

# Making welfare work for Wales: Should benefits for people of working age be devolved?

FINAL REPORT | JUNE 2016

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## SUMMARY

Social security benefits, or welfare, are of critical importance to people in Wales, supporting around half the population and injecting £10 billion into household budgets. There has been little enthusiasm for devolution of social security in Wales to date, but with devolution elsewhere in the UK occurring at a pace and an increasingly poor fit evident between benefits and devolved responsibilities it is time to look afresh.

This report looks at whether devolving benefits for people of working age would improve outcomes for society – it is not concerned about devolution for its own sake or in order to undo recent reforms.

The idea of a social union with the UK is powerful in Wales and has played a part in justifying why benefits should continue to be reserved to the UK Government. However other parts of the welfare state have long been devolved and neither this nor the resulting variations in entitlement have broken the social union. Nor does maintaining the social union mean that additional benefits could not be devolved.

Concern about risk has also justified the retention of benefits as a UK responsibility. However the cyclical risk is modest for some benefits for people of working age, and Wales would not be adversely affected provided that there was an acceptable fiscal framework. The introduction of Universal Credit as a single benefit for people of working age makes any devolution more complex, but not impossible.

We conclude that doing nothing is not an option and nor is full devolution. We therefore look on a benefit-by-benefit basis in respect of housing, support for job seekers and disability benefits for people of working age. We find that:

- **Housing:** there is a poor fit between policies on housing benefit and Wales' housing system, and we recommend that steps be taken towards administrative devolution then full devolution of housing benefit (and its successor), as follows:
  - administrative decisions about support with housing costs (e.g. frequency, recipient of payments) should be devolved;
  - decisions about eligible rents (such as Local Housing Allowance and under-occupancy) should be devolved;
  - help with housing costs for 18-24 year olds should be devolved in full;
  - the Welsh Government should be able to determine and make additional payments.
  
- **Job Seekers:** there is a poor fit between benefits and support services for job seekers and Wales' devolved training and employment support system. We recommend that:

- the new Work and Health programme should be co-commissioned by the Welsh Government and Department for Work and Pensions, with a view to complete devolution by 2021;
  - responsibility for job seekers' benefits and services for unemployed young people aged 16-24 should be devolved in full;
  - Jobseeker's Allowance and Employment and Support Allowance should continue to be reserved to the UK Government because of the cyclical element.
- **Disability benefits:** there is limited evidence on the interface between disability benefits for people of working age and support for disabled people. In the absence of this and of demands from disabled people to devolve benefits we recommend that:
    - Personal Independence Payment and Carer's Allowance should remain reserved in the short- to medium term.

The report also concludes that the importance of the welfare system in Wales and its interface with devolved services are so great that the UK Government should consult with the Welsh Government on changes to reserved benefits that affect devolved responsibilities, with a Joint Ministerial Committee on welfare to manage the interface.

We recognise these are not changes to be sought lightly and that further work will be required to consider the potential financial, administrative and policy impacts. The improved outcomes in terms of the affordability of housing and the support for young people make the effort worthwhile.

# 1. INTRODUCTION

Social security, or welfare, is of critical importance to people in Wales. Half the Welsh population currently receives some sort of benefit, such as state pension, child benefit or a benefit for people of working age. Together these benefits contribute around £10 billion to Welsh household budgets.

Social security was designed and has long been delivered as a single, UK-wide system. People paid their taxes and national insurance to the UK Government, and when needed could claim a benefit from it.<sup>1</sup> There were few local or regional variations – a retired person in Llandudno received the same basic state pension as a retired person in London – and the differences that did exist, for example in the amount of help available with housing costs, were determined centrally by the Department for Work and Pensions. But recently the assumptions underpinning these arrangements have begun to shift.

In Scotland, following the Smith Commission's recommendations, the Scotland Act (2016) provides for a substantial number of benefits including Disability Living Allowance and Carer's Allowance, to be devolved. In England, support for Council Tax and some elements of the Work Programme have been devolved. And in May 2015, the Northern Ireland Assembly refused to adopt the provisions of the British Welfare Reform Act (2012) in its own legislation despite the 'parity principle' that has meant that the Northern Ireland system has mirrored that of the rest of the UK.

In Wales the modest interest in the possibilities of welfare devolution has been outweighed by outright opposition, a position exacerbated by the unexpected and mostly unwelcome devolution of responsibility for council tax support, parts of the Social Fund (crisis element) and the Independent Living Fund in 2012. Hardly surprisingly, the Silk Commission's review of the powers of the National Assembly for Wales concluded that '[we] do not recommend devolution of the social security system'.

But circumstances are changing rapidly. Not only has there been substantial devolution of the welfare system since Silk reported, there is every prospect of further change as the Scottish Government and some English local authorities press for even greater control over benefits. It is also clear as welfare reform progresses that there is an increasingly poor 'fit' between parts of the social security system and Wales' devolved responsibilities such as housing, skills and social care to name just three. It is time to look afresh, and in more depth than has been attempted to date, at the potential to devolve social security to Wales.

This report considers whether welfare benefits for people of working age could and should be devolved. It does not look at benefits for older people (such as State Pension, Pension Credit or Attendance Allowance) or those for children (such as Child Benefit and children's disability benefits). It is important to stress that we see the benefits – if any – of

devolving welfare as being to achieve better outcomes for claimants and in particular claimants on the lowest incomes. The aim is not to pursue devolution for the sake of it or to restore benefits to their pre- welfare reform state, but to ensure the best possible fit between Wales' needs and circumstances and the welfare system. If this were successful, a Welsh welfare system could help to reduce poverty.

As part of our consideration of the potential to devolve benefits for working age people, we invited leading contributors from three political parties to share their views: we are most grateful to Leanne Wood AM, Owen Smith MP and Craig Williams MP for speaking openly and honestly about the issues Wales faces.<sup>2</sup> At each event, three panellists from a range of backgrounds provided powerful insights into the current welfare system. Their contributions included the difficulties facing people who need to use food banks because of delays with their benefits and women escaping domestic abuse who are turned away from refuges because of changes to Housing Benefit. We also heard how some claimants are supported into sustainable employment through the Work Programme and the importance of universal benefits for older people. In addition we invited key stakeholders to contribute their views at three roundtable discussions, at which we explored the options for change.

In this report, all statistics on benefit claimants and expenditure are from the Department for Work and Pensions, usually generated via its Tab Tool or Stat-Xplore, and are not separately referenced.

This project would not have been possible without the generous support of the Joseph Rowntree Foundation. We are also grateful to all those who contributed to the discussions and who have commented on drafts. Valuable though these inputs have been, as always responsibility for the findings and any errors rests solely with the author.

## 2. COULD WELFARE BE DEVOLVED TO WALES?

The devolution of social security benefits, or welfare, has scarcely been debated in Wales. In so far as there has been any discussion, the general assumption has been that it is simply not possible – it would be too expensive, too risky and too complex a prospect to entertain. These arguments and assumptions have not been questioned in any depth to date, despite the devolution of some benefits elsewhere in the UK.

This section looks in more detail at whether welfare could be devolved to the National Assembly for Wales. It considers the issues of social union and of risk, then looks at the options for any devolution that might be progressed. It concludes by setting out criteria for considering the devolution of individual benefits for people of working age.

### 2.1. Welfare and Devolution

Successive Government of Wales Acts have reserved social security benefits to the UK government. Social security was not identified as a devolved field in the 1999 or 2006 Acts. The 2014 Silk Commission concluded that '[w]e do not recommend devolution of the social security system' and so the draft Wales Bills of 2015 and 2016 did not include any proposals in respect of welfare benefits.

The rationale for social security benefits remaining the UK Government's responsibility has been two-fold, and relates, first, to the idea of a UK social union and, second, to concern about risk.

#### 2.1.1. Devolution, welfare and the social union

Benefits are one of the entitlements associated with 'social citizenship' of the UK, along with health care and education. As these entitlements are funded mostly from general taxation it is argued that they are most effectively delivered by the nation state.<sup>3</sup> The shared interest that comes from this common entitlement has been termed the 'social union' or, more simply, 'the glue of the UK'.<sup>4</sup>

The idea of 'social citizenship' and a 'social union' has been powerful in Wales. The Welsh Government's evidence to the Silk Commission said:

'a common level of social protection for all our citizens is fundamental to [the] continuation of the UK ... The Welsh Government is clear, therefore, that Social Security is a matter that should be reserved to Westminster'

More recently the First Minister of Wales has elaborated this point:

Our welfare state establishes a certain set of rights and entitlements for our citizens which apply wherever they live within the UK. I place a strong value on the

fact that we all have an equal claim on the safety net that protects us ... So I see social security as one of the core components of our common citizenship – one of the great achievements of the UK.<sup>5</sup>

The UK Government's evidence to the Silk Commission also stressed the importance of 'transferability' of benefits within the UK, along with administrative efficiency, and concluded:

'we believe that responsibility for State Pensions and most welfare benefits should continue to be non-devolved'<sup>6</sup>

Social rights are critically important – they are hard won and provide vital protection to people in old age, and through periods of ill-health or unemployment. But a common entitlement does not mean that there cannot be some degree of devolution of provision.

Most obviously, other elements of the welfare state, notably the NHS and the education system, have been very substantially devolved for decades. Each devolved administration can deliver these aspects of the welfare state as it sees fit, and could at least in theory scrap the entitlement if it wished. Yet despite devolution the common entitlement to free health care and to a free education has remained common across the UK. So, devolution of part of the welfare state does not inevitably erode a common entitlement.

The experience of devolution has also shown that there can be variation in social rights without the principle of common entitlement being undermined. For example, as a result of devolution there are free prescriptions in Wales but not in England and an Educational Maintenance Allowance in Wales but no longer in England, to name but two. Far from these variations in social rights signalling the end of the welfare state, they are championed as upholding its principles as well as better meeting the needs of Wales' people.

Further, the devolution of welfare need not be the 'all or nothing' sometimes envisaged by some commentators. Debates about welfare devolution tend to consider the benefits system as a single entity, with all benefits regarded as being equally unsuitable for change. But the UK's social security system is famously complex, covering everything from the state pension and child benefit, claimed by millions, to benefits for very specific circumstances such as industrial injury or grants for pregnant women who are unemployed. Some provide replacement or top-ups of incomes when people are unable to work, while others help people to meet additional costs e.g. for housing or because of disability. Some of these benefits may be more suitably designed and delivered, or at the very least administered, at sub-UK level.

The argument that most welfare benefits should continue to be non-devolved has been somewhat undermined by the transfer of responsibility for several benefits recently. In 2013, responsibility for help with council tax, the Social Fund's crisis loans and community care grants, and the Independent Living Fund was transferred to the

devolved administrations and to English local authorities. Following the Scottish independence referendum, the Scotland Act 2016 devolves responsibility for a wide range of benefits, including Disability Living Allowance / Personal Independence Payments, Carer's Allowance and the regulated Social Fund (e.g. winter fuel allowance), to the Scottish Parliament. While these benefits account for a relatively small proportion of benefit expenditure in Scotland, they demonstrate that at least some social security benefits can be devolved – not all benefits are for ever reserved.

