, delivered at regular intervals. Using a range of smaller benefits allows, too, for a degree of responsiveness to varying needs. The disadvantage would be that adapting any system to its 'mass role'<sup>13</sup> necessarily sacrifices a degree of responsiveness in order to provide a degree of security. If the costs of benefits are held steady, no-one can be

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<sup>12</sup> Scottish Government, 2013, e.g. on pp 158, 168.

<sup>13</sup> Department of Health and Social Security, 1978, *Social Assistance*, London: DHSS.

better off without making someone, somewhere worse off.

*Question 9b*

*What should its relationship be with e.g. 'job centres', work preparation programmes, and members of society who are unable to work but wish to play a full role in society?*

There appears to be an assumption in this part of the question that benefits are intrinsically concerned with preparing people for the labour market. The same assumption is evident in the Scottish Government's White Paper on Independence, which refers to the link with work as an 'overarching aim'.<sup>14</sup> This is a distortion of perspective. Most benefits are neither intended nor designed for the circumstances where people are jobless and may return to work. Among benefits for people of working age, most are paid both to people in work and out of work. That applies to Tax Credits, Child Benefit, Housing Benefit and disability benefits. The majority of the remainder go to people who, according to the criterion applied in statute, it is not reasonable to expect to work, and others go to people who are excused from that expectation. However, the view that benefits ought to be redesigned around concerned with work preparation has had a devastating effect on the security, quality, performance and adequacy of the benefits system. The development of conditionality and sanctions, the declaration that people are 'fit for work' and the Work Programme have greatly added to the complexity, administrative cost and of the benefits system. They have been characterised by arbitrary decision making, hardship and appeals that now number in the hundreds of thousands. The high success rate of those appeals that are heard seems to show that many decisions are wrong. There is no evidence that such policies have had any positive effect on movement into work, and it has been suggested that some current policies may have had the opposite effect from that intended.<sup>15</sup> Labour market policy should be developed independently from the benefits system, and the assumptions made in the current programme of welfare reform should be avoided.

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<sup>14</sup> Scottish Government, 2013, p 160.

<sup>15</sup> E.g. J Portes, at <http://niesr.ac.uk/blog/dwp-analysis-shows-mandatory-work-activity-largely-ineffective-government-therefore-extending#.UklTjz8mHxw>; House of Commons Work and Pensions Committee, at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2010/work-programme---experience/>