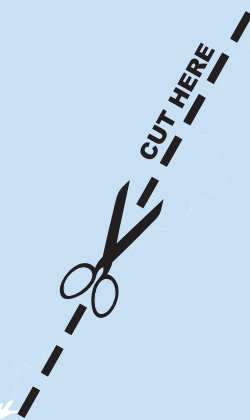




# Devolving Housing Benefit

A Discussion Paper

Kenneth Gibb and Mark Stephens





# Foreword

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As a significant period of lobbying on the UK Coalition Government's welfare reforms draws towards a conclusion, housing bodies in Scotland and across the UK are now looking increasingly to the future.

Both CIH Scotland and SFHA are focusing on helping landlords prepare for managing the various challenges stemming from the reforms. The key objective is to help our respective members support their tenants through the most radical set of welfare reforms we have seen for a couple of decades. .

It also means looking at the bigger policy picture. Never before has there been such heightened awareness of the impact which UK policies have on devolved housing policy in Scotland. Alongside this, the referendum on independence for Scotland is expected in 2014.

Against this background, this report looks at what the arguments might be for devolving Housing Benefit to Scotland, firstly within the existing arrangements and secondly within any "devolution max" system.

There can be no doubt that this is a complex issue. We are grateful to Ken Gibb and Mark Stephens for setting out the potential options in what we believe is a very accessible manner. Our intention in publishing this report is to kick start an important debate. Both CIH Scotland and SFHA look forward to playing a proactive part in ongoing discussions on this critically important issue for tenants, landlords and the Scottish housing system as a whole.

Jim Strang, Chair, CIH Scotland

Teresa McNally, Chair, SFHA





# 1. Introduction

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CIH Scotland and the SFHA commissioned the authors to write a short discussion paper that considers the scope and implications of devolving UK-reserved Housing Benefit (HB) to Scotland. This ambition was an SNP 2011 election manifesto pledge, though it is not one of the subsequent six Government priorities. Nonetheless, we understand that the Scottish Government is actively exploring the question. CIH thought that the time was therefore ripe to explore this in more detail and to at least consider the possibilities that might arise if such a decision was taken.

The paper is organised in three main sections, aside from Introduction and Conclusion. First, the policy context is outlined. How does HB currently operate in the UK and what impact has devolution made on the system and its finances thus far? The UK Benefits system, including HB, is currently under close scrutiny and we briefly outline the Coalition Government cuts agenda and the proposals for a Universal Credit (UC). The section also takes a close look at recent proposals to extend devolution in Scotland and how this has

led to discussion about devolving HB – and what this actually might mean.

The second main section of the paper explores the practicalities, risks and challenges of devolving Housing Benefit under current constitutional arrangements (that is, with social security treated as a reserved function). Key problems relate to disentangling HB from the proposed Universal Credit and the rest of the non-devolved social security system, the deal with Westminster over the financial settlement and the likely problems over the adequacy of resources to enable meaningful delivery of a Scottish version of Housing Benefit. The penultimate section of the paper stands back and asks – if there was ‘devolution max’ and social security was essentially devolved, what options might be available and what issues would therefore arise if we were to take Scotland running low income personal housing subsidies seriously? The final section summarises and concludes.





## 2. Policy context

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### The current system

Housing Benefit is nested within and essential to the present working of means-tested benefits within the reserved UK system of social security.

The national Housing Benefit scheme was first introduced in the early 1970s, and the present system is essentially that which has operated since the last major reform of social security in 1988. Eligibility is limited to tenants, but extends to both those who are in or out of work (subject to a means-test).

At its simplest, Housing Benefit helps low income renters pay for their housing costs (a separate scheme exists for mortgagors qualifying for income support).

It fulfils two essential functions:

- **Income maintenance:** Housing Benefit is designed to protect incomes after rents to ensure that households can purchase sufficient other necessities.
- **Affordability:** Housing Benefit limits the burden of housing costs to some households so that they do not absorb a disproportionate amount of the household budget.

It is this essential dualism (or ambiguity) between the housing policy objectives and those of income maintenance that sets the UK system apart from its continental counterparts and is at the heart of many of its difficulties.

The income maintenance objective became more explicit in the system introduced in 1988. It explains why (in principle) Housing Benefit can pay the whole

of someone's rent and why (in principle) a rent increase in its entirety can be met by it.

It is much more complex in reality (as we describe below), but these underlying principles help to explain why it is difficult to reform in the ways that many would like. The UK housing lobby has often been drawn to other European housing allowance models where, to simplify, less generous targeted allowances have operated alongside more generous systems of social security and pensions (see: Kemp, editor, 2007). The UK is unique in making no allowance for housing costs within its mainstream social security benefits.

The fundamental tension between these two roles is a theme we return to throughout this paper.

Once we look behind the underlying principles of the Housing Benefit system, we find that it is actually a series of mini-systems varied according to the rental tenure they work within.

Local authority tenants receive **rent rebates**, which are operated as deductions from their rents. They are directly applied to the individual rent statements of tenants by the council, which also administers the system. An assumption is made in the financial settlement for the Scottish Parliament each year relating to average rent increases and their consequent impact on the Rent Rebate bill, which is an explicit part of the Parliament's public spending block.

Eligible housing association tenants receive a **rent allowance**, which, for virtually all intents, is the same system from the point of view of tenants, though it is not controlled fiscally in the same way and has no direct implications for the Scottish Block, as it is funded directly by the Department for Work and Pensions.





Private tenants are, however, treated differently through the **Local Housing Allowance (LHA)** system. At this point it is simplest to explain how the Local Housing Allowance works by demonstrating how the more general Housing Benefit system works.

The general position for a social (council or housing association) tenant in terms of eligibility is that, provided their rent is less than or equal to their eligible housing cost ceiling, they will have *all* of their rent met by Housing Benefit if their assessed weekly income is less than or equal to the assessed need for their household circumstances (the applicable amount of the income support scheme, modified for Housing Benefit purposes – e.g. employing assumptions about the levels of savings allowed). Should their income rise above the assessed need threshold, there is a 65 pence reduction in Housing Benefit for every pound that income exceeds the applicable amount (until it falls to zero). This can be described in formula terms as:

**HB = ER** (where income [Y] is less than or equal to assessed need [A], and ER represents eligible rent)

Or (if income [Y] is greater than assessed need [A]):

**HB = ER – 0.65 (Y-A).**

The key point of this approach is that HB prevents eligible rents from taking incomes below social assistance (e.g. JSA, IS, Pension Credit) levels while rising rents will be fully met provided they remain within eligible housing cost limits. At the same time, rising rents will draw more households into eligibility. This is reinforced by the practice of the great majority of housing association landlords receiving Housing Benefit directly from the administering local authority rather than via the tenant. This practice of 'Rent Direct' ensures rent/benefit payments reach the landlord and helps to reduce the incidence of arrears but it also further disconnects the tenant from the responsibility for meeting their housing costs.