### 2.1.2. Devolution, welfare and risk

The second rationale for reserving social security to the UK Government is the cost of the system and the associated risks of devolution. Wales' welfare budget is without doubt large: expenditure on benefits administered by the Department for Work and Pensions in 2014/15 totalled over £9 billion, equivalent to two thirds of the Welsh Government's entire budget. There are, in addition, benefits such as Tax Credits and Child Benefit that are administered by HMRC.

But just because a budget is big does not mean that some of it cannot be devolved. The Welsh NHS budget at £5.5 billion is more than the £4.5 billion spent on state pensions in Wales, for example. So the benefits bill may be big, but it is not impossibly so, particularly in its constituent pieces.

There are understandable and real concerns about the financial risks that devolution of benefits would bring. The Bevan Foundation's evidence to the Silk Commission said that financial constraints made the devolution of most of the social security system 'virtually impossible' in the short to medium term, as did most other contributors. It was not surprising that the Silk Commission agreed that 'the transfer of costs and risks to Wales from devolution would not be justified'.<sup>7</sup> However, most of the arguments about risk did not explore the idea in any detail, still less consider how risk might be mitigated.

A key concern was exposure to sudden and unforeseen increases in expenditure, such as might arise in a recession or from economic shocks such as the closure of Port Talbot steelworks. It is the case that some benefits, notably Jobseeker's Allowance, are highly sensitive to the economic cycle: for example the number of claimants in Wales doubled over 12 months after the financial crash in 2007/08. But other benefits are less directly related to economic conditions,<sup>8</sup> so while the risk for some work-related benefits is relatively high, the risk associated with other benefits is more modest.

A further aspect of risk relates to the ability of a devolved nation to afford to pay benefits to its citizens. Spending on benefits in Wales is relatively high compared with other parts of the UK. The Silk Commission noted that expenditure on 'social protection' in Wales is 13% higher per head than the UK average, reflecting Wales' different demographic profile and higher levels of need.<sup>9</sup> However it does not follow that devolution of benefits would inevitably result in a loss for Wales or individuals.

The Welsh Government would only be responsible for meeting its benefits bill in full if there was complete devolution of social security. If this was the case then there would also need to be close to full fiscal autonomy, with extensive tax and borrowing powers to manage its responsibilities effectively. This is firmly off the agenda.

What is clear is that there are ways of mitigating the risks. In Northern Ireland, social security is formally devolved, with social security funding classified as annually managed expenditure that sits outside the Barnett Formula. In practice the 'parity principle' has meant that (until very recently) entitlement has mostly mirrored that in Great Britain. If entitlement varies it is the Northern Ireland Assembly which foots the bill: for example the recent delays in the passage of the Welfare Reform Bill by the Northern Ireland Assembly resulted in the Treasury threatening to impose a penalty of £3 million a month.<sup>10</sup>

The arrangements are different in Scotland. There the new fiscal framework provides for the baseline addition to the block grant for devolved welfare payments to be equivalent to the UK government's spending on them in Scotland in the year immediately prior to the devolution of powers (except Cold Weather Payments, which is based on a three year average).<sup>11</sup> Expenditure in subsequent years is then determined by the Barnett formula. This approach is an important precedent.

In the case of Wales, it is sometimes suggested that the baseline sum would be Wales' Barnett share of spending in England. As Wales' share of benefit expenditure is greater than its Barnett share, it assumed Wales would be worse off.<sup>12</sup> This is not the approach taken in Scotland or in the devolution of council tax support. So provided that the baseline sum allocated to Wales was based on previous expenditure in full, Wales should not be penalised.

The second issue is how subsequent changes are determined. Use of the Barnett formula would mean that Wales would be allocated 5.69% (this being Wales' Barnett 'share) of relevant benefit expenditure in England. We fully accept that the Barnett formula is imperfect for many reasons, including because it takes no account of need. We also accept that there are some risks associated with using Barnett for demand-driven expenditure.

Key is the forecast of benefit spending. If it is expected that expenditure on a benefit in Wales will increase more than in England, then using the Barnett formula would mean Wales loses out. But if the trend is expected to be broadly the same as in England, then provided that baseline figure is correct, using Barnett to calculate subsequent uplifts (or cuts) seems as reasonable as any approach. And if the Welsh Government took steps to reduce expenditure, for example by reducing eligibility or controlling rents, compared with England then it would **gain** financially.

We think there is good reason to expect that the demand for benefits in Wales will not outpace demand in England. Our analysis of expenditure on selected benefits since 2010 (Table 1) shows that where expenditure has increased, the increase has been lower in Wales than in England. Where expenditure has decreased the fall has been greater than in England. This is not surprising as welfare reform is widely recognised to have had a disproportionate effect on Wales.<sup>13 14</sup>

Agreement about devolution of elements of the welfare system would require a robust and long-term fiscal agreement – the current commitment to establish a Barnett floor applies only to the current Parliamentary term. This is an essential pre-requisite if Wales is to be able to manage any risks effectively.

Nevertheless, our view is that the risks are relatively modest and that within the framework of acceptable fiscal framework for Wales could be manageable.

Table 1: Change in Expenditure on selected benefits by country									
	Housing Benefit			Employment & Support Allowance, & Incapacity Benefit			Disability Living Allowance		
	2010/11		2014/15	2010/11		2014/15	2010/11		2014/15
	£	Index	Index	£	Index	Index	£	Index	Index
<b>Wales</b>	965	100	105.8	659	100	127.0	999	100	103.6
<b>England</b>	20,403	100	106.6	6,787	100	160.3	10,410	100	109.6
<b>Scotland</b>	1,795	100	99.9	929	100	156.8	1,418	100	104.4
<b>GB</b>	23,164	100	106.0	8,419	100	156.8	12,839	100	108.5

### 2.1.3. Universal Credit

A significant complicating factor in considering devolution of benefits for people of working age is Universal Credit. The UK Government’s major reform of benefits brings together Housing Benefit, in-work benefits such as tax credits, out-of-work benefits such as Jobseeker’s Allowance and Employment and Support Allowance, into a single benefit. It also includes a wide range of additional payments in specific circumstances e.g. for disabled children. UC is gradually being rolled out in Wales as in the rest of the UK. The most recent estimate is that UC will apply to all claimants in all parts of Wales by 2021,<sup>15</sup> although the experience to date suggests the date could slip even further.

The integrated nature of UC makes devolution of elements of the benefit complex for both DWP and claimant alike. It was the reason that the recommendations of the Calman Commission for Scotland were deferred, and is one of the reasons why the

Smith Commission concluded that the main working age benefits should be reserved. But given that council tax support is outside UC, along with other benefits such as Disability Living Allowance/PIP, it ought to be feasible to separate out some elements. Indeed the Scottish Government is continuing to press for UC to be devolved in its entirety and, failing that, for the housing element to be devolved in full.

## 2.2. Should welfare be devolved?

The previous section showed that some welfare benefits could in theory be devolved to Wales, without undoing the UK social union or exposing the National Assembly for Wales to undue financial risk.

Almost all contributors to the debate about welfare devolution in Wales have recognised that circumstances may change. The Silk Commission concluded that there were two circumstances when the devolution of welfare to Wales may need to be reconsidered – and in our view these have now been met. The first was if parts of the social security system were to be devolved to Scotland at some future date: and of course since the Silk Commission's report the Scotland Act (2016) has devolved many, substantial benefits to Scotland. The second was if there is a 'good fit' of benefits with devolved policies, and since Silk reported the close interface between some benefits, notably housing benefit, and devolved policies has become much clearer. With this in mind, we think it is time to look again and more carefully at the potential to devolve some social security benefits.

Before looking at the detail, there are two possible options that we have ruled out. One is 'do nothing'. Inaction is not a credible option because benefits are already being devolved – responsibility for help with council tax and part of the social fund has already been transferred to the Assembly and there is the prospect of responsibility for Attendance Allowance (for over-65 year olds so not included in this report) to be devolved in the near future. Unless there is some forward thinking, Wales risks being on the back-foot.

The other option we rule out at this stage is full devolution of the entire benefits system. We do this because of the requirement for the devolution of major benefits to be accompanied by the devolution of substantial fiscal powers in order to manage the expenditure. While there is no recent evidence on public opinion on welfare, general views of devolution indicate that there is very little public support for Wales to be independent (6% of the population). And while 43% would like 'more powers', what that entails is not clear.<sup>16</sup> As Scully commented:

'there is a considerable constituency of support for some further devolution in Wales. But that support is not yet established among a clear and consistent

majority of the Welsh people. Nor is the issue necessarily of high salience to most of them.<sup>17</sup>

This leaves the options of devolving responsibility for specific benefits, devolving benefits for specific groups of people, and granting powers to pay additional benefits.<sup>18</sup> The experience of Scotland and England shows that some elements of the benefits system can be separated out and if necessary devolved, and we see no reason why this approach could not be considered for Wales.

In considering whether specific benefits should be devolved we have adopted some fundamental principles, drawing on Lodge and Trench.<sup>19</sup> These are:

- **Whether devolving the benefit would undermine the social union**  
Generally benefits which involve replacement of income or which are based on National Insurance contributions are an important part of the social union and so are not suitable for devolution.
- **Whether the benefit is cyclical**  
Benefits which change with the economic cycle e.g. Job Seekers Allowance are less suitable for devolution because they can impose financial strains on devolved resources.
- **Whether the benefit fits well with devolved functions**  
Benefits which relate to devolved functions are more suitable for devolution, as devolved governments are better equipped to deal with their responsibilities.
- **Whether the benefit is place-related**  
Benefits which reflect local conditions e.g. the housing or labour market are more suitable for devolution than those which are not.

The rest of this report considers the potential for devolving welfare benefits for people of working age in three key areas. They have been identified in other studies as having a strong case for being devolved and there has already been at least partial devolution elsewhere. They are:

- Help with housing costs
- Support for Job Seekers
- Benefits for disabled people and their carers

In each section we look at the current position in Wales in terms of the number of claimants and expenditure on the benefit(s). We then look at the 'fit' between the current benefit system, including the impact of reforms to benefits, and social and economic circumstances and devolved policies in Wales. We then look at devolution elsewhere in Britain, including devolution or localisation to city regions and / or local authorities, as well as Scotland.<sup>20</sup> Finally we consider the options for devolving those types of benefits to Wales.

## 3. HOUSING BENEFIT IN WALES

Housing Benefit was introduced in the early 1970s, and helps low-income renters to pay for their housing costs. It is available to both private and social sector tenants, whether in or out of work, and is means-tested. Housing Benefit fulfils two functions: limiting the burden of housing costs so that they do not take up a disproportionate amount of household income and protecting household incomes after rent is paid so that households can purchase other necessities.

