Should housing benefit be devolved to Scotland[1]

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Introduction

In the on-going debates about additional financial powers for the Scottish Parliament, fiscal autonomy and indeed the independence referendum and the 'devolution max' alternative, giving Scotland powers over all or some aspects of social security is, for many, a Rubicon-crossing decision; a point of no return. However UK Government's welfare benefit reforms in general and the cuts to Housing Benefit in particular have given this issue urgency. The Holyrood Committee examining the Scotland Bill and debates in the chamber have questioned the absence of Scottish powers in areas, such as housing, where a reserved policy (such as Housing Benefit) limits the ability of the Scottish Parliament to determine the outcome of devolved policy areas (such as housing). In the election campaign, the SNP manifesto said that the party would seek the devolution of Housing Benefit.

In this exploratory paper, we look at the prospects for devolving Housing Benefit within the existing settlement (i.e. with the rest of social security reserved) and also in terms of a devolution max variant wherein the rest of the social security system is also devolved. However, in order to fully grasp the possibilities and challenges facing such policy reform, it is important to first set out how the Housing Benefit system works and interacts with both income maintenance and housing policies. This reveals important structural problems with the present system, ones that will remain unresolved by the reforms and cuts presently underway.

The context for devolving benefit

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. Eligibility is limited to tenants, but extends to both those who are in or out of work (subject to a means-test).

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 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.

Such policy dualism also helps to explain why it has been difficult to reform (Stephens, 2005). 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.

Looking at the system's details, eligible council 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. Private tenants are, however, treated differently through the *Local Housing Allowance* system (see below).

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 their 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).

Housing Benefit thus prevents eligible rents from taking incomes below social assistance (e.g. JSA, IS, Pension Credit) levels and this implies that rising rents will be fully met provided they remain within eligible housing cost limits.

Vol.35 No.1, pp.67-71.

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 administrating 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. Eligible recipients receive 'earnings disregards' that do not count as assessed income in order to encourage work. 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', so 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 bedsit accommodation with shared facilities.

Eligible private tenants receive the Local Housing Allowance. 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 actual rent comes out 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 with social tenants. The other key feature of the Local Housing Allowance is that apart from 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.

The scale of housing benefit

Measured in cash terms, GB Housing Benefit was £11.65 billion in 2000-2001 and rose to £17.50 billion in 2008-09. The estimated outturn figure for 2009-10 was £20.44 billion and the planned figure for 2010-11 was in excess of £22 billion (Pawson and Wilcox, 2010, Table 114). This increase in cost and the threat of further increases explains the priority that government benefit cuts focused on Housing Benefit immediately after the formation of the Coalition.

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 - 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. The reduction in the number of rent rebate recipients and increase in housing association recipients reflects the transfer of council stock to associations.

This shift also occurred in Scotland, where 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 (Pawson and Wilcox, 2010, Tables 115b and 115c). The Scottish Government (2011) also report (pp.10-11) that the largest single group receiving HB are the over 65s (which is otherwise flatly distributed by age). Nearly 2 in 3 recipients are single people without dependents but almost one in five are single parent households. Only 6% are couples with dependent children. Although it is difficult to be precise, it appears that current annual expenditure on Housing Benefit in Scotland is of the order of £1.6-1.8 billion (author calculations).

Benefit cuts and the universal credit

The debate about devolving Housing Benefit's future is not primarily constitutional but rather the result of the dramatic changes to benefits underway as a result of the policies of the UK Government (though politically this has clear constitutional bearing). 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 by the Labour Government, 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).
- 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.
- From April 2013, the basis of annual up-rating 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 5 bedroom rate and implying a £400 per week overall cap (i.e. the 4 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.

- There will be a ceiling on all HB from April 2013 between £350-500 depending on household type.

Whilst these changes are introduced, it is the Government's intention that Housing Benefit should disappear among the working age population as it is subsumed within the Universal Credit. This simplification of means-tested assistance for the working age population is intended to confer responsibility on the beneficiary partly through the use of increased conditionality. The Universal Credit will operate on a single taper of 65% of net earnings, along with the retention of earnings disregards. Although the Parliamentary Bill to introduce the Universal Credit is now nearing completion, it is still not clear how housing costs will be dealt with within it.