There are further complexities to the system. Eligible recipients receive 'earnings disregards' that do not count as assessed income in order to encourage work, thus slightly improving their position. Second, adult children or other non-dependents living in a larger household are assumed to make a contribution to the rent. Thus eligible rent is reduced through 'non-dependent deductions', effectively reducing Housing Benefit. Third, the system discourages young people (aged under 26) from living independently by setting

a Housing Benefit ceiling (the 'single room rent') as if they lived in shared bedsit accommodation.

The main difference for private tenants is the Local Housing Allowance. LHA was introduced in 2008 as an attempt to introduce more choice into tenants' housing decisions by introducing 'shopping incentives'. On the face of it, it looks to be more like a continental housing allowance. But it is not as simple as that. LHA sets standard eligible rents at the median market rent for broad market rental areas for different sizes of properties. In principle, where an eligible private tenant received that allowance, and if rents are less than the allowance, the claimant could keep part of the difference (up to £15) – thereby rewarding shopping around for value. But if the rent was above the median, the tenant would have to pay the difference. If a tenant's circumstances and hence income changes, this will be reflected in eligible Housing Benefit in the same way as in the formula above. The other key feature of the Local Housing Allowance is that with the exception of those tenants deemed to be vulnerable and those already in arrears, the benefit takes the form of a cheque or bank transfer to tenants – there are no direct payments to landlords. Reforms to the Local Housing Allowance and to the more general system of Housing Benefit have taken place since the UK Coalition Government came to power in the summer of 2010 and further longer-term proposals are going through Parliament. As a result, the system will operate differently and be significantly less generous. These reforms are discussed in detail below.

To recap, the key structural points about how the UK housing benefit system operates are:

- There is a fundamental tension between the social security and housing objectives of the current system.
- The system provides weak incentives to constrain housing costs and this has led to increasingly onerous limitations on eligible rents, especially in the private rented sector (PRS).
- Private tenants have an allowance system grafted on to the income maintenance component of the system.
- Housing Benefit is an in-work as well as out-of-work benefit, so weakens the 'unemployment trap'. However, it suffers from a low take-up among people in work and the 'taper' may create work disincentives.





- Housing tenure determines the generosity of the system. A separate and more limited scheme is available to homeowners, but the differences between rental tenures are becoming greater.
- As we go on to examine, the high and rising cost of the system makes it a target for expenditure cuts.

An analysis of the consequences of devolving Housing Benefit is not just about fiscal decisions in different parts of the UK. It is, we believe, helpful that such a consideration also offers the chance to address what is required to remedy the structural or system design tensions outlined above.



## Expenditure and caseload

Pawson and Wilcox (2010) set out the expenditure and caseload associated with Housing Benefit and also the characteristics of those receiving help with paying for their housing. Measured in cash terms, GB Housing Benefit was £11.652 billion in 2000-01 and rose to £17.501 billion in 2008-09. The estimated out-turn figure for 2009-10 was £20.444 billion and the planned figure for 2010-11 was in excess of £22 billion (Pawson and Wilcox, 2010, Table 114). Over the period since 2000-01, cash rent rebates (i.e. payments to council tenants) have been fairly flat (i.e. falling in real terms) whereas rent allowances have trebled in cash terms. A large part of this change is the result of tenure composition shifts following from stock transfer.

The caseload evidence suggests a significant fall in rent rebate cases (from 2.1 million in 2001 to 1.5 million in 2010 for GB) compared with a near doubling in rent allowances (from 1.7 million to 3.2 million across the same period). The average GB weekly rent rebate payment rose from £43.90 in 2001 to £67.65 in 2010, but the average equivalent rent allowance rose from £60 in 2001 to £91.83 in 2010 (Pawson and Wilcox, 2010, Table 115a). Further disaggregation of the rent allowance data between housing associations and private rented housing confirms large caseload growth for both (not quite doubling between 2001 and 2010) with the association caseload still slightly larger. Most tellingly, however, private rented average HB payments

have grown significantly above association HB payments (a ratio of 1.4:1 in 2010 – Pawson and Wilcox, 2010, Table 116b).

Looking at Scotland, the rent rebate caseload fell from 214,000 in 2001 to 151,000 in 2010, whereas rent allowances increased from 92,000 to 186,000 in the same period. Average weekly HB payments increased for rent rebate claimants from £30.70 to £50.38, but for rent allowance cases the figure grew between 2001 and 2010 from £39.00 to £63.50 (Pawson and Wilcox, 2010, Tables 115b and 115c). The Scottish Government also reports (pp.10-11) that the largest single group receiving HB is the over 65s (which is otherwise flatly distributed by age). Nearly two in three recipients are single people without dependents but almost one in five are single parent households. Only 6% are couples with dependent children.

To summarise, since 2001 there has been a decrease in the number of Housing Benefit claims from council tenants. This has arisen mainly due to stock transfer to housing associations. The proportionate reduction has been similar in Scotland (29%) and Great Britain as a whole (28.5%). In contrast, claims for Rent Assistance have risen – by 54% in Great Britain and by 62% in Scotland. This is mostly attributable to stock transfer, but also due to the expansion in private renting. Even though numbers of claimants have fallen, the average value of Rent Rebates to council tenants has risen – by more than half (54%) in GB and by 62% in Scotland. Average Rent Allowance payments have also risen more quickly in Scotland – by 64% against 32% in GB.

Based on data for July 2010, Communities Analytical Services in the Scottish Government found that at a local authority level claimant proportions of all households vary significantly from 10% in East Dunbartonshire to 30% in Glasgow. Within the Scottish HB total, around 9% of households are deemed to be in employment, rising to 16% in Edinburgh but as low as 6% in Falkirk (pp.8-9). This is very different from the rest of Great Britain where more recipients are in work than unemployed. Across Scotland, average housing benefit weekly payments varied from less than £54 in Moray and the Shetland Islands to £90.17 in Edinburgh (the Scottish average was £66.62) – Communities Analytical Services, 2010, Table 2 p.10.

Table 2.1 reports a snapshot comparison of key figures between Scotland and GB, in terms of recipient numbers, numbers qualifying for other income-related benefits or not, and average weekly Housing Benefit by tenure. Comparison of the columns suggests that







the larger council sector in Scotland captures a larger share of social HB claimants than for GB as a whole. It also indicates that the private renting share is correspondingly smaller in Scotland and that a larger proportion of HB recipients also receive other means-tested benefits than is the case in GB. Across all tenures average weekly HB payments are lower in Scotland though they are ranked by tenure in the same way as for GB as a whole.