### 3.1. Housing Benefit in Wales

Housing Benefit helps nearly a quarter of a million tenants (243,000 in November 2015) in Wales with the costs of their rent, about half of all tenants in Wales. Total expenditure on Housing Benefit in Wales is over £1 billion a year in 2015/16, with claimants on average receiving £ 95.38 a week towards their rent. A further £8 million is allocated by the UK Government for Discretionary Housing Payments in Wales.

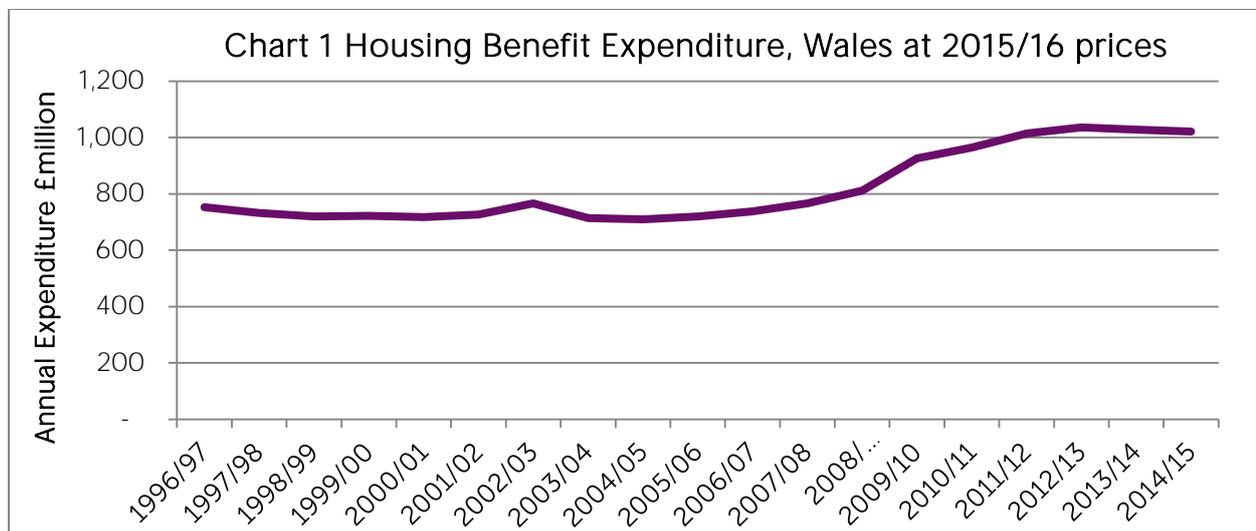
Housing Benefit is especially important to the social rented sector, where around three-quarters of households received help with their housing costs, but it is also important in the private rented sector where more than four out of ten households receive it.<sup>21</sup>

As elsewhere in the UK, the number of claimants and total expenditure on Housing Benefit increased rapidly from the mid 2000s, peaking in 2013. The increases were driven by:

- an increase in the number of households which rent, and in particular the number of private sector tenants;
- an increase in rents in both the private and social rented sector (although the average weekly amount of Housing Benefit in the private rented sector remains well above that in the social sector);
- the recession and changes in the labour market which depressed the earnings of low-paid tenants so that more households became eligible for Housing Benefit.

Since 2013, the number of claimants has decreased slightly, down from 253,963 in March 2013 to 243,571 in August 2015. The decrease has occurred in both private sector and social sector claimant caseloads. Expenditure has also decreased very slightly, from £1.036 billion in 2012/13 to £1.021 billion in 2015/16. These decreases are modest – 10,000 fewer claimants and £15 million less expenditure in two years – and are less than might have been expected given the number and range of reforms made to Housing Benefit since 2010. It is likely that the relative protection from reforms provided to pensioner households – who are 26% of all Housing Benefit claimants in Wales in November 2015 – and the relatively small number of households affected by the loss of

the spare bedroom subsidy / bedroom tax (29,987 households at August 2015) has reduced the impact of the reforms on the claimant caseload and expenditure (although not the impact on households).



### 3.2. Reform of Housing Benefit

A raft of changes to Housing Benefit since 2012 has changed eligibility and the amount of benefit that can be paid to people of working age. In addition, Housing Benefit is, at least in name, being abolished as help with housing costs is incorporated into Universal Credit (UC), although many of its features will remain. In the rest of this report we use the term Housing Benefit to refer to both the current benefit and to the housing element of Universal Credit, and to cover the help offered to tenants in both private and social rented sectors.

The effects of the numerous changes to Housing Benefit to date can be summarised as:

**a. Restrictions on the size of property**

The abolition of the spare bedroom subsidy / bedroom tax in the social rented sector, the restriction of Local Housing Allowance (LHA) to the shared accommodation rate for single under-35 year olds in the private rented sector, and several other changes have together limited the size of a property for which a household may claim Housing Benefit.

**b. Limits on amount of eligible rent**

The amount of benefit payable has been limited by a combination of freezing LHA, the imposition of a benefit cap; and restriction of LHA to the lowest 30<sup>th</sup> percentile rather than median private sector rent.

### c. Changes in payment arrangements

With Universal Credit, housing benefit is paid direct to all tenants rather than to landlords, and is paid to one person within the household, monthly and in arrears.

The changes introduced in the Summer 2015 budget and Autumn Statement 2015 involve further restrictions on the amount of eligible rent that can be claimed. For example the rates of Local Housing Allowance are to be frozen to 2020 and the benefit cap is to be reduced to £20,000 outside London. The Chancellor also announced, for the first time, changes in how household needs are assessed, with the amount of income allowed for families reduced with the abolition of the 'family premium', the withdrawal of an allowance for a third child born after April 2017, and the withdrawal of automatic entitlement to housing support for new claims in Universal Credit from 18-21 year olds who are out of work.

The combined effect of the changes is to reduce the amount of help that tenants receive towards their rent, in whatever sector they live, irrespective of need. As a result, households are faced with the difficult task of trying to find accommodation that they can afford, or using their already limited income to make up the shortfall between benefit and rent. Some housing analysts argue that as a result of the changes housing benefit no longer fulfils its primary objectives of helping families to meet their housing needs and preventing incomes falling below a basic level (effectively the basic benefit rates) once housing costs are met. It also no longer necessarily fulfils its ancillary role of giving landlords assurances that rent will be paid and providing investors with confidence to lend money for development.<sup>22</sup> With warnings that further cuts to UK public spending may be needed in the near future and few signs of a dramatic improvement in the UK's position when the current spending round ends, there is every prospect of further changes to Housing Benefit.

### 3.3. Fit with Needs and Policy

The Welsh Government's housing strategy<sup>23</sup> aims to provide more housing of the right type and offer more choice; improve homes and communities and improve housing-related services and support. To achieve these aims it is prioritising:

- increasing the supply of affordable homes
- increasing private sector investment in housing
- improving the standard of new homes
- increasing choice
- additional legal powers.

Although not recognised in the Welsh Government's strategy, Housing Benefit plays an important role in achieving its aims in that it provides help with the costs of rent for those on low incomes in a way which, at least until recently, generally responded to need. It has also provided a significant income stream to Wales' social landlords, enabling them to invest in new housing and provide a range of support services.

Because Housing Benefit is so important to tenants in social housing and the private rented sector, the changes are having a far reaching effect – these are not changes that affect only a small minority of tenants. There has been some research on the impact of welfare reform in Wales, but it mostly considers the forecast rather than actual effects, and almost all focuses on the impact on household or average incomes. Important though this is, the impact is much wider. The evidence is limited, but what does exist suggests that the changes to Housing Benefit are affecting the supply, quality and affordability of housing. As such the changes are affecting the ability of the Welsh Government to achieve its aims for housing.

### 3.3.1. Availability and Choice

The changes to Housing Benefit have a significant impact on the availability and choice of housing in Wales. The limits on rent (and especially the abolition of the spare bedroom subsidy / bedroom tax) are increasing demand for smaller properties as households in socially rented homes seek to move to smaller and / or cheaper properties. The Auditor General has suggested that there are over 30,000 households that need to downsize,<sup>24</sup> yet at the end of 2014/15 less than a quarter of Wales' general needs social housing had one bedroom, just 54,400 homes.<sup>25</sup> The impact is greater in Wales than anywhere else in Britain.<sup>26</sup>

The Welsh Government has responded by allocating funding for the construction of one-bedroomed properties but the numbers are small compared with the scale of demand. Some social landlords are also adapting properties to reduce their size (e.g. to remove very small third bedrooms) or converting larger units into houses in multiple occupation, but here too the impact is small against the scale of demand. The number of vacancies in social properties that are available for letting has increased since 2010/11, although it is not clear if these are necessarily larger properties or if there are reasons other than welfare reform for this trend.<sup>27</sup> It remains to be seen if the changes in income are affecting social landlords' ability to invest in new stock and maintain existing stock.

In terms of the impact of changes on housing availability and choices in the private rented sector in Wales, data on rents show that more than half of local housing allowance rates for 2016/17 are below rents in the cheapest 30% of accommodation, there is no housing market area or property type where there is not an affordability issue.<sup>28</sup> Some private sector landlords in the UK are reported to be responding by negotiating rents (downwards) with tenants, although around a third have said they intend to exit the Housing Benefit market completely.<sup>29</sup> Just under half of private sector

landlords in Wales have said that they will not let to Housing Benefit claimants, putting further pressure on the supply of accommodation for tenants.

### 3.3.2. Housing Quality

Welfare reform is recognised to have a potential impact on the quality of housing, as the combination of lower rents and increased arrears in some parts of the private rented sector reduces landlords' margins, so that they cut back on maintenance.<sup>30</sup> The quality of some parts of the sector is already poor, with higher rates of category one hazards and poorer energy efficiency in private rented accommodation than other tenures.<sup>31</sup> There is limited evidence that some landlords are subdividing properties into bedsits as the income from several tenants on the shared accommodation rate is greater than that from one family.<sup>32</sup>

Social landlords have expressed concern about the potential impact of arrears and, in England, the reduction in rents on a range of support services for tenants, although there has yet to be any change reported in Wales.

### 3.3.3. Housing needs

The various changes to Housing Benefit have, for the first time, broken the relationship between housing needs and the help available. The additional housing needs of disabled people, such as an additional room for equipment or a partner to use or general adaptations for a wheelchair user, have mostly been disregarded in the many reforms. People affected will either face meeting any shortfall in Housing Benefit from other income or moving to potentially unsuitable properties. DHPs may offer some respite, but they are by definition discretionary, with each household having to apply for assistance which in many cases is likely to be time-limited.

The needs of larger families are also not met as their benefits are most likely to exceed the benefit cap, while the birth of a child after 2017 will no longer be taken into account if the household already has two or more children. There is very little evidence on the impact on larger families: they have the option of meeting the shortfall in their housing costs, or moving to cheaper, smaller accommodation with significant risks of overcrowding.

And unemployed young people aged 18-21 will shortly not be eligible for any help with housing costs at all, being expected either to live with a relative or friend – an option not open to all young adults – or find a job and (shared) accommodation. The challenge is likely to be especially difficult for young adults who live in communities with few job opportunities.