The Government also intends to end the direct payment of housing-related assistance to (social) landlords. 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 (as happens with the LHA). 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.

Devolving Housing Benefit 1 (Social Security Reserved)

Alongside the critical political reaction in Scotland to the cuts in Housing Benefit[2], 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 it to be more consistent with or supportive of other housing policies (and welfare policies).

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 negotiation between Holyrood and Westminster whereby an agreed sum for Housing Benefit would be added to the block grant. The level of Housing Benefit expenditure is the product of the number of claimants and their eligible payments.

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 up-rating the LHA limit with CPI rather than actual market rents). 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, which is being devolved to the Scottish Parliament mirroring 'localism' moves in England.

However, even if a satisfactory settlement were achieved, risks would remain. We noted earlier that while rent 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. unemployment) and demographic change (e.g. household formation and migration). Whilst this is a risk in any form of expenditure, Housing Benefit is much more difficult to control than many other items of expenditure.

What would be the benefits of a devolved Housing Benefit system? In principle Scotland could design its own housing allowance, for example by limiting the scale of the cuts outlined above. 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. 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 (with the rest of social security remaining reserved) must confront and it is one that applies just as much if a Universal Credit were to be introduced for working age households.

Overall, the devolution of Housing Benefit within the existing constitutional structure therefore represents a very significant transfer of risk to the Scottish Parliament. Legal 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 desirable.

Devolving Housing Benefit 2 (Devolution Max)

'Devolution max' has not been definitively defined. However, it would clearly require a significant increase in the degree of fiscal autonomy over domestic taxation and expenditure decisions (including elements of social security), whilst Scotland would remain part of the UK. Social protection is the largest single category of UK public expenditure, representing some 30 per cent of the total, so this would mark a very substantial increase in the powers of the Scottish Government.

Such a move would appear to involve 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 revenue base would be much wider, since the Scottish Parliament would presumably have greater borrowing powers (these powers would be required in order to finance cyclical deficits), as well as control over a range of taxes.

Moreover, the potential benefits arising from autonomy is 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.

The principal attraction of 'devolution max' is that 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.

Devolution Max offers the opportunity to move away from the present system, with its ambiguous policy aims and limiting constraints on the design of housing support. Instead the debate could move to the potential to introduce a more recognizable 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 necessarily being dependent on actual housing costs. Altering the relationship between social security and Housing Benefit is the only feasible way forward to construct a more functional set of low income personal housing subsidies. Only by Devolving both Housing Benefit alongside the remainder of the social security system would allow such a system to be contemplated.

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 stabilizing 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, 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 (unless of course the UK Government took the same route and then this whole debate would be moot).

Conclusion

The debate about devolving Housing Benefit is a multi-dimensional one. At one level, the pursuit of effective housing policies suggests that current Housing Benefit policies are flawed structurally but reform is constrained by the interaction with income maintenance. Devolution Max offers a route to possibly fix some of these important issues. At a second level, the politics of the issue is in part about the Scottish Government's resistance to UK Government cuts and is linked to the overriding constitutional question. In any case, practical policy implementation of devolved Housing Benefit would take years, with or without Devolution Max. Third, the Devolution Max solution to the Housing Benefit/Income Maintenance integration is also a possible solution for the Universal Credit - incorporating a housing element in the UC plus adding a separate affordability based housing allowance (which could of course be regionally varied). As we hint at above, the same outcomes sought by devolving social security and Housing Benefit in Scotland could be achieved by a willing DWP at the UK level and could be generally consistent with the principles underlying the Universal Credit.

In this short paper we have not been able to cover all of this issues. For instance, we have not touched on the issues that arise if one introduces a substantively different social security system within one (federated) state. How will problems such as benefit tourism and fiscal mobility be addressed? In turn, do Devolution Max and Fiscal Autonomy make independence inevitable?

References

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Endnotes

[1] Thus short paper is based on research for a report for the Chartered Institute of Housing (Scotland) – Devolving Housing Benefit in Scotland. We acknowledge their support and their permission to use material from the larger report in this short paper.

[2] Although there would appear to be little likelihood, after devolution of Housing Benefit, that cuts would be reversed.