**Table 2.1 Housing Benefit: Key Comparisons between Scotland and GB, May 2010**

	<b>Scotland</b>	<b>Great Britain</b>
LA tenants (number)	207,000	1,511,000
HA tenants (number)	176,000	1,783,000
Private tenants (number)	85,000	1,463,000
Total (number)	468,000	4,768,000
Total passported*	337,000	3,255,000
Total non-passported	131,000	1,507,000
LA tenants (average weekly HB payment)	£59.31	£67.66
HA tenants (average weekly HB payment)	£61.94	£77.30
Private tenants (average weekly HB payment)	£94.00	£109.82
All tenure (average weekly HB payment)	£66.58	£84.20

Source: Pawson and Wilcox, 2001, Table 118

Notes: Caseload figures rounded to nearest thousand. Passported cases are those where the claimant is also receiving another means-tested benefit.

## Coalition Government cuts and the Universal Credit

The context within which debate around Housing Benefit's future within a devolved UK is not primarily constitutional but rather the result of the present dramatic changes to benefits underway as a result of the policies of the UK Government (though politically this has clear constitutional bearing). The UK Coalition Government that came to power in June 2010 from its initial Coalition agreement and followed by an emergency budget and Comprehensive Spending Reviews (CSR) later that year signalled an overriding focus on budget deficit reduction and that a major plank of that strategy would be cuts and restructuring of the benefits system, at the centre of which would be reform of Housing Benefit.

Reforms are being introduced over three waves: the Emergency budget cuts in June 2010, the CSR reforms and reductions to be phased in over a number of years. Moreover, the Department for Work and Pensions plans to radically reshape means-tested benefits into a single Universal





Credit (including Housing Benefit but also implicitly incorporating significant further changes to the way benefit entitlement works). We consider the main changes below.

The Housing Benefit cuts fall into two categories: those that will affect the private rented sector through changes to the Local Housing Allowance (LHA) and those that will impact on housing benefit more generally.

The changes specific to the private rented sector (the LHA) concern:

- Originally planned to be cut by New Labour, the removal of the £15 excess i.e. tenants will no longer be able to keep the difference or savings made (up to £15) between actual rent paid and the LHA (introduced in April 2011), thereby sharpening the shopping incentive into a cap.
- The LHA calculation for eligible rent was changed from deriving the LHA with the 30th rather than the median (50th percentile) of the local rent distribution (introduced in April 2011) – the actual reduction will depend on the distribution of local rents, in that a more compressed distribution would not require such a large a fall in the LHA as would be the case with a more dispersed set of local rents. Since the £15 excess has been removed, the calculation is now merely a cap.
- From April 2013, the basis of annual uprating will change from a proportion of actual market rents to the CPI. Over the past decade private rents have increased faster than general price inflation.
- A cap or maximum was placed on LHA by room size – from April 2011 LHA rates were capped, including removing the largest five-bedroom rate and creating a £400 per week overall cap (i.e. the four-bed ceiling).
- From April 2012, the coverage of the single room rent for single person household claimants living in private rented housing from under 26 will be expanded to those up to 35 living alone for new tenants and existing tenants after review.

The other main HB changes that will apply across the rented housing system are:

- Changing the rules for non-dependent deductions, so that previous rent increases are now taken into account, effectively increasing non-dependent deductions and thus reducing HB for such households from April 2011. The Scottish Local Government Forum against Poverty (2011) estimates that the cost of fully uprating these deductions back to 2001 will entail an average 27% increase in non-dependent deductions, phased in over three years (p.19).
- From April 2013, HB for working age tenants deemed to be under-occupying based on a standard regional rate for appropriate property sizes<sup>1</sup>.
- There will be a ceiling on all HB from April 2013 of between £350 to £500, depending on household type.

In their impact assessment of the HB changes, the Scottish Government (Communities Analytical Services, 2011) concluded:

1. Overall, lower rents and a slightly smaller PRS in Scotland mean the overall financial and quantitative effect is smaller relative to the rest of the UK. Bedroom caps had little impact in Scotland because of the generally lower LHA rates compared to, for example, Southern England. The removal of the £15 excess would affect half of Scottish PRS households on HB, on average losing £12 per week; the move to the 30th percentile will affect 79% of Scottish recipient households and cost £7 per week. Overall, 97% of households (nearly 55,000) would be worse off in Scotland as a result of the June 2010 changes, on average losing £10 per week.
2. However, there are significant variations within Scotland with by far the largest impacts in Glasgow and Edinburgh. The Government's analysis suggested that post-benefit change, the affordability or availability of Glasgow's PRS would fall from 54% to just 31%.
3. Looking at subsequent reforms, it was noted that CPI explicitly excludes housing costs, so

<sup>1</sup> A House of Lords amendment to the Bill has largely nullified this element by arguing that since most people cannot move to smaller accommodation, this provision should be treated as a tax and therefore exempts households in such circumstances with a spare bedroom from the under-occupying reform. It is not clear how the Government will respond – see *Inside Housing* January 6 2012.







moving the uprating to that basis from RPI can be compared with predicted market rent increases to see if a gap emerges, reducing the real value of the LHA. The Scottish Government's evidence suggests that this is so, subject to the usual caveats about how the future will unfold.

4. While the absolute numbers may be small, the changes to non-dependent deductions will put pressure on young people to leave the family home and could in some cases lead to large reductions in HB (of the order of £10 per week) with important differences arising from the employment status of the non-dependents. It had been recognised in the early 1990s that these deductions were a potential source of hardship and Labour in Government scaled them back but without actually abolishing them. Clearly, this change interacts with the new limits to benefit for young single people being extended to age 35.
5. While acknowledging a shortage of necessary data to fully analyse the under-occupation changes, the Scottish Government's impact assessment concluded that around 110,000 social renting households of working age might be affected in Scotland (i.e. are on HB and have one room beyond the bedroom standard).
6. A key second round impact is how private landlords respond to the changed benefit environment. Essentially, there are two possible countervailing effects: landlords may choose to reduce rents to retain tenants' cash flow and their ability to pay (a view promoted by the UK government) but the cuts may also encourage landlords to move away from the low income segment altogether. The Scottish Impact Assessment is pessimistic, indeed sceptical about the scope for landlords to cut rents, though the long-term effects on rents must remain highly uncertain.

