



WHAT YOU NEED TO KNOW ABOUT THE SMITH

COMMISSION REPORT

Background

In the run up to the Scottish independence referendum, the leaders of the three main UK political parties made a vow that if Scotland rejected independence, greater powers would be devolved to the Scottish Parliament. Following the result of the referendum, David Cameron tasked Lord Smith with taking forward this commitment.

The Smith Commission gathered evidence from over 18,000 individuals and organisations across Scotland and worked with Scotland's five main political parties to agree on [a set of recommendations](#) for devolution which were published on 27 November 2014. The next step in the process will be to set these recommendations in legislation which is due to be drafted by 25 January 2015. Any new powers will not be implemented until after the UK General Election in May 2015.

It is important to note that the Smith Commission has only produced a set of *recommendations* and that these are subject to change through the legislative process and ongoing discussions arising from political announcements such as the Autumn Statement, (for more information on this refer to [CIH's Need to Know briefing on the Autumn Statement](#)) proposals for English Votes for English Laws and other related matters

Devolution of Powers Over Welfare

The Smith Commission recommends the devolution of some elements of welfare to the Scottish Parliament.

It is recommended that Universal Credit (UC) should remain reserved and continue to be delivered by the Department of Work and Pensions (DWP). However, the Commission suggests that the Scottish Parliament should be given:

- The power to vary the housing cost element of UC and to pay housing costs directly to the landlord.
- The power to vary the frequency of UC payments and vary the existing arrangements for payment to only one member of the household. However, conditionality and sanctions would remain reserved.

Outwith the Smith Commission, the Secretary of State for Work & Pensions, Iain Duncan Smith has announced an accelerated programme for the roll out of UC, aiming for the



benefit to be delivered by 1 in 3 Jobcentres across the UK by spring 2015. The Labour Party has indicated that while it would review the implementation of UC, it is broadly in agreement with the principles of UC and, if elected, the party is likely to continue to pursue the roll out of UC with the possibility of some changes to the way in which it is delivered. This means that it is extremely likely that UC will be rolled out in Scotland in some form before any of the Smith Commission recommendations, which would allow the Scottish Parliament to make changes to the way UC is delivered in Scotland, are enacted.

The report recommends full devolution of welfare in the following areas:

- Benefits for carers, disabled people and those who are ill: Attendance Allowance, Carer's Allowance, Disability Living Allowance, Personal Independence Payment, Industrial Injuries Disablement Allowance and Severe Disablement Allowance.
- Benefits which currently comprise the Regulated Social Fund: Cold Weather Payment, Funeral Payment, Sure Start Maternity Grant and Winter Fuel Payment.
- Discretionary Housing Payments.

All other areas of welfare would remain reserved to the UK Government. However, it is recommended that the Scottish Parliament should have the power to create new benefits in any of the devolved areas outlined above and that it should have the power to top up any of the reserved benefits without having to seek permission from the DWP. To allow for the use of top ups, the overall cap on benefits would not apply in Scotland. In the event that new benefits are created, the Scottish Parliament could negotiate arrangements for the DWP to deliver these or establish a separate Scottish framework for delivery. If any of these powers were exercised, the report recommends that additional costs would have to be met by the Scottish Government. These costs would include any top up amount plus any associated administration costs.

It is proposed that the Scottish Parliament should be given all powers over support for unemployed people through the employment programmes currently contracted by the DWP, including the Work Programme and Work Choice once the current commercial arrangements come to an end. In the interests of consistency, Jobcentre Plus would remain reserved as this is the primary face-to-face channel for the delivery of DWP benefits including UC. Our concern here is the scope for jobseekers to get caught between two conflicting sets of policy narratives: namely, the UK Government's imperative to use more 'sticks' than 'carrots' in terms of sanctions, set against a more support-focussed approach which would better align with Scottish Government objectives.

Devolution of Powers Over Taxation

It is recommended that the Scottish Parliament should have the power to set rates and thresholds for Income Tax on non-savings and non-dividend income for Scottish tax payers and retain the income in Scotland. In addition, the first 10 percentage points of the



standard rate of Value Added Tax (VAT) would also be retained in Scotland. In either case, the block grant for Scotland from the UK Government would be reduced accordingly.

Devolution of Powers Over Energy Efficiency and Fuel Poverty

The report recommends that powers over how supplier obligations such as the Energy Company Obligation and Warm Home Discount are spent in Scotland should be devolved. However, the way in which the funding is raised should remain reserved to the UK Government.

What Would These New Powers Mean for Housing?

Some aspects of the recommendations seem to allow for potentially negative aspects of welfare reform to be mitigated. However, the Scottish Government is likely to find the use of these powers financially challenging. [CIH Scotland's submission](#) to the Smith Commission urged a cautious approach to the devolution of welfare powers, especially in the case of partial devolution.

We remain concerned that the transfer of the package of powers as currently proposed will lead to a situation where the Scottish Government will, in theory, have the power to mitigate the impacts of welfare reform and deliver a system which aligns with the political direction in Scotland. However, in practice, it may find the cost of top ups and administration impracticable to implement.

While the power to generate additional funding through increasing income tax or varying the banding on income tax could be used to offset the additional cost of welfare provision, it is unclear whether any political party will be willing to risk tax increases.

It would appear that powers over employment support would allow the Scottish Parliament to design a system that is less punitive towards unemployed welfare claimants than the current regime which has resulted in dramatic increases in sanctions for Jobseekers. However, it is not clear how this would work in practice given the recommendation that conditionality and sanctions relating to UC should remain reserved as well as control over Jobcentre Plus as the main interface for claimants.

The ability to generate income through taxation could also be used to increase the supply of homes but it may be difficult for the Scottish Government to justify tax increases while the rising cost of living continues to put pressure on average working households.

While CIH Scotland's response to the Smith Commission called for greater powers in the energy sector, the proposed powers over energy efficiency and fuel poverty would be of limited benefit given that the Scottish Government would have no power to determine the amount of funding generated or to align resources with the objectives of Scottish fuel poverty strategy.