What you need to know about the Scotland Bill March 2016 update

The Scotland Bill 2015-16 (the Bill) was introduced by the UK Government on 28 May 2015. The Bill will transfer significant powers to the Scottish Government, including powers over taxation, borrowing and social security, as recommended by the Smith Commission report.

Since its introduction, there has been much debate about the content of the Bill, whether this reflects the spirit and the recommendations of the Smith Commission how the powers would impact Scotland's budget.

On 23 February, the UK Government and Scottish Government agreed a new fiscal framework for Scotland setting out how Scotland's block grant will be calculated and adjustments that will be made to reflect the devolution of elements of taxation and social security.

With the fiscal framework agreement in place and following recommendations of the Devolution (Further Powers) Committee, on 16 March the Scottish Government granted legislative consent for the Bill to move through the final stages in Westminster.

Key measures for housing and welfare

Devolved Social Security Powers

The Scotland Bill devolves responsibility for the following benefits:

- **Disability benefits** including Disability Living Allowance, Attendance Allowance, Personal Independence Payment, Carer's Allowance, Industrial Injuries Disablement Allowance and Severe Disablement Allowance
- **Benefits which comprise the Regulated Social Fund** including Winter Fuel Payments, Cold Weather Payments, Funeral Payments and the Sure Start Maternity Grant
- **Discretionary Housing Payments**
- **Employment schemes** relating to disabled people and those at risk of long term unemployment

Jobcentres will remain in place under the remit of the DWP and sanctions and conditionality will remain reserved.

The Bill also includes a power for the Scottish Government to provide discretionary payments to top up reserved benefits and the power to create new benefits.

Universal Credit

Universal Credit remains reserved and will continue to be rolled out across the UK. However, the Bill does transfer powers to vary some elements of Universal Credit including powers to:

- Vary the housing element
- Change the frequency of payments
- Pay the housing element directly to landlords
- Split payments between joint claimants

Making use of the new powers

The current Scottish Government has set out its intentions for how the new powers will be used in a report published in March.

The report acknowledges that the transfer of powers will be complicated and it will take time to implement changes. While timescales for changes cannot yet be given, the Scottish Government has made five commitments for the use of the new powers:

- To effectively **abolish the 'bedroom tax'** by adjusting the housing element of Universal Credit
- To **enable Universal Credit to be paid directly to social landlords**

- To **offer twice monthly payments** rather than monthly payments to Universal Credit claimants
- To begin to **increase Carer's Allowance to the level of Jobseeker's Allowance**
- **To abolish the 84-day rule**, under which children with disabilities and their families stop receiving Disability Living Allowance and Carer's Allowance if they are in hospital for more than 84 days

The fiscal framework

If the Scottish Government does make changes to policy it will have to cover any associated costs. To facilitate and manage this, the Scotland Bill includes some powers over taxation and increased borrowing capacity.

The devolution of some benefits and taxation mean that Scotland's block grant will have to be adjusted. The mechanism for working out Scotland's block grant and adjustments is set out in the new fiscal framework recently agreed by the UK and Scottish Government.

Under the agreement, the Scottish Government's basic block grant will continue to be calculated using the Barnett Formula. Deductions will then be made to account for tax raising powers and additions will be made to reflect the transfer of benefits.

Under the agreement, funding for the Scottish Government will be Indexed Per Capita which means that the Scottish Government's budget will not suffer if the population in Scotland fails to rise in line with the rest of the UK.

This arrangement will be reviewed independently with recommendations reported to both Governments by the end of 2021.

A one off payment of £200 million will be made to the Scottish Government to cover costs associated with the implementation of the new powers. A baseline transfer of £66 million to cover ongoing administration costs will be made to the Scottish Government. This will be indexed through normal application of the Barnett Formula.

Some complexities remain around the application of the 'no detriment' rule as set out in the Smith Commission. This rule states that where either Government makes a policy decision that affects the tax receipts or expenditure of the other, the decision making Government will either make a payment to the other if there is an additional cost or receive a transfer from the other if there is a saving.

The fiscal framework states that the assessment of the cause and scale of financial impacts should be based on a shared understanding of evidence and agreed by both Governments. The fiscal framework also sets out the route for dispute resolution if an agreement cannot be reached.

However, it ultimately concludes,

> *"If no agreement can be reached then the dispute falls – there would be no specific outcome from the dispute and so no fiscal transfer between the Governments."*

Given that there is likely to be at least some degree of subjectivity in every case, the two Governments will have to work more closely than ever before if the new financial framework is to be successfully implemented.

CIH Scotland position

The transfer of powers through the Scotland Bill provides an opportunity to make significant changes to the way that services are delivered in Scotland. We welcome the Scottish Government's commitment to continue to mitigate the 'bedroom tax' and to do this through the housing element of Universal Credit going forward.

However, there are also risks associated with the devolution of new powers, particularly in relation to funding. We do not yet know how much it will cost to develop a new benefit system for Scotland, how much it will cost to run and how the new system with interact with the existing system. Changes will have to be carefully considered in partnership with stakeholders and closely monitored.