The proposals to reform working age means-tested benefits by the creation of a single Universal Credit intends to deliver something far simpler, and also a benefits approach that will display greater conditionality and beneficiary responsibility. The

Parliamentary Bill to introduce the Universal Credit and associated welfare benefit reforms is now nearing completion. The intention is to introduce the Universal Credit for working age households in 2013, though this is subject to the necessary IT developments and integrations with HMRC. Many commentators have expressed scepticism about the feasibility of such an early date for implementation of the Universal Credit.

The UC will replace:

- Income Support
- Jobseeker's Allowance (contributory and means-tested)
- Income-related Employment and Support Allowance
- Housing Benefit
- Council Tax Benefit
- Child Tax Credit
- Working Tax Credit

The new Universal Credit will operate on a single taper of 65% of net earnings, along with the retention of earnings disregards. The new system will have a strong conditionality and sanctions emphasis. The devolution dimensions are discussed further below.

Council Tax Benefit<sup>2</sup> is to be abolished and thus play no part in the new reformed system. Instead, the sums currently used for Council Tax Benefit are to be devolved to local government in England to use as they want to mitigate affordability, as part of the 'Localism' reforms, though how this will be done is as yet unclear except that it will involve a 10% overall reduction in resources. In Scotland, Council Tax Benefit will also be devolved with an equivalent 10% cut though it is not yet clear how this will happen in practice nor how the Scottish Government plans to use this opportunity (these changes will occur alongside similar devolution of social fund crisis loans and community care grants). Like rent rebates, Council Tax Benefit is part of the current Scottish block settlement and should be relatively easy to devolve to the Scottish Parliament per se, but neither

<sup>2</sup> Council Tax Benefit is a means-tested benefit that helps low income households with their council tax payments. It operates in a way quite similar to Housing Benefit in that it can pay up to 100% of council tax and it is tapered for those who have incomes in excess of their assessed need. However, it operates with a much flatter taper than is the case with Housing Benefit.





the negotiated settlement of how much it should be (last year's figure or some average amount, etc.) or what happens thereafter at a local government level, is at all clear.

A further important housing implication of the Universal Credit is the application of the so-called 'responsibility' agenda through the proposed end of *Rent Direct*, that is, the ability to pay HB directly to the social landlord. Certainly, the aim of the UC is to provide the tenant with a single integrated payment and the question remains how this might be moderated to help landlords with vulnerable households and those already in arrears. Second, in the long term the DWP anticipates a move from housing support based on actual costs (as with the current way Housing Benefit works) and a move to some form of fixed rate charge (although this might be locally-based, as with the Local Housing Allowance). Certainly, it is hard to see how the Universal Credit can achieve its fundamental goals if Housing Benefit remains separate and detached; yet, at the same time it remains hard to see how such a fixed charge may operate without significant imperfections and anomalies arising. This is why some relationship to Local Housing Allowance values locally may be required though, again, how this will work in practice remains unclear yet is critical to the overall success of the project.

Littlewood (2011) assessed the potential impact of the cumulative welfare reforms on Scottish tenants and landlords overall. She found that as many as 20% of tenants may face income loss and potentially large losses associated with the under-occupation reforms. Large losses were concentrated among comparatively few tenants. Littlewood argues that prior to benefit reform, as many as two-fifths of working age tenants on benefit were having difficulty with their finances; hence the consequent impact of the cuts could be severe. Arrears might be worsened by this route but also by the aforementioned Universal Credit plans to end *Rent Direct*. She also notes that associations in areas with high rents would face further difficulties if benefit is tied to an averaged regional rent. Littlewood goes on to consider wider possible impacts on the housing system of these cumulative benefit changes on housing options for young people; a slowing down of all housing allocations; reduced household formation; increasing the use of temporary accommodation, among other unintended consequences.



## Devolving Housing Benefit

Fundamental to the devolution settlement in the 1998 Scotland Act was the retention of a unified UK tax and benefits system (apart from local taxes and the three pence variation powers on income tax). In part this was to avoid cross border mobility induced by fiscal advantages but it was also to help equalise resources and spending across the UK. For the first few years of the Scottish Parliament there was little appetite to consider further change with respect to devolving benefits, let alone Housing Benefit (Gibb, 2004) but this has now changed, particularly since the election of the first Scottish National Party minority Government in 2007, and the subsequent Calman Commission on increasing devolved financial powers. The election of a majority SNP government in May 2011, the Scotland Bill (and in large part implementing the Calman Commission recommendations), and the localism agenda established by the UK Coalition Government have added new momentum to the debate. In particular, with both independence and possibly full fiscal autonomy within the UK ('devo max') being subject to a referendum, this is an entirely live issue.

Because of the determining role played by councils setting rents, rent rebates (and Council Tax Benefit for analogous reasons) are budgeted for in the annual block settlement received by the Scottish Parliament. Westminster assumes a rent (council tax) increase and then assumes a Scottish rent rebates bill (Council Tax Benefit) – if the rent (council tax) increases are greater, this will have to come from out of the rest of the block (i.e. it has a direct opportunity cost for Scottish spending). Likewise, if increases are less than the formula increase, the Scottish block benefits by being able to keep the difference and use it for other purposes. The rest of the HB system as it applies to housing associations and the private rented sector is not affected by these considerations.

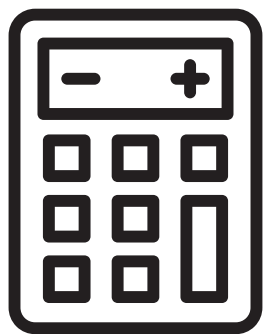




The 'Unionist' parties in Scotland and the then Westminster New Labour Government supported the Calman Commission as a forerunner to legislation that would examine the scope for increasing Holyrood's financial powers and financial accountability, in part as a reflection of Scottish aspirations and also it would seem, once again, to attempt to defuse the rise of Nationalism. Calman reported in June 2009 (Commission on Scottish Devolution, 2009) and recommended a number of proposals to increase financial accountability, such as the devolving of a proportion of income tax-raising, limited borrowing powers and Stamp Duty Land Tax (SDLT).

The Calman Report also discussed Housing Benefit. Recommendation 5.19 referred to Housing Benefit and Council Tax Benefit: *"There should be scope for Scottish Ministers, with the agreement of the Scottish Parliament, to propose changes to the Housing Benefit and Council Tax Benefit systems (as they apply in Scotland) when these are connected to devolved policy changes, and for the UK government - if it agrees - to make these changes by suitable regulation."*

The UK Labour government introduced a White Paper in November 2009 (*Scotland's Future in the United Kingdom: Building on Ten Years of Scottish Devolution* Cm 7738) which proposed to take forward the Calman proposals. The new UK Coalition Government supported this development and introduced a Bill to implement the Calman proposals in November 2010. The UK Government decided to drop the benefit recommendations, arguing that this should wait till after the welfare reform legislation associated with the Universal Credit (though, as we shall see, this was complicated by the localism agenda). The Scotland Bill proposes most though not all of the Calman proposals, but it continues to advocate the devolution of income tax (partly), Stamp Duty Land Tax and limited new borrowing powers, both relevant to the housing sphere.