### 3.3.4. Affordability

Welfare reform is affecting the affordability of housing, as changes to the eligible rent mean that for some claimants Housing Benefit does not cover their costs. The number of tenants affected is likely to increase substantially as Local Housing Allowance rates are frozen to 2020 while rents are expected to rise.

Research suggests that tenants in social and private sectors have responded to the reduction in affordability in a variety of ways.<sup>33</sup> A minority has moved into work or relocated to cheaper accommodation, as intended. Some have fallen into rent arrears: in the social sector in Wales rent arrears of less than 13 weeks are at their highest since 2010/11,<sup>34</sup> with one third of tenants in arrears. In the private rented sector, Citizen's Advice Cymru report a 48% increase in caseload for people in arrears.<sup>35</sup>

To date in Wales social landlords have not reduced their rents in response – indeed the Welsh Government is permitting social landlords to increase 2016/17 rents by the Consumer Price Index plus 1.5%, in effect a 1.4% increase.<sup>36</sup> Tenants whose Housing Benefit does not cover their rent in full will face an increased shortfall – an extra £1.17 a week rent on the average rent of a two bedroom house. Some social landlords in Wales are reported to be assessing prospective tenants' financial circumstances before letting to them in order to ensure that a tenancy is sustainable<sup>37</sup> with the risk that tenants on very low incomes could be found to be 'too poor' for social housing.<sup>38</sup> The practice of asking for rent in advance is also a concern.<sup>39</sup>

Evidence from England suggests that in the private rented sector a minority of landlords have been willing to negotiate rents with tenants.<sup>40</sup> As even the lowest quartile rents are, on average, less than those in the social rented sector it is likely that the lowest income tenants face significant difficulties affording a home.

### 3.3.5. Residual income

The shortfall between Housing Benefit and rent due has reduced household income available for other purposes. The impact on household incomes that are already low, and that may have been affected by other benefit changes, such as the freezing of rates and the reduction in Employment and Support Allowance for people in the Work Related Activity Group, is severe. Evidence shows that many have managed by cutting back on other essential expenditure such as food or heating in order to pay their rent, with the risk of long-term impacts on physical and emotional health, and children's education to name but two.

It is clear that the recent changes in Housing Benefit are already affecting the availability and quality of rented housing, the ability of some groups of people to meet their housing needs, and reducing housing affordability and household residual incomes. These effects are apparent just a few years after the reforms to Housing Benefit were made. In time, and with more changes in the pipeline, it is reasonable to expect that the impact will be

much greater. It is not just the impact on households that is cause for concern. The downward pressure on supply, quality and affordability and the knock-on effects for housing need and household budgets are a direct challenge to the Welsh Government's ambitious housing policies and tackling poverty plans. Yet the extent to which welfare reform could derail the Welsh Government's policies (as opposed to the effect on households and landlords) has scarcely been recognised,<sup>41</sup> still less has there been a comprehensive response.<sup>42 43</sup>

### 3.4. Devolving Housing Benefit

The Government of Wales Act 2006 devolves most aspects of housing to the National Assembly for Wales, 'except schemes ... which provide assistance for social security purposes to or in respect of individuals by way of benefits'. While the Assembly has exercised its powers in respect of housing with two key pieces of legislation, the Housing (Wales) Act 2014 and the Renting Homes (Wales) Act 2016, there has been little debate about or appetite for devolution of Housing Benefit (or social security benefits more widely).

Community Housing Cymru has called for Wales to have the same arrangements over social security as apply in Northern Ireland.<sup>44</sup> They did not explore what this might mean in detail, with their position being largely driven by a desire to retain direct payments of the housing element of Universal Credit to social landlords, and since Silk reported they have made no further calls for devolving benefits.

The position in Scotland is very different. Here, there has been discussion for some time about the merits or otherwise of devolving security, with most advocating at least some degree of devolution. In 2009 the Calman Commission concluded that:

"there should be scope for Scottish Ministers, with the agreement of the Scottish Parliament, to propose changes to the Housing Benefit ... system ... when these are connected to devolved policy changes, and for the UK government - if it agrees - to make these changes by suitable regulation."<sup>45</sup>

The then UK Labour Government agreed in principle to take forward Calman's recommendations as did the next UK Coalition Government, while the Scottish National Party manifesto for the 2011 Scottish Parliament elections reiterated its desire for Housing Benefit to be devolved in full. However the relevant clauses in the Scotland Bill of the time were dropped pending the passage of the Welfare Reform Act 2012.

The Smith Commission, set up immediately after the referendum on independence, reached a similar conclusion to Calman on what was by this time to be Universal Credit.<sup>46</sup> Smith recommended that although Universal Credit should remain a reserved

matter, the Scottish Parliament should have the powers to vary some administrative matters. The majority of these relate to housing and include:

- the ability to pay landlords direct for housing costs in Scotland
- the power to vary the housing cost element, including the under-occupancy change and local housing allowance rates, eligible rent and deductions for non-dependents.

In addition it was proposed that the Scottish Parliament could vary the frequency of payment of Universal Credit and the person to whom it is paid, and could introduce new, additional benefits if it wished. The costs any variation to the housing cost element to Universal Credit these changes are to be borne from the Scottish budget. The Smith Commission's recommendations are incorporated into the Scotland Bill progressing through the UK parliament, although not without some controversy over whether the draft legislation reflects the spirit of Smith's recommendations.

The proposed devolution of housing costs within Universal Credit is therefore only partial. The Scottish Government is able to make some variations and bears the consequences of those variations, while the UK Government remains responsible for determining – and funding – the help given with housing costs, and thus bears the major risks. The proposals therefore fall far short of the devolution of the whole system many had called for. Nevertheless the changes have been broadly welcomed, with Scottish Government being urged to permanently abolish the 'bedroom tax', to simplify and make fair non-dependant deductions, to use the power to pay landlords and to consider rent controls.<sup>47</sup>

The possibility of devolving Housing Benefit to local authorities in England has also emerged recently, although in a much more muted way. A review by IPPR concluded that the case for devolving Housing Benefit is "compelling", because it is strongly linked to place, has close links with local policies for housing, is not funded from contributions and is only partially linked to the housing cycle.<sup>48</sup> Some are calling for the ability to vary local housing allowance and determine broad rental market areas.<sup>49</sup> Others are calling for devolution of the Housing Benefit budget so that local authorities can offset investment in housing against savings in benefits.<sup>50</sup> While there are references in some City Deals to housing benefit, it is unclear if there has been any devolution to date, even partial.

The developments in Scotland and in England are important because they demonstrate that there is potential for the devolution of Housing Benefit, at least in part. What was previously regarded as an integral, unbreakable part of a UK-wide social security system can now be at least partly detached.

## 3.5. Options for Change

Housing Benefit is vitally important to the provision of good quality, affordable housing that meets the needs of people on low incomes. Changes in housing benefit are affecting both the Welsh Government's policies and strategies for housing and reducing poverty, as well as the ability of people to afford a decent home. There are a number of options for devolving housing benefit, each of which offers varying scope to get a better 'fit'.

### 3.5.1. No Change

No change is the default option. Housing Benefit will be wrapped up into Universal Credit as UC is rolled out, and all aspects of help with housing costs will continue to be determined by the UK Government. The 'No Change' option means that Housing Benefit will continue to be a 'poor fit' with needs and policies in Wales.

There are good reasons to think that there will be further reforms to housing benefit in the near future. The benefit bill is forecast to continue to increase, so unless other means of cutting costs, such as rent controls or a major increase in housing supply, are implemented further reforms to cut costs are inevitable. Indeed there are already some calls to abolish housing benefit altogether.<sup>51</sup>

### 3.5.2. Administrative flexibility

The next option is that the Welsh Government has administrative flexibility over the housing element within Universal Credit, being able to alter, for example, who receives payment of benefit or the frequency of payment as is proposed for Scotland in the Scotland Bill.

This option has minimal financial implications. It would allow the Welsh Government to address some of the concerns about the impact of changes on specific groups, e.g. people at risk of domestic violence, and so align Housing Benefit with some other policies, and to introduce direct payments to landlords if it wished, giving confidence to investors and security to tenants. That the Scottish Government now has this power demonstrates that these changes can be made.

### 3.5.3. Top-up benefits

The system of Discretionary Housing Payments already recognises that sometimes standard Housing Benefit is not adequate, allowing additional albeit temporary support. The Welsh Government has enhanced the DWP's expenditure for Wales, setting a precedent for the ability of the devolved administration to supplement (although not control) Housing Benefits.

The Scotland Act includes provision for the Scottish Government to make additional payments to claimants. There have been widespread calls for top-up payments to be

used to offset the impact of the bedroom tax / loss of spare bedroom subsidy. This could be offered either for all claimants or in specific circumstances e.g.:

- in households where someone claims a higher rate Disability Living Allowance;
- in households where people have shared responsibilities for children;
- in households where no suitable alternative accommodation is available.<sup>52</sup>

The Welsh Government could also introduce top-up payments if it wished in other circumstances e.g. to increase work incentives.

The provision of top-up benefits would clearly have financial implications. For example the cost of offsetting the 'spare bedroom subsidy' in its entirety is estimated at £22 million a year,<sup>53</sup> but would be somewhat less if resources were targeted. There could also be off-setting savings for example on home adaptations, additional social services, or on debt and debt advice.

#### 3.5.4. Control over eligible rents

The Scotland Act enables the Scottish Government to determine eligible rents, such as the rate of local housing allowance or any penalty for under-occupancy. The Welsh Government already regulates rents in the social sector and could, if it wished, also regulate rents in the private rented sector. The advantage of being able to adjust the rents eligible for Housing Benefit is that the Welsh Government could link them its wider rent controls and policy objectives. At the very least would be consistent with the Welsh Government's existing powers for it to determine local housing allowance (e.g. restoring it to the median rather than 30<sup>th</sup> percentile) and any deductions linked to occupancy.

The Welsh Government could also seek to make more substantial changes, for example adjusting eligible rent for properties that fall below a certain standard. More radically it could consider linking eligible rent with household income rather than the property.

There are potentially significant financial implications should the Welsh Government decide to increase or reduce the rent for which Housing Benefit could be claimed. The scale of the financial implications would clearly depend on the changes which it made, and also on any changes in caseload. As an example, if the Welsh Government increased the eligible rent which resulted in an additional benefit payment of, say, an average of £5 per week for all working age claimants, the additional cost on current caseload would be £48 million a year. More targeted changes would potentially be cheaper.

The Welsh Government would need to bear the costs by making savings elsewhere in the benefit budget or from its own resources. It is important to stress that the financial implications would depend on the Welsh Government's decisions – this is not a matter of the Welsh Government bearing risks over which it has no control.

