



## Common Weal submission to Scottish Government Social Security Consultation

In a Common Weal<sup>1</sup> report in February, social policy expert professor Paul Spicker outlined the limitations as well as the opportunities in social security policy for the Scottish Government with the passing of the Scotland Bill 2016.

In this submission, we distil two of the key proposals in that report which we believe could make a substantial difference to tackling child and pensioner poverty now. Both proposals are universalist in principle, in the sense that they are based on the idea that social security policy is delivered best when it is provided to everyone.

Finally, we propose two options the Scottish Government could pursue to stop benefit sanctions in Scotland entirely.

### Top-up Child Benefit (and make it tax deductible)

Topping up Child Benefit has the double advantage of having no impact on other benefits and having no effective marginal tax rate when re-entering work (100 per cent of Child Benefit is maintained on transition to employment). It is also thoroughly universalist in principle: it is delivered to everyone with a child, and therefore has in effect a 100 per cent take-up rate.

This means the Scottish Government can be confident that the delivery of a Child Benefit top-up would achieve the intended aim of acting as an effective measure to lift children out of poverty.

Currently, Child Benefit is only taxed for higher-rate taxpayers. If all Child Benefit was made tax deductible the expense of a Child Benefit top-up would be reduced and lower income families would benefit more than those with higher incomes – those who are currently not taxed at all (earning £11,000 or below (£11,500 from April 2017)) would receive the full additional sum from the top-up.

For this approach to work, the top up in Child Benefit would have to be substantial – the minimum increase necessary would be 25 per cent. If Child Benefit was topped up by 50 per cent and made tax deductible, the cost would be approximately £325m (approximately £140m cheaper than if it were not made tax deductible).

A perfect storm is making the need to look at such a policy increasingly urgent: the combination of a UK Government freeze on welfare benefits until 2020 and an expected rise in inflation (expected to be over 3 per cent by early 2017) from the rising cost of imports, particularly on basic necessities like food and clothing. The Institute for Fiscal Studies<sup>2</sup> predict families across the UK could be £360 per year worse off by 2020. A low-income family with one child would receive an additional £500 per year from a 50 per cent Child Benefit top-up.

### Citizens Pension

Such a stimulus, going to Scotland's 1.5 million families, would also have significant multiplier effects for the Scottish economy, boosting growth.

Currently, Pension Credit is paid by the UK Government to those whose work record is insufficient to receive a full State Pension. Pension Credit is means-tested and has proven to not reach many intended

<sup>1</sup> <http://allofusfirst.org/tasks/render/file/?fileID=5F353C60-ECE3-72D9-CAD3D044ACBB03D0>

<sup>2</sup> <https://www.ifs.org.uk/publications/8699>

recipients – 100,000 people in Scotland do not claim it who should, and 5 per cent of payments are made in error. The Scottish Auditor General found that between a quarter and a fifth of the value of Pension Credit is unclaimed.

The Scottish Government could introduce Citizens Pension, which would be a top up to the State Pension and act as an effective replacement of Pension Credit, reclaiming the cost of the scheme from the UK Government under the No Detriment principle. Citizens Pension would go to all pensioners, and therefore be a supplement for pensioners receiving the full State Pension and a top-up for those who are not. The cost of the scheme would be the cost of the top-ups less the reduction in entitlement to Pension Credit, a rough estimate being £150m.

## Prohibiting or mitigating benefit sanctions

The Scottish Government has indicated<sup>3</sup> that it will not assist the DWP's benefit sanctions regime at the point of the Work Programme, the scheme which is currently administered by contracted providers to those who have been on Jobseekers Allowance for 12 months (nine months for those aged 18-24). A report by Dr Dan Heap for Scottish Green MSP's earlier this year<sup>4</sup> outlined how this non-compliance approach could be actioned.

Common Weal welcomes this, but believes that two other approaches, outlined by Spicker<sup>5</sup>, could be pursued additionally to this with the aim of mitigating or stopping benefit sanctions in Scotland in their entirety.

The language in the Scotland Bill 2016, apparently intended to stop interference in the DWP sanctions regime, is ambiguous. It states that Scottish Government interference in reserved benefits, including suspension, can only occur "from some exceptional event or exceptional circumstances". Spicker (2016b) argues that these terms, in social security law and practice, do not exclude the Scottish Government from discretion to decide what is "exceptional", and therefore could reasonably specify a wide range of circumstances where sanctions should not apply.

Secondly, there is a reasonable case to say that sanctions themselves are illegal, as they contravene the established legal principle that people affected receive a fair hearing. Currently, those who are sanctioned are informed after the sanction has been imposed, and can only appeal the decision. They are not given the opportunity to put forward their case to the decision-maker prior to the imposition.

"I think it can plausibly be argued that any punishment or variation in the rights of a citizen must be lawfully done, and that circumstances where they are not lawfully done should always be considered exceptional...If the DWP doesn't agree, they are welcome to test that proposition in the courts," Spicker argues.

Both approaches – the loophole and the legal route – in trying to end benefit sanctions should be exhausted by the Scottish Government.

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<sup>3</sup> <http://www.dailyrecord.co.uk/news/politics/snp-pledge-block-dwps-hated-8801234>

<sup>4</sup> <https://greens.scot/sites/default/files/Policy/Sanctions%20Report%20for%20Scottish%20Green%20MSPs.pdf>

<sup>5</sup> <http://blog.spicker.uk/the-scotland-act-has-passed-now-we-can-do-something-about-sanctions/>