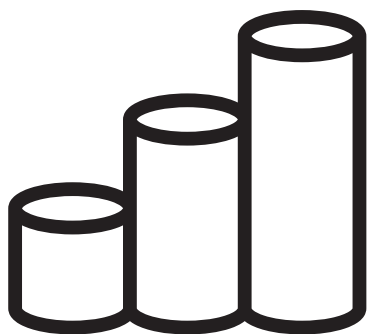


At the 2011 Scottish General Election, the Scottish National party advocated the devolution of Housing Benefit, seeking to determine its rules and devolving legislative responsibility. However, the manifesto proposal was not one of the new Government's subsequent six priorities for action, nor did it feature in the first set of legislative proposals announced in September 2011. There are, however, good reasons to treat the devolution of Housing Benefit as a continuing relevant question:

- The Scottish Government has not dropped its manifesto commitment.
- Critical (Scottish) Parliamentary debate on welfare reform and on the welfare reform implications of the Scotland Bill indicate a continuing interest from the Government and its backbenchers in the devolution of welfare, including Housing Benefit, in part because of the live issue of Council Tax Benefit.
- We saw above that the UK Government's *Localism Bill* includes plans to both reduce Council Tax Benefit support by 10% and then abolish it as a national benefit by devolving the design and use of the benefit wholly to local government in England. Although the details are presently sketchy, the intention is to likewise devolve Council Tax Benefit to the Scottish Parliament. This sets an important precedent that could readily be pursued through a similar devolution of Housing Benefit.
- There is a recognition that the combination of Stamp Duty Land Tax, local property taxes and a future devolved Housing Benefit represents a substantial pot of housing resources (albeit one that would be quite volatile in terms of yield). Alongside capital spending borrowing powers, this may well be attractive and persuasive to Ministers.

The next two sections of the paper explore the in principle and practical issues of devolving Housing Benefit. The next section looks at the question within a context of the existing constitutional and fiscal arrangements. The following section then speculates on how a devolved Housing Benefit might operate within a more radical devolution max world of fiscal autonomy and a more general devolution of social security benefits.





# 3. Devolving HB under existing constitutional arrangements



In this section we explore the devolution of Housing Benefit, whilst the rest of the social security system remains reserved.

As things stand, Housing Benefit will in time be absorbed into Universal Credit for working age households. Although details have yet to be finalised, it seems likely that rents will be accounted for by some fixed formula that does not take into account actual housing costs for either social or private tenants. A fixed proportion of regional rents is one possibility. This will mark a fundamental change in the role of social security assistance for housing costs, as it will end the long-standing principle that for those with no other income all eligible housing costs will be paid.

Alongside the critical political reaction in Scotland to the cuts in Housing Benefit<sup>3</sup>, the advent of Universal Credit might well seem like a suitable point at which

to devolve Housing Benefit, and to make a 'clean break'. The principal attraction to this approach is that Scotland would be able to design its own housing allowance, and at the least restructure its design and its rules to be more consistent with or supportive of other housing policies (and welfare policies)

There would, of course, be risks associated with this approach.

A key risk concerns future budgets for Housing Benefit and, related, the initial settlement of how much Housing Benefit the Scottish Parliament would receive on its devolution. The reform would necessitate a settlement between Holyrood and Westminster whereby a sum for Housing Benefit were added to the block grant. The level of Housing Benefit expenditure is the product of the number of claimants and their eligible payments. We noted earlier that while rent

<sup>3</sup> Although there would appear to be little likelihood, after devolution of Housing Benefit, that cuts would be reversed.







rebates are already incorporated into the spending block reflecting the need to exert some control over local government rent determinations, overall, the Housing Benefit system reflects considerable demand-led risks. It will inevitably fluctuate in unanticipated ways according to economic change (e.g. the condition of the jobs market) and demographic change (e.g. household formation and migration). Thus, a devolved Housing Benefit would be much more like Annually Managed Expenditure. Whilst this is a risk in any form of expenditure, Housing Benefit is much more volatile than other items of expenditure.

Under this scenario, a sum would be fixed at the point of devolution and this would thereafter, one presumes, be increased in line with the general formula used for rent rebates and Council Tax Benefit at present. The scale of the settlement is absolutely critical as it is a one-off deal that will determine the essential resource level open to the Scottish Government for Housing Benefit thereafter (unless decisions are taken to make use of other block spending resources).

How well Scotland did out of this settlement might be expected to depend on factors such as the point in the economic cycle at which devolution occurred, although this would presumably be taken into account during negotiations, as would any expenditure implications of structural change, such as the shift to uprating the LHA limit with CPI rather than actual market rents. Lessons will be learned from the process of devolving Council Tax Benefit (in terms of how the settlement is arrived at and rules emerging over the use of current year, averages, the economic cycle, etc.). It would seem somewhat risky to adopt devolution of HB in the hope of successful 'game playing' with the settlement. A much clearer position is required and this may become apparent as a result of the negotiations over Council Tax Benefit.

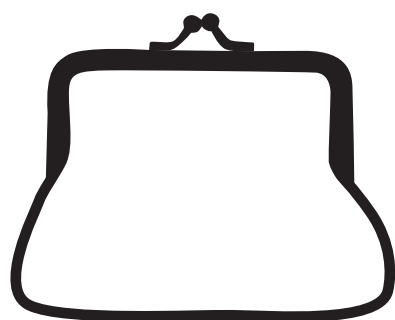
Whether this risk would be worthwhile depends on the likely benefits. In principle, Scotland could design its own housing allowance. But it would do so with no additional resources because this would imply top slicing resources out of an already highly pressured Scottish Parliament budget and individual programmes within it (but see below for one such possible route). This means in turn that a devolved

Housing Benefit operating under the reserved social security system with the current level of resources could *redistribute* the value of benefits within its current financial envelope and across current recipients. However, reform to Housing Benefit that involved a substantive redistribution between (potential) recipients would, given the income maintenance role that is fundamental to Housing Benefit, be likely to create some unpalatable choices. For instance, if we recall that the income maintenance role of Housing Benefit is to protect post-housing cost incomes, then it follows that a redistribution in favour of one type of household need will be at the expense of another (because of the fixed global sum available for Housing Benefit).