### 3.5.5. Full control over Housing Benefit

Although the Smith Commission rejected the devolution of Housing Benefit in its entirety, it remains an option popular in some quarters of Scotland. Even if full control is not available for the whole population, it is an option for some groups of people particularly those whose benefits are not wrapped up into Universal Credit, such as pensioners.<sup>54</sup>

The prospect of devolved responsibility the whole Housing Benefit system and budget to Wales - more than £1 billion of help with housing costs - is interesting not least because it offers scope to shift expenditure away from subsidising housing costs to increasing housing supply – ‘from benefits to bricks’ as Shelter Scotland has termed it. This would require the housing element of Universal Credit to be separated from the rest of the benefit – messy, but not impossible as it is considered separately. It would mean that responsibility for all aspects of housing policy (other than macro-economic policies) would rest with the Welsh Government. Its devolution would require the addition of a suitable baseline sum to the Welsh block grant, along with regular reviews (e.g. accompanying each comprehensive spending review).

The advantage is that the Welsh Government would not bear the costs of providing help with housing costs from its existing budget or indeed from any devolved taxes, but would operate the DWP’s former housing benefit budget. The Welsh Government could, if it wished, redesign the whole system of support with housing costs, aligning the cash help offered with other aspects of housing policy. The Welsh Government would benefit from any savings made e.g. if rents reduced or incomes rose, as well as bearing the risks if rents rose or its own policies were more generous than those of DWP.

The size of that risk is hard to quantify. The Housing Benefit caseload is not as sensitive to the economic cycle as many other benefits because of the high proportion of claimants on long-term benefits such as state pension, income support and Employment and Support Allowance.<sup>55</sup> Nevertheless increases in unemployment or long-term downward trends in earnings would affect the caseload, and it would be the Welsh Government which bore that risk. Similarly, there are risks that could come from population change. The forecast increase in the number of older people, for example, could increase claims by pensioners, or a number of people eligible to claim benefits could locate to Wales if they perceived Wales’ benefit regime to be to their advantage. This is unlikely - there has been no large scale population shift to Scotland to take advantage of different arrangements for health and social care, although Wales has a more porous border with much bigger in- and out-flows of population than Scotland. A great deal more work would need to be done to develop proposals for a Welsh housing benefit and to assess in depth the risks and opportunities.

There is, however, scope to seek the devolution of housing benefit for specific groups of people, with there being good reason to seek this for young people aged 18-21. New

claimants who are unemployed will not be eligible for any help with housing costs from 2017. The number of people of this age claiming Housing Benefit is small – just 5,800 in Wales in November 2015, the vast majority of whom (84%) were receiving another benefit such as Jobseeker’s Allowance and income-related Employment and Support Allowance e.g. because of illness or disability. Just over half of 18-21 year old claimants (56%) are in social housing, suggesting that they have additional needs.

There are real concerns about the impact of withdrawing help with housing costs from this young and potentially vulnerable group of young people, as not all are able to live safely with their families. A very rough estimate is that providing help with rent of an average of £90 per week would cost £27 million a year for this age group.

The Welsh Government provides many services to 18-24 year olds, including education and training, employment schemes and youth services as well as specialist housing support, so aligning housing benefit with these other services would ensure they were complementary. The cost to the Welsh exchequer would be relatively small and the long-term savings could be substantial. Costs would also be relatively easy to forecast as the number of people in each age group are known. Suitable provision could be made to reduce the risks of people moving to Wales to take advantage of different benefit entitlement.

### 3.6. Conclusions and recommendations

The case for devolving Housing Benefit to Wales is strong. It helps quarter of a million people with their housing costs, and has a very substantial interface with and impact on Welsh housing policy and housing needs. The financial risks of devolution of housing benefit are modest, ranging from virtually negligible for administrative devolution to manageable if the benefit is devolved in full.

#### **We recommend that:**

- the Welsh Government should seek the ability to vary the administration of Housing Benefit / the housing element of Universal Credit, including the ability to determine the frequency of payments and the recipient;
- the Welsh Government should have the ability to make additional payments to Housing Benefit / the housing element of Universal Credit;
- the Welsh Government should have control over local housing allowance and occupancy requirements;
- the Welsh Government should explore the potential to devolve responsibility for housing benefit for 18-24 year olds from April 2017 as a matter of urgency (alongside Jobseeker’s Allowance – see later).

We conclude that further work should be done on the scope to devolve Housing Benefit / the housing element of Universal Credit in full, not least in the event of further changes to UK housing benefit.

## 4. JOB SEEKERS & EMPLOYMENT SUPPORT IN WALES

Out-of-work benefits provide essential income to just over a quarter of a million people in Wales, 12.1% of the working age population in August 2015. For the majority, benefits are a short-term lifeline while people find a new job, recover from illness or bring up a young child alone. Many move off benefits without help, but some need support to enter or re-enter the labour market.

Out-of-work benefits have experienced many reforms in recent years, with more changes to come as the Chancellor of the Exchequer continues to try to reduce the UK budget deficit and as Universal Credit is introduced. The major change to employment support came with the introduction of the Work Programme in 2011, with further changes anticipated in the next phase of the programme from 2017.

There is a consensus that some aspects of the benefits system and of employment support programmes could be improved. Devolution of some benefits and employment support to Scotland and parts of England is widely seen as at least part of the solution and is proceeding apace. But to date there has been relatively little discussion, and much less progress, than elsewhere.

This chapter considers the potential to devolve benefits and support for job seekers in Wales.

### 4.1. Out-of-work benefits in Wales

Wales currently has around a quarter of a million people of working age claiming a benefit because they are out of work. Of these, more than seven out of ten receive Employment and Support Allowance (ESA) because they are sick or disabled. Fewer than 40,000 people receive Jobseeker's Allowance (JSA) and around 25,000 receive lone parent benefits. In addition, Universal Credit is being rolled out across Wales with more than 7,000 unemployed claimants at March 2016.

As well as benefit claimants there are estimated to be about 40,000 more people who meet the ILO definition of unemployment but who do not claim a benefit, e.g. because they are not eligible or do not wish to comply with DWP requirements.<sup>56</sup>

#### 4.1.1. Job Seekers Allowance

Job Seekers Allowance is paid to claimants who are not in employment or full-time education, and are available for and actively seeking work. Claimants may receive JSA

based on either their Class 1 National Insurance contributions ('contribution-based JSA') or their income and savings ('income-based JSA').

In August 2015, a total of 39,980 unemployed people in Wales claimed an out-of-work benefit, usually Jobseeker's Allowance. The number of people claiming JSA is relatively volatile, and generally reflects the fortunes of the UK economy. For example, the number of claimants almost doubled in the 12 months between May 2008 and May 2009 when the financial crash hit, since when it has fallen back to mid-2000 levels.

Job seekers are predominantly young, with nearly a quarter (23.2%) being under 25 years old. The majority of claimants are unemployed for a relatively short period of time, with around 20% of claimants ending their JSA claim every month. A minority of job seekers (31.7%) had been unemployed for more than 12 months in August 2015.

Expenditure on JSA is relatively modest compared with other benefits - in 2014/15 expenditure was £183m compared with £239m when the number of JSA claims peaked in 2009/10.

#### 4.1.2. Employment & Support Allowance / Incapacity Benefits

People who are unable to work because they are ill or disabled may be able to claim Employment and Support Allowance (ESA). Claimants undergo a Work Capability Assessment (WCA) to determine the extent to which their illness or disability affects their ability to work. If a claimant is entitled to ESA, they are then placed in one of two groups:

- work-related activity group (WRAG) where claimants are expected to participate in work-related activity e.g. regular interviews with an adviser;
- support group, where no work-related activity is expected.

Claimants may receive ESA depending either on their national insurance contributions (contribution-based ESA) or their household income (income-related ESA). Contribution-based ESA is limited to one year for people in the WRAG.

In August 2015 a total of 162,440 people in Wales claimed Employment and Support Allowance or Incapacity Benefit because of disability. The number of people claiming ESA is much more stable than the number claiming JSA, albeit that the long-term trend is downwards. Between August 2012 and August 2015, for example, the number of people claiming out-of-work disability benefits fell by just under 6,000.

Claimants of ESA and Incapacity Benefit are on average much older than JSA claimants – only 7.6% are aged under 25, and nearly six out of ten (59.4%) are aged 45 or over. The majority of ESA and incapacity benefit claimants have been out of work for some time: over half (58.5%) have been claiming for five years or more and 10% have been claiming for less than six months.

A relatively small proportion of ESA claimants are placed in the Work-Related Activity Group (WRAG) – 23% of all ESA recipients (34,880 people) at August 2015. In contrast more than half (55.8% - 84,400 people) were assessed as eligible for the Support Group, when a return to work is very unlikely. Nearly 27,500 claimants were in the process of being assessed.

Expenditure on ESA and Incapacity Benefits in Wales is substantial – £825 million in 2014/15, the highest figure recorded to date.

#### 4.1.3. Employment Support Services

While many people who are unemployed find work without help, some people need support. The Department for Work and Pensions operates the Work Programme in Wales. The Work Programme is targeted at long-term unemployed people, specifically those on JSA who are out of work after 12 months of unemployment, and those on ESA who may, if they are in the WRAG, be mandated by Jobcentre Plus to participate. From 2017, the Work Programme will be succeeded by the new 'Work and Health' programme.

Between June 2011 and December 2015, a total of 100,090 people were referred to the Work Programme in Wales, of which 97,240 people participated. The numbers of referrals is now much lower than at the start of the programme, totalling just 8,000 in 2015. The composition of participants has also changed over time - the number of JSA participants has declined, reflecting the decrease in unemployment levels, while the number of ESA participants has increased so that ESA claimants are now about 25% of referrals.<sup>57</sup> The shift in the composition of participants was not envisaged at the start of the current contracts and has undoubtedly affected the ability of contracts to support clients.

Provision is commissioned by DWP to two prime contractors in Wales – Rehab JobFit and Working Links. In commissioning, the DWP adopts a "black box" approach which means that the DWP does not specify the support that providers should offer job seekers but instead allow providers to design provision within minimum service standards and financial parameters. Providers are paid for the outcomes they achieve. Some people argue that this approach gives flexibility to tailor services to individual needs and encourages innovation, but others suggest it results in a lack of clarity about what is delivered to clients, and that complex, potentially expensive, needs are not met.

The Welsh Government is responsible for post-16 learning and skills provision. This includes a substantial commitment to reducing worklessness, for which it operates or helps to finance a large number of programmes to help people to find or sustain work, such as Communities for Work, Lift and Healthy Working Wales. In addition, there is a wide range of employability programmes delivered by local authorities and the third sector, ranging from local authorities' Bridges into Work programme to WCVA's 'Active Inclusion' programme to Prime Cymru's mentoring scheme. There is however much less

information available about participant numbers and outcomes on these programmes than is available for the Work Programme.

## 4.2. Reform of out of work benefits

Benefits for unemployed people have, like most other benefits, experienced substantial changes since 2010 with the prospect of further changes as Universal Credit is rolled out. The main changes can be summarised as follows:

- **Tougher eligibility requirements**

JSA and ESA (WRAG) claimants are required to comply with DWP requirements, such as job search activity and participation in mandatory work-related programmes, or risk losing their benefit for a period (called a 'sanction'). In addition, people claiming ESA must undergo an initial assessment to determine their capability for work (the Work Capability Assessment) and their eligibility for ESA support.