This is the invidious trade-off and policy bind that any meaningful devolution of Housing Benefit (if social security remains reserved) must confront and it is one that applies just as much if a Universal Credit were to be introduced for working age households (bearing in mind the reliance of non-working and elderly tenants on means-tested benefits to pay for their housing costs and maintain their post-housing costs income level). Again, it seems risky to advocate a policy of this form of devolution if it is essentially premised either on no additional resources and hence redistributes from within the existing Housing Benefit budget; or to alternatively add some unspecified subvention at the expense of another existing programme (or tax increase) in a context of severe budgetary pressure across the overall Scottish budget for the foreseeable future.

At a practical level, any meaningful reform of Housing Benefit would require a new level of administrative vehicle or agency, for instance, one working at the Scottish Government level, replacing or augmenting UK social security policy and operational functions. Moreover, it would also likely replace administrative expertise and capacity at local authority level – where so much of present Housing Benefit policy actually functions. It would be wasteful to organise a devolved Housing Benefit that did not make the best use of these existing skills; otherwise, there may also be considerable technical and practical difficulties providing an efficient system to clients.





## A property resources spending 'pot'<sup>4</sup>

In the previous section, it was noted that the possible devolution of Housing Benefit was mooted in the context of the Calman package but that the subsequent Bill suggested postponing any such policy development until after the welfare reform legislation was implemented. In this light, it is worth recognising the new opportunities created by the new financial powers in the Scotland Bill. Arguably, these new powers may qualify the rather negative conclusions of the above paragraphs.

By combining the resources associated with Housing Benefit along with local property taxes and the devolved Stamp Duty Land Tax, it can be seen that Housing Benefit might form part of a (hypothecated) 'big pot' of housing resources that could be used strategically to fund housing policies and offer some choices between the balance or mix of capital, revenue and personal subsidies with which to pursue housing policies.

However, once again, we need to be clear that it is not so straightforward to assume that there will be additional resources in this 'big pot'. Local property taxes are of course already being used to fund elements of local government spending. Housing Benefit's contribution has already been discussed above. The devolution of Stamp Duty will have to be negotiated but it is presumed that once the level of funding associated with it is agreed, an equivalent sum will be taken away from the spending block. Of course, it will be up to the Scottish Parliament if it seeks to use its new powers on the Stamp Duty to raise more

revenue and perhaps hypothecate that increment for housing. Moreover, Stamp Duty is an exceptionally unpredictable source of revenue since it is dependent on volatile housing and real estate transactions. This, we believe, makes it a wholly unsuitable source of revenue for an item of expenditure need (i.e. helping meet low income housing costs) that is fundamentally demand-led.

The other aspect of the 'big pot' idea that is politically less attractive is the fact that once the Scotland Bill is enacted, Scotland will be responsible locally for all property taxes: council tax and SDLT. Property taxes are particularly unpopular of course and the current Government has already once sought to abolish local taxes on property in favour of income. The Liberal Democrats are also opposed to local taxes on property. There may not be mileage therefore in augmenting devolved benefit and SDLT with local taxes. However, and more positively, the Scottish Government, in the 2010 consultation paper *Fresh Thinking, New Ideas*, did appear to support the principle of housing taxes in order to reduce house price volatility and speculation.

Overall, the devolution of Housing Benefit within the existing constitutional structure therefore represents a very significant transfer of risk to the Scottish Parliament. Autonomy over the design of Housing Benefit in these circumstances, given the likely long-lasting constraints on overall available resources, would inevitably require unpalatable trade-offs which do not make such a move either likely or particularly desirable. The possible opportunities created by a large property resources spending 'pot' may be both overstated and likely to confront political challenges that would reduce its usefulness for housing policy.

<sup>4</sup>This idea was raised with the authors by Jim Gallagher, visiting professor at the Law School, Glasgow University, and convener of the Scottish Policy Innovation Forum.







## 4. ‘Devolution max’

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‘Devolution max’ has not been defined formally. However, it would clearly require a significant increase in the degree of fiscal autonomy over domestic taxation and expenditure decisions (including, arguably elements of social security), whilst Scotland would remain part of the UK. Social protection (largely social security spending) is the largest single category of UK public expenditure, representing some 30% of the total, so this would mark a very substantial increase in the powers of the Scottish Government. Clearly, there would be limits to fiscal autonomy, since Scotland would still share the same currency and the same monetary policy. However, the devolution of Housing Benefit makes much more sense within this context – indeed it would, by definition, be part of it.

Arguably, devolution max involves a greater transfer of risk to Scotland than the devolution of Housing Benefit alone – simply because of the scale of the budget. However, the disruptive potential of Housing Benefit within this framework would be commensurably smaller for two reasons. First, Housing Benefit would be part of a larger social security budget (for the

UK, according to Pawson and Wilcox, 2010, Housing Benefit is about 14-15% of the total UK social security budget including tax credits), so variations in demand for Housing Benefit would have less impact on the total. Second, the tax base would be much wider, since the Scottish Parliament would have limited borrowing powers (via the current Scotland Bill) and control over a range of taxes, including income tax, national insurance, VAT and corporation tax.

Moreover, the potential benefits arising from autonomy are greater than is the case in the devolution of Housing Benefit alone. Within existing budgets, reforms would require trade-offs, but these could be made across a much wider range of benefits and households, and would be unlikely to be as stark as redistribution between Housing Benefit claimants alone.

With ‘devolution max’ there would exist the potential for a more fundamental reform of housing subsidies, including housing allowances, within the context of a reformed social security system. Whilst involving difficult choices, there would, for example, be the





potential to add an allowance for some housing costs into mainstream social security benefits, so allowing the housing allowance to perform more of an affordability role. In turn this would allow the kind of 'shopping incentives' that the Local Housing Allowance sought to attain without such stark trade-offs. So eligible rents need not be based on 100% of actual rents, and households could be expected to carry a proportion of additional housing costs should they choose to consume more housing.

The opportunity would exist, once all social security is devolved, to move from the present system, with its ambiguous policy aims and limiting constraints on the design of housing support (as a result of the post-housing cost floor principle that is fundamental to the current system) and instead debate moving to a more recognisable continental social security system that includes a general element of housing support alongside a tailored and more efficient housing allowance based on a standard charge rather than necessarily being dependent on actual housing. The way to overcome the structural problems identified above with Housing Benefit stems from its relationship with the social security system. Altering that relationship is the only feasible way forward to construct a more functional set of low income personal housing subsidies. Devolving both Housing Benefit and its related social security benefits would allow such a system to be contemplated.