The requirements for lone parents have also changed, with lone parents being expected to seek work when their youngest child reaches the age of three (rather than five). Lone parents are expected to participate in work-related activity when their youngest child reaches the age of two.

The Chancellor announced in July 2015 that unemployed young people aged 18-21 would be expected to 'earn or learn', implying that unemployment benefits may no longer be available for this age group although few details are available yet.

- **Reduced entitlement**

The period for which claimants in the ESA WRAG can receive ESA based on their National Insurance contributions has been limited to one year. The period of 'waiting time' before ESA and JSA can be claimed has increased from three to seven days.

- **Reduced value of benefits**

Benefit levels for job seekers and ESA (WRAG) claimants were uprated at below inflation and have now been frozen until 2019/20. The rate of benefit for claimants during the ESA assessment phase has been reduced to JSA rates, and the same change is planned for ESA claimants who are in the WRAG.

The changes have affected claimants in a variety of ways. First, the number of people entitled to claim an out of work benefit has fallen, so that since 2010 more than half of ESA claimants (82,900 people) have been found fit for work and have lost their

entitlement to ESA. A further quarter of ESA claimants (a total of 38,800 people since 2010) have been found to be capable of work-related activity and placed in the WRAG group, with reduced entitlement to benefit and increased conditionality. The changes in entitlement for ESA have sometimes left claimants facing an unexpected loss of income when ESA is stopped or reduced and while claims for other benefits are made.

Increased conditionality for job seekers has resulted in some 18,000 people receiving at least one adverse sanction decision in 2014/15 – 13% of all JSA claimants. Sanctions have particularly affected young people: since 2010, nearly half of all JSA sanctions in Wales have involved a claimant aged 18-24. In addition 1,185 ESA claimants and 1,867 lone parents have received at least one adverse sanction. Claimants who are sanctioned do not receive the relevant benefit for at least four weeks and in some circumstances for 13 weeks or up to three years (although they may be eligible for hardship payments).

JSA and ESA (WRAG) claimants also have seen the value of their benefits eroded in cash terms as a result of the decision to cap and then freeze annual up-rating. The reduction in value of benefits, changes in entitlement and benefit sanctions have been identified as significant factors in hardship and severe poverty, for example the increase in referrals for emergency food aid at food banks.

For young people, the impact of sanctions, the proposed loss of job seekers' benefits and the previously announced withdrawal of housing benefit for unemployed claimants in this age group has potentially major significance. More than four out of ten 19-24 year olds who are not in education, employment or training are not able to work because of a disability,<sup>58</sup> and they are six times more likely to have no qualifications than young people who are working or learning.<sup>59</sup> The threat of loss of income and an even tougher conditionality regime could be highly damaging for this age group, many of whom are already vulnerable.

### 4.3. Fit with Policy and Needs

The benefits and support for out of work claimants are not necessarily a good fit with Wales' needs and circumstances. There are three key concerns.

#### 4.3.1. Employment outcomes

The first is the relatively low rate of sustained employment achieved by the Work Programme. Around one in four participants (24.9%) – 24,190 people - have achieved a job outcome to December 2015, slightly below the UK average, although the rate is within the expected range.<sup>60</sup> Within Wales, the rate of job outcomes varies from 30.5% in Flintshire to 22.2% in Neath Port Talbot. While 24,000 people now have a job that previously did not, three times that number - about 74,000 people - have returned to Jobcentre Plus after two years of support.

There are marked variations in success amongst Work Programme participants - those claiming JSA are significantly more successful at finding and sustaining work than ESA claimants, and young people are more successful than older people.<sup>61</sup>

There is an extensive literature on the Work Programme and other measures aimed at improving the employability of job seekers, although rather less that is specific to Wales. This literature suggests that:

- The most successful interventions link action to improve people's skills and employability with efforts to increase employment opportunities.
- Local labour markets vary very substantially, in terms of the number and range of jobs, feasible travelling distances and childcare choices.
- Different people require different types of support, for different periods of time.
- The most effective form of support is that which is tailored to the specific circumstances of individuals.
- People who are furthest from the labour market may require additional, specialist support e.g. on managing mental health conditions.
- Trust between provider and client and face to face support is key.

Many commentators have concluded that it is extremely difficult for the Department for Work and Pensions to commission programmes which are able to meet varied local circumstances.<sup>62</sup> In part this is a product of a highly centralised approach based on relatively large geographical areas.

#### 4.3.2. Interface with devolved policy

The second issue is the difficulty of developing a comprehensive employment and skills policy when most provision is devolved but the Work Programme is not.

At present, Work Programme provision is not included in Welsh Government employment and skills strategic planning. Links between Work Programme and other employment and skills provision are left to local partners to develop in Wales. In the case of ESF-funded provision, the Welsh Government's interpretation of the risk of double funding is different to that elsewhere in the UK, and means that links between the Work Programme and local ESD-funded activity is not permitted.<sup>63</sup> As a result participants in the Work Programme are unable to access other training, skills and employability programmes – a long-running bone of contention that has yet to be resolved.<sup>64</sup>

This lack of integration has a real impact on effective planning, increasing the risk of duplication of effort and of significant gaps in provision. It also has a direct and damaging impact on unemployed people who, for example, are unable to access a Jobs Growth Wales opportunity or benefit from local job-related training (e.g. to obtain a SSIA certificate) while participating in the Work Programme.

It must be borne in mind that the Work Programme is relatively small. Its 8,000 participants a year are dwarfed by mainstream skills provision such as apprenticeships, which have more than 50,000 participants a year, and community learning, with more than 28,000 learners a year. It is however broadly comparable with numbers participating with Welsh Government, local authority and third sector employment support programmes - such as Communities for Work (35,000 places over three years), Lift (roughly 1,000 places a year), Bridges into Work 2 (2,000 places in five local authority areas over three years) and WCVA's Active Inclusion project (7,000 places for over 25 year olds over 3 years). As an aside, a great deal less information is available about other employment support programmes compared with the Work Programme, making comparison impossible.

Despite its relatively small size the Work Programme is very important because as a mandatory programme it reaches people who may not voluntarily participate in learning and employment support. It also matters because as a mandatory programme, failure to comply with the providers' requirements can mean that participants are sanctioned, losing their benefits for a period of time. So while the Work Programme is small compared with the general employment and skills provision and comparable in scale with non-DWP provision, for out of work claimants it is absolutely key.

#### 4.3.3. Interface with support for specific groups

The third issue concerns the interface between the benefits, the Work Programme and specific groups of people. The Work Programme is based on rapid entry into employment of a substantial number of job seekers, plus the provision of longer-term support for a modest number of other customers. The change in the balance of the programme between JSA and ESA claimants and the higher-than-predicted level of support required by some JSA participants have affected the ability of providers to meet needs within the current contracts, resulting in claims that some clients are 'parked' by providers.<sup>65</sup>

Certainly job outcomes for disabled and older clients and those who have been out of work for many years are substantially worse than others – for example in Wales just 3.3% of Work Programme 'attachments' who receive ESA and previously received Incapacity Benefit find a sustainable job, and around one in ten new ESA claimants find a sustainable job.

The realities of funding and the limits of providers' powers make it difficult for them help clients with multiple or complex needs which may involve health, housing or social care. These are too specialist or too expensive for a Work Programme provider to resolve and which can be more appropriately met by other providers.

#### 4.3.4. Conflicting priorities

And last, but by no means least, the UK Government's policies and priorities on welfare for unemployed people may conflict with those of the Welsh Government in devolved areas.

There are two key areas here. The first is children and young people (i.e. up to the age of 25). The Welsh Government has a statutory duty to have regard to the UN Convention on the Rights of the Child and may extend those provisions to include young people. It has robust structures, policies and monitoring in place to do so. Actions - such as the removal of JSA from young claimants - arguably affect the Welsh Government's responsibilities.

Second is the question of poverty, the 'number one priority' of the 2011-2016 administration. The Work Programme's focus on moves off benefit or into work does not necessarily help to reduce poverty - indeed the system provides perverse incentives that can exacerbate the low pay, no-pay cycle.<sup>66</sup>

### 4.4. Devolution and out of work support

Devolution to some UK nations and to city regions has been identified as an important means of improving support for people who are out of work and there is already substantial progress in some areas. This section reviews the arguments for and against devolution of benefits and employment support programmes, and the current state of play across the UK.

#### 4.4.1. Devolution of Out of Work Benefits

The main benefits for out of work claimants, JSA and ESA, have long been reserved to the UK Government. There is a strong case for seeing out-of-work benefits are an essential part of the UK 'social union'. One reason is because they involve the pooling of risk within the UK, so that places vulnerable to short- or medium-term economic shocks are protected to some extent by other parts of the UK. JSA in particular is highly sensitive to economic cycles, reflecting trends that outside the control of devolved administrations. ESA is much less sensitive in the short term, although it too arguably bears some relationship to long-term economic trends. This is an important consideration for Wales, as its economy is relatively sensitive to the cyclical change as well as major shocks (such as the global steel crisis). The benefits are also not strongly linked with local factors and retain an at least partial link to an insurance-based system.

In Wales, there have been no calls for out-of-work benefits to be devolved, either in whole or any administrative aspect. In contrast, in Scotland many submissions to the Smith Commission included proposals to devolve some or all working age benefits,

including JSA and ESA. The Poverty Alliance for example said that 90% of those responding to a survey were in favour of devolving all benefits other than pensions. It concluded that:

If welfare powers are not to be devolved wholesale then working age and family benefits should be devolved to the Scottish Parliament.<sup>67</sup>

Others in Scotland were much more cautious, arguing that the possible devolution of out-of-work benefits raised very important issues on which there was no evidence or debate, with arguments in favour of devolution of benefits being based on short-term expediency rather than long-term social and economic needs. In the event, the Smith Commission concluded that Universal Credit, and hence support for out-of-work claimants, should remain reserved.<sup>68</sup>

We have not identified any interest in devolving Jobseeker's Allowance or Employment and Support Allowance in England.

#### 4.4.2. Devolution of Out of Work Support

There has been a much greater interest in and progress towards devolution of employment support services. The DWP signalled a general willingness to consider co-commissioning the next phase of the Work Programme,<sup>69</sup> with commissioning envisaged in three tiers:

Tier 1: areas with full co-commissioning

Tier 2: areas in which the programme is co-designed

Tier 3: DWP commissioned programmes

In Wales, a report commissioned by the Welsh Government concluded that:

In the short term the Welsh Government should assume responsibility for commissioning and management of the Work and Health Programme in Wales, working with Jobcentre Plus Wales. In the longer term the employment support budget should be devolved to Wales.

As part of this, we understand that discussions have been held between the Welsh Government and Department for Work and Pensions with a view to:

- Joint commissioning with DWP for Work Programme Plus contract from April 2017;
- Transfer of contract management to Welsh Government from April 2019 to end of contract;
- Full responsibility for Welsh Government to design, procure and manage contract from 2021/22.<sup>70</sup>

We understand that, at the time of writing, progress had stalled, reportedly on the 'black box' approach taken by providers and the principle of payment by results. Unless discussions resume quickly, there will be no joint commissioning. In the meantime provision is included in the City Deal for Cardiff Capital Region, raising considerable challenges for the skills agenda in Wales as a whole.