Continental housing allowance systems typically play a much greater affordability role, whilst sometimes retaining an income maintenance (safety net) element within the social assistance system (See Appendix). For example, in 2005 the German system was reformed so that housing allowance was reserved for people in work, in receipt of social insurance benefits and pensioners. The social assistance system meets the housing costs for other households, in a similar way to the UK system when HB was first introduced. We think that in principle this has a lot to recommend it as a working model for low income help with housing costs. What comparisons with other European systems might tell us about reforming Housing Benefit is discussed in the Appendix.

More radical reforms might include a tenure neutral system, with owner-occupiers included in the same scheme as tenants. Whilst this has drawbacks (not least as ownership involves the acquisition of an asset though helping prevent mortgage default can have wider social benefits including stabilising the housing

market), it is a debate that should be had.

While not underestimating the problems of benefit transition (for instance in securing the support of mortgage lenders and those providers exposed to cash flow risks from significant changes to Housing Benefit), we think that, applied in this way, devolution max would also allow the Scottish Government to examine housing subsidies across the system as a whole, with the ability to set both rent policies and demand-side subsidies in a way that is frustrated by the current Housing Benefit system's constraining features. It is inconceivable the system could be reformed radically without devolution max.

Moving towards a more coherent system on the lines sketched out above offers opportunities to make progress with other ossified housing finance and subsidy debates. It would provide a stronger case for moving towards a more coherent uniform rent-setting policy, one that might over time move Scotland away from the present incoherence of rent levels and differentials across Scotland. It could also be tenure-neutral across the rental sector and could in principle be expanded to help low income homeowners with mortgage interest costs.

By providing a better balance between the income maintenance and affordability elements of the personal subsidy it could, assuming a sensible transition to the new system, continue to support the existing loan commitments of social landlords, and provide a basis to help pay rents on new affordable housing projects. Of course, such a design would by definition confront the 'rent direct' question as, like Universal Credit, it would move tenants to being responsible for their own payments. Again, a sensible transition or piloting of the reforms might make this more palatable. It would also make a contribution to designing out several of the structural problems identified in Section 2 of this paper. In short, though not without aspects that might be viewed as controversial, a reform along the lines suggested here, could be a positive structural adjustment to the Scottish housing system.





## 5. Conclusions

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HB is a priority issue because it is so important to Government policies to increase affordable supply, because of the cuts and welfare reforms and because it highlights many of the present constitutional tensions between Edinburgh and London.

We would stress the underlying structural features of the HB/social security systems as it currently operates since that is both a source of difficulty currently and hinders the development of better housing policies for low income households. The short run focus on the consequences of the cuts is understandable but it is the fundamental structure of HB that needs to be addressed.

The risks and problems associated with devolving HB alone and within the existing financial framework would appear to outweigh any benefits of so doing.

However, the room for policy choice created by the devolution max proposal to devolve social security as a whole is potentially significant and could lead to desirable change to low income housing allowances as outlined in Section 4 above – by shifting support more to a general cash support for low income households, containing a general housing cost element, and then developing a more efficient housing allowance based on a standard charge. This would be similar in design and spirit to recent reforms in Germany.

Once we move beyond the current devolved settlement, it is clear that combining social security and Housing Benefit in these sorts of novel ways can offer opportunities to reshape our housing subsidy systems, drawing on lessons from international experience. This should very much be part of the ongoing constitutional debate, as should careful consideration of the unintended consequences of the reform of UK welfare benefits, and of the devolution of benefits on housing policies and prospects.

One argument often used against the general devolution of benefits is the concern about creating benefit tourists who seek out differentially advantageous benefits. Might the devolution of all or most means-tested social security risk large migratory flows to or from Scotland? The economics of fiscal federalism is in part premised on seeking to prevent policy frameworks that might encourage fiscally-induced migrations across borders. Within the European Union the evidence on this is mixed and unconvincing that this is in fact a major issue [contrasting views from this literature can be found in Glover, et al, 2001; and De Giorgi and Pellizzari, 2006]. We might reasonably expect neighbouring governments (including Scotland and the rest of the UK) to take account of fiscally-induced mobility in setting benefit levels, but we should also perhaps



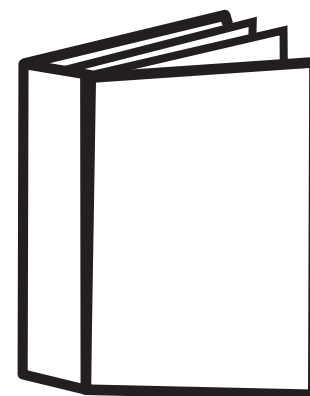


note the lack of evidence that migration has followed on from Scotland's distinctive universalist policy offer for its citizens (higher education fees, prescriptions, free transport for the elderly, care for the elderly, etc.). Nonetheless, it would be naïve to ignore the issue though one suspects that in the absence of firm evidence to the contrary, its importance may be overstated.

In this paper we have considered the scope for devolving Housing Benefit, a system which arguably has important structural shortcomings, in addition to the present controversies associated with welfare reform cuts and restructuring. The argument has been conducted at a relatively high level of abstraction. However, we think that the paper should be the basis for more discussion; beginning rather than closing down a debate.

We argued that Housing Benefit is likely to be challenging and risky if devolved within the current settlement between devolved and reserved powers. If, however, Housing Benefit and its related social security benefits were to be devolved as part of wider devolution max – then, while not without risks to Scotland, it could offer the opportunity to tackle some of the key weaknesses in the present system, thereby making a significant contribution to the Scottish housing system. Of course, if this debate about personal housing subsidies were taking place after a successful independence referendum, then the scope for making progress (and the risks) would be present on an even larger scale.





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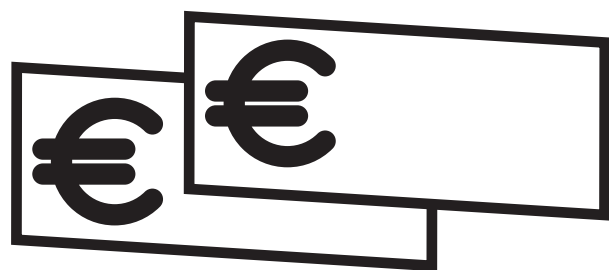
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# APPENDIX: HOUSING ALLOWANCES – AN INTERNATIONAL PERSPECTIVE



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## Introduction

The UK housing system is structured on the basis of 'residual income' – i.e. to prevent incomes from falling below social assistance levels as a result of housing costs. This reflects the absence of an allowance for housing costs in mainstream social security benefits. This structure creates evident difficulties for housing policy. There is a lack of 'shopping incentive' (incentivising over-consumption) and its impact on rents is inflationary (indeed the current structure was devised partly to ease the deregulation of private sector rents). It also fails to illicit any explicit supply-side approach – either in terms of new supply or in the quality of housing. However, the demands of cost control have led to an increasing number of

restrictions being placed both on eligible rents and on maximum accommodation sizes, meaning that even the income maintenance objective is increasingly undermined. Meanwhile, whilst Housing Benefit is both an in-work as well as out-of-work benefit, an additional problem has only recently become recognised: that take-up (at around 50%) among eligible people in work is much lower than take-up overall. Hence, it is also failing in one of its original (1972) objectives, and one to which recent governments have also attached increasing importance.