In Scotland, the Smith Commission concluded that the Department for Work and Pensions' employment support programmes should be wholly devolved, with provision to do so being included in the Scotland Act. The Scottish Government has consulted on the future arrangements for employment support and the outcome of that process is awaited.

In England, several local areas including London, Greater Manchester, Sheffield City Region, the North East, Tees Valley, Liverpool City Region and the West Midlands will work with DWP to co-design employment support for harder-to-help claimants.<sup>71</sup>

It is clear that while the devolution of JSA and ESA is firmly off the agenda, at least for the majority of the population of working age, the picture is very different in respect of employment support. That discussions have been held about possible devolution to Wales is welcome, although the recent halt in discussions is a real cause for concern and means that at present, a number of English local authorities have more say in the Work and Health Programme than the Welsh Government. The impact of this on claimants could be substantial.

## 4.5. Options for Change

There are a number of possible ways forward for devolving the Work Programme.

### 4.5.1. No Change

The first option means that there would be no change in arrangements for the successor to the Work Programme. The contract for 2017 onwards will be designed, commissioned and managed by the Department for Work and Pensions, delivered alongside other skills and employment support activity.

The 'poor fit' between different types of employment support and between that support and skills provision is thus likely to continue, with the possibility of poorer outcomes for claimants in Wales compared with those in England and Scotland.

### 4.5.2. Co-design and co-commissioning

This option is the one originally envisaged by the Welsh Government but has stalled. If co-design and co-commissioning are to make a difference, any new provision will need to build on robust evidence and best practice. A simple way to overcome the Welsh

Government's concerns about the 'black box' approach is for the DWP contract with providers to specify what funding will and will not cover – with the pre-qualification questionnaire expected shortly this is urgent.

There is a consensus about 'what works' in employment support and the reforms required. These provide important pointers for a Welsh Work and Health programme, suggesting:

- DWP programmes and other employment support programmes should be part of a comprehensive labour market strategy that identifies and proposes appropriate provision for different groups of people seeking work within Wales. It should identify the local labour markets where demand needs to be stimulated, and ensure that sufficient resources and appropriate services are available for those who need the greatest support.
- Claimants need to be assessed effectively so that they can receive support appropriate to their needs, not just their claimant group. There is, for example, likely to be a significant difference in the support requirements of a 55 year old job seeker with no qualifications, some health issues and a history of temporary jobs and a 27 year old administrator with NVQ level 3 qualifications, made redundant after 6 years employment, yet both would fall into the 'JSA 25+' payment group with the same level of incentive to providers.
- Specific arrangements need to be made for 'hard to help' or 'disadvantaged' claimants. Many of these claimants need additional, often specialist services such as health services, skills training, family support services or financial and debt advice which cannot currently be provided through the Work Programme because of cost and their specialist nature. Disadvantaged claimants may also benefit from a shift away from the 'work first' model to one which addresses some of their underlying barriers before progressing to employment.
- A new Work and Health programme should be more closely aligned with local labour market conditions. Detailed analysis has shown that for job seekers aged 25 plus in particular, the predominant reasons for variations in performance are local economic factors (especially a high proportion of low skilled occupations and a relatively high claimant rate), rather than providers' performance<sup>72</sup>. In areas with weak labour markets, such as parts of the south Wales valleys and rural Wales, successful outcomes are likely to require employment support to be linked with support for job creation e.g. wage subsidies. An all-Wales strategy will need to recognise and provide for variation within Wales.

- There needs to be much greater transparency and accountability for the performance, and payment by results should be recognised as a potentially cost-saving approach. The regular reporting required of Work Programme providers, basic though it is, is simply not available at all for other employment support provision. There is no way of knowing how, for example, the Lift programme compares with the Work Programme for long-term claimants, or whether Wales' cities are out-performing rural areas. The lack of publicly-available information around Welsh Government's employment support activity suggests that there should also be more systematic scrutiny by Assembly Members.

#### 4.5.3. Full devolution

A third option is that DWP's employment support services are devolved in full as soon as possible. This would enable the Welsh Government to design its own provision alongside any other support offered, or if it wished to offer no support at all.

There are considerable advantages in this approach as it would enable the Welsh Government to follow best practice and get a good fit between its programme and Wales' needs and policies. However there are concerns about the Welsh Government's capacity to commission provision in the relatively short time available before the next contracts are awarded, and the need to ensure an effective interface between devolved services and the benefits system.

## 4.6. Conclusions and Recommendations

JSA and ESA, and their successor Universal Credit, are likely to continue to provide much needed income, either to cope with short-term loss of employment or to live with long-term ill-health, to a large number of people in Wales. Getting the welfare benefits and the employment support services right really matters.

### 4.6.1. Out of work benefits

Bearing in mind the principles set out earlier and the evidence summarised in this chapter, we have reached the following conclusions:

- benefits for out of work claimants aged 22 and over should remain reserved to the UK Government;
- responsibility for benefits for 16-24 year olds should be devolved to the Welsh Government to reflect its statutory responsibilities in respect of children and young people and to ensure consistency with its youth and skills agenda.

#### 4.6.2. Employment support services

Given the issues facing out of work claimants in Wales and the urgent need to improve performance of the Work Programme in particular for those with greatest challenges and in the weakest labour markets, we conclude that:

- the Welsh Government should urgently resume discussions with DWP to co-commission the Work and Health programme from 2017;
- the Welsh Government should resume discussions with DWP to take full control of all aspects of the Work and Health programme by 2021 at the latest;
- the Welsh Government should develop a comprehensive labour market strategy, based on evidence and best practice, to inform the provision of all employment support services.

## 5. DISABILITY BENEFITS

Disability and carer benefits play a key role in supporting Wales' disabled people and their carers. Wales has an above average proportion of the population reporting a health condition or impairment - in 2011, 162,000 people of working age said that had a health condition or disability that limited their day to day activity a lot. Wales also has an above average proportion of carers in the population – in 2011 some 63,000 people of working age provided at least 50 hours of care a week to another adult.

This section looks at disability benefits for working age people including:

- Disability Living Allowance and Personal Independence Payment
- Carer's Allowance.

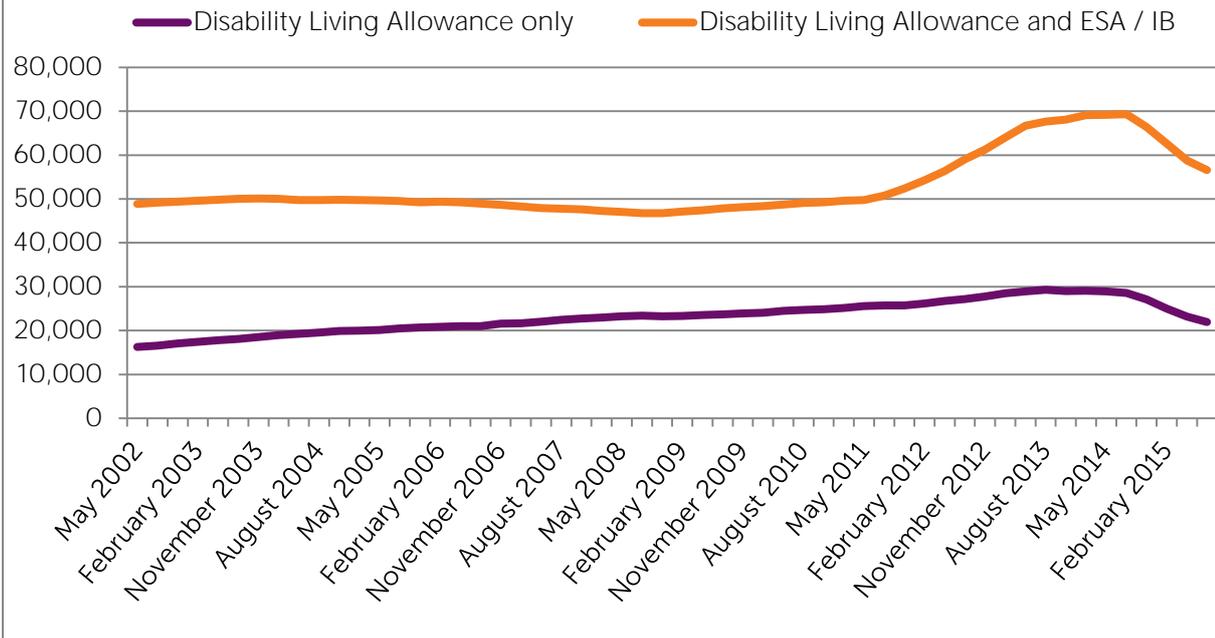
### 5.1. Disability Benefits in Wales

DLA and PIP help with the additional costs of a wide range of goods and services incurred because of disability, while Carer's Allowance provides income for carers who are unable to work to a significant extent because of their caring responsibilities.

A total of 84,400 people of working age in Wales claimed Disability Living Allowance in August 2015. Of these, nearly three-quarters (62,000 people) claimed DLA in combination with an out of work benefit such as Employment and Support Allowance or Income Support. The number of DLA claimants rose slightly over the 2000s, but began to increase steeply between 2011 and 2014. Since then the numbers have been in decline as claimants are gradually assessed for PIP.

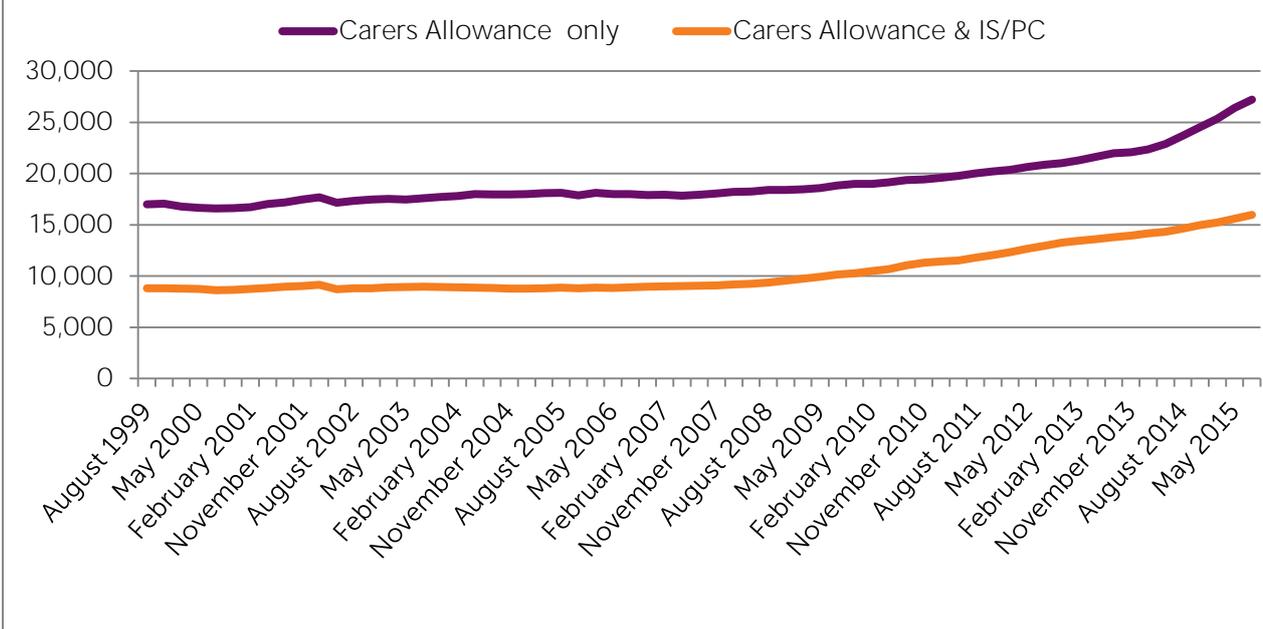
Personal Independence Payment (PIP) is gradually replacing DLA. From 28th October 2013, DWP began inviting DLA working age claimants living in Wales to be assessed for PIP. As at January 2016, 57,000 people had been assessed and were receiving payment.