Does experience in other countries form the basis for a more radical reform of the HB system in Scotland?







# Why and how housing allowances in Europe are different from the UK

Housing allowances are most developed and widely used in north-west Europe, whose countries have both developed social security systems, and usually a tradition of active state involvement in the provision of social rented housing. The EU Study on Housing Exclusion (Stephens, et al., 2010) showed that around 10% of the population in the UK, the Netherlands and Sweden live in households in receipt of housing allowance (in 2007). Housing allowances are well-targeted on the poor: between 40 and 45% of people living in poor households in these countries receive housing allowances, while only 5-7.5% of the non-poor receive them (ibid.). However, where the UK differs from Sweden and the Netherlands is in the average amount of housing allowance paid: it is, on average, more than twice the amount paid in Sweden and three times the amount paid in the Netherlands.

This key difference is attributable to important differences in social security systems. Whilst the familiar pattern of non-means-tested contributory (social insurance) benefits supplemented by means-tested equivalents (social assistance) are commonly found, the former are earnings-related – that is based on a proportion of former earnings before earnings loss. For many households, social insurance benefits are therefore more generous than the UK equivalents, which are often set at or below social assistance levels, and this explains why UK HB relies on the residual income model.

The continental alternative is based on the 'gap' structure, whereby eligible rent is based on a diminishing proportion of actual costs above a minimum and below a maximum. Such a system creates better (and arguably more equitable) housing incentives, but can be made compatible with the UK system of social security by allowing the residual incomes of many households to fall below social assistance levels – which has been the impact of previously introduced limits on eligible rent and is the inevitable consequence of recent and ongoing reforms.

If a future Scottish Government had legal competence in social security, and attached importance to

protecting the residual incomes of households on low incomes it would need to introduce a housing element into mainstream social security benefits. This would, of course, be likely to raise social security costs overall because this would benefit all recipients of social security benefits (including people who own their homes outright), not just those currently entitled to Housing Benefit.

## What lessons can be drawn from the German system of housing assistance?

The reform of the German social security and housing allowance system provides some clues about housing allowance reform within the context of social security.

The housing allowance system in Germany (*Wohngeld*) appears to be far less significant than in Sweden, the Netherlands or the UK, being received by fewer than 3% of the population (about 5% of tenants), but this arises from the way in which help with housing costs is now structured within a reformed social security system.

The 'Hartz' reforms of the German social security system created a sharp divide between an insurance-based unemployment benefit (ALG I), for which eligibility lasts 12 months (18 months if aged over 55), and ALG II which is both income and asset tested. People in receipt of ALG II became ineligible for *Wohngeld*, which is consequently now received predominantly by people in work (37% of total), pensioners (47% of total) and the short-term unemployed (7% of total) (figures from Stephens, et al., 2010).

*Wohngeld* retains many of its historic features, not all of which are good. Benefit is awarded on the basis of tables that adjust for general rents in different regions and on the size of dwelling suitable for a household. Even allowing for Germany's low inflation economy, the absence of uprating between 1966 and 1990 is notable. Irregular updating means that assistance is erratic, and uprating tends to occur when the economic cycle permits it (Koffner, 2007). Nonetheless, *Wohngeld* can now be perceived as a form of housing assistance that primarily performs an affordability function for households either in work or in receipt of reasonable pensions. It means that the *potential* exists for a more intelligent alignment between this form





of income subsidy and the way in which housing is supplied and priced. For example, who is social housing for? (Currently, income ceilings to qualify for social housing are set much higher than for *Wohngeld* - Koffner, 2007.) What kind of rent levels should it be seeking to achieve? How do these relate to the housing allowance? To achieve a better alignment between demand and supply subsidies, legislative competences would probably need to be aligned so that *Wohngeld*, which is currently the legislative responsibility of the Federal Government (though co-funded by the States) was devolved to the States, which now have responsibility for housing policy.

Meanwhile, the bulk of personal housing subsidies are now delivered through ALG II and the residual social assistance system (*Socialhilfe*). ALG II appears to be not much more generous than UK Income Support or Jobseeker's Allowance, and this necessitates an individually adjusted Housing Benefit element within it (*Unterkunftskosten*); indeed in 2005 the housing element in ALG II represented one-third of its total cost. This neatly illustrates that people on basic social assistance benefits can contribute only very modestly to meeting their housing costs.

Whilst the divide between a housing allowance that is aimed at households in work, temporarily out of work, or at people on reasonable pensions, and one aimed at protecting the residual incomes of people

on social assistance, has much to recommend it, problems nonetheless are inevitable. The attraction of the Universal Credit lies in the simplification, and the end to the abrupt distinction between people in and out of work, though the problems of addressing costs are legion. In the German system, housing benefits delivered through the social assistance system can provide a kind of safety net for people with housing costs. It also creates an anomaly whereby households are better off claiming support for housing costs through social assistance than through *Wohngeld*. This 'better off' problem will be familiar to historians of the British Housing Benefit system, which, until the early 1980s, also provided two routes for assistance with housing costs – the social assistance system (then Supplementary Benefit) and Housing Benefit (Stephens, 2005).

## Conclusion

The way in which responsibilities are allocated and structures created can only make for better or worse frameworks in which to devise policy. They do not in themselves provide solutions, and may serve to highlight irresolvable trade-offs. Nonetheless, they do provide the opportunity to make things better, and few would believe that there is an optimal alignment between housing and social security in any part of the UK.







The SFHA is the voice of the principal builders and managers of new affordable housing for rent in Scotland. Housing associations own and manage around 40% of the country's affordable rented housing stock, over a quarter of a million homes across Scotland.

We have around 170 members who own or manage rented housing in our urban and rural areas and develop affordable housing for rent and for part-ownership and provide care and support to their tenants and others. The SFHA also has over 200 commercial members.

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The CIH is about transforming peoples' lives and communities for the better. We do this by ensuring members, others working in housing and organisations are equipped to be the best they can be. Equipping them to deliver top quality services, decent housing and decent communities.



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