Chart 2: Disability Living Allowance Claims, 2002 - 2015



In 2014/15 expenditure on DLA and PIP for people of working age in Wales was £1 billion. In August 2015, 47,300 people received Carer’s Allowance. The number of claimants has gradually increased in the last twelve years, with the sharpest increase – up 12,000 (34%) taking place after 2010 for reasons that are not clear.

Chart 3: Carer's Allowance Claimants, 1999 - 2015



## 5.2. Reform of Disability Benefits

Support for disabled people is undergoing substantial reform. Personal Independence Payment (PIP) replaced DLA for new working-age claimants in 2013, and existing DLA claimants are being gradually transferred to it. The key changes are:

- **Changes in eligibility**

PIP is assessed by independent medical professionals, based on the claimant's ability to undertake twelve everyday activities. Unlike DLA there are no medical conditions that lead to an automatic entitlement to PIP, except for people with a terminal illness and life expectancy of 6 months or less. All awards of PIP are reviewed on a regular basis.

- **Changes in value**

While the rate of benefit paid by PIP is very slightly higher than DLA, the two components of PIP have only two rates of payment, whereas the care component of DLA has three. In effect the low rate of the care component has been abolished.

DLA and PIP have been protected from some aspects of welfare reform, such as exemption from the benefit cap and continued annual uprating by the rate of inflation. Carer's Allowance has also been exempted from the benefit caps and is uprated annually.

To date, 47% of new claims and 75% of reassessments in Wales have been awarded PIP. This means that a total of nearly 8,000 people who previously received DLA have been refused PIP. If the current number of claimants of DLA is reassessed with the same outcome, then a further 21,000 people in Wales could lose their disability benefit. There is very little information about the low rate of award for new claims.

There has been much less analysis of the impact of the changes to disability benefits than of other benefits, perhaps reflecting the relatively early stages in the implementation of PIP. The analyses that have been carried out to date suggest that the effects are:

- **Problems with assessment:** the most recent figures show that both new claims and reassessments for people who are not terminally ill with a life expectancy of less than six months on average take 13 weeks to process from registration to decision, but can take up to six months for a substantial minority of claimants<sup>73</sup>. Concerns are also reported about the assessment criteria and in particular their appropriateness for people with mental health conditions.<sup>74</sup>
- **Loss of income:** the average loss is forecast to be £2,600 p.a.<sup>75</sup> but some disabled people may lose their benefit completely or receive a lower rate of benefit than

before. In addition to losing PIP, unsuccessful applicants lose passported benefits and protection from the benefit cap yet their needs have not changed, resulting in significant financial hardship. The loss of income puts at risk disabled people's ability to cover the costs of disability, their ability to work and take part in society and their access to wider support networks.<sup>76</sup>

- **Uncertainty and anxiety:** the prospect of regular reassessment of eligibility even for permanently disabled people or terminally ill people with a life expectancy of more than six months can cause uncertainty and increase stress and anxiety.<sup>77</sup> Stress and anxiety can exacerbate existing health conditions.

### 5.3. Fit with Needs and Policy

There is much less evidence on the relationship between the needs of disabled people and DLA / PIP than on other benefits. UK-wide evidence shows that Disability Living Allowance helps recipients to maintain control and independence in their daily lives, by enabling them to meet a wide range of expenses including personal care, health care, transport, food, fuel, home maintenance, phones and computers and social activities. Some recipients said that the benefit makes a fundamental difference to their lives, and that without it they would struggle to manage bills or would be unable to remain living at home.<sup>78</sup>

One of the main uses of DLA by adults is to pay the additional costs of market services, such as taxis, frozen meals, heating costs or a gardener, with only some recipients using it to pay for personal care. Recent research on older people suggests that there is only a small overlap between receipt of DLA and use of local authority social care – 13% of over 65 year olds reported receiving Attendance Allowance or DLA but only 2.5% received local authority social care.<sup>79</sup> The researchers concluded that there was a 'distinct role for cash benefits within the system of public support for older disabled people'. We see no reason to think that the conclusions in respect of disabled people of working age would be any different.

As a means of enabling control and independence, DLA / PIP play an important role in realising the Welsh Government's vision of an 'inclusive and enabling society, which recognises the rights of disabled people to self-determine their lives.'<sup>80</sup> The Welsh Government's Framework for Independent Living expressly excludes non-devolved matters such as benefits, although it is clear that they play an important role in enabling disabled people to achieve several of its objectives such as:

- having more control over their lives by being able to make choices in the care and support they receive;
- having access to technology that supports independent living;

- access to public transport.

With the number of recipients of disability benefits forecast to fall by 20% in the transition from DLA to PIP, up to 30,000 disabled people could lose cash help with the costs of living independently.

Carer's Allowance replaces or tops-up the incomes of people whose ability to take up paid work is affected by their caring responsibilities. The 'overwhelming majority' of carers<sup>81</sup> see Carer's Allowance as a vitally important part of household income, supporting both day to day expenditure and additional costs of having a disabled person in the household. Without it some would have to cut back on essentials.<sup>82</sup> Carer's Allowance is often just one part of a complex package of support used by carers to enable them to fulfil their caring role and responsibilities.<sup>83</sup>

The Welsh Government's aims for carers are broad-ranging, covering the ways in which carers are treated by government, public services and society as well as provision of support to enable carers to have a life outside their caring role and access employment, education and training, and leisure opportunities. The Carers' Strategy (2013) recognised the potential impact of welfare reform on carers and the people they care for, and, unlike the Framework for Independent Living, committed the Welsh Government to:

"continue to monitor the impact of the UK Government's Welfare Reform programme on carers in Wales, and, wherever possible, strive to mitigate any negative effects on carers and those they care for"

While the evidence is limited, disability benefits supplement the incomes of disabled people and carers and enable them to purchase a wide variety of market goods and services. They do not appear to be used to purchase social care services that might otherwise be provided by a local authority or voluntary sector organisation to a significant extent. As such, it appears that the interface between DLA / PIP and Carer's Allowance and devolved policies is limited, other than on the issue of the reduction in eligibility.

#### 5.4. Disability Benefit and Devolution

The debates on the reform of disability and carer benefits have generally focused on improving the PIP assessment process, in particular on the need to reduce delays, improve communication and amend the assessment criteria. There have been many fewer calls for devolution of these benefits across the UK.

In Wales and in England, there has been no discussion of the merits or otherwise of devolving disability benefits for working age people.

In Scotland, the SNP and most third sector organisations in Scotland favoured the full devolution of welfare benefits, including disability benefits, although the arguments in favour were not necessarily clearly spelled out. In so far as there was discussion it was about devolving Attendance Allowance (for people aged over 65) as a stand-alone benefit. The rationale for devolving Attendance Allowance was its connection to the devolved areas of health and social care. Even here there was some caution because of the risk of breaking the links with other benefits and a desire to maintain the social union's protection of the rights of disabled people. As far as we have been able to identify there was very little consideration in Scotland of the devolution of Carer's Allowance.

The Smith Commission concluded that DLA / PIP and Carer's Allowance should be devolved. Provision for the transfer of responsibility to the Scottish Parliament is in the Scotland Act (2016). In addition, Attendance Allowance, Industrial Injuries Disablement Benefit and Severe Disablement Allowance are to be devolved, although other benefits linked to disability (Employment and Support Allowance and the various disability premiums included in Universal Credit) remain reserved.

Although not covered in this report, the UK Government has recently indicated its interest in devolving Attendance Allowance – a disability benefit for older people. In its announcement on the local government financial settlement for England<sup>84</sup> it said that the Government is considering 'giving more responsibility to ... Wales to support older people with care needs – including people who, under the current system, would be supported through Attendance Allowance.' It has promised to consult shortly. This move has been opposed by the Welsh Government to date.

## 5.5. Options for Change

The arguments for and against the devolution of disability and carers' benefits for people of working age means that the way forward is not clear cut. In devolution's favour is the potential for a closer alignment of disability and carers' benefits with other, devolved, support services. Devolution also offers the scope to design a benefit that more closely meets the needs of disabled people and their carers. On the other hand are concerns that the value of Disability Living Allowance and Carer's Allowance is that they provide additional income for everyday expenses, which cannot be replaced by social care provision. There are also concerns about the risks of weakening the UK's social union and breaking up the 'package' of benefits received by disabled people and carers.

We have concluded that with so few calls from disabled people and carers themselves for DLA / PIP and Carer's Allowance to be devolved, there is neither the justification nor demand to seek the devolution of DLA and Carer's Allowance to Wales at present.

This is not to say that circumstances may change in the future: the experience of Scotland could demonstrate the risks as well as the potential of change and the further roll-out of PIP could highlight areas where devolution of benefit could improve provision for disabled people and carers. Maintaining a close watching brief on the position in Scotland and strengthening the capacity of disabled people and carers to develop new ideas will be important.

## 6. CONCLUSIONS

Our analysis shows that welfare could be devolved to Wales without jeopardising the social union with the rest of the UK or incurring substantial risk. There is already substantial devolution of other aspects of the welfare state, such as education and health, and the social union has not been weakened by the growing divergence in entitlement between Wales and England. An appropriate financial settlement would ensure risks could continue to be shared, with any risk that remained being manageable.

We have found that partial rather than total benefit devolution is most appropriate. For Wales, we see the major income-replacement benefits, such as the state pension, maternity pay, and income-replacement benefits for (most) job seekers and people who are unable to work because of sickness or disability remaining reserved. Benefits and services which help with additional costs and which have a significant interface with devolved responsibilities are much better suited to being devolved.

We have concluded that the following benefits should be devolved:

- **Housing Benefit:**
  - the Welsh Government should seek the ability to vary the administration of Housing Benefit / the housing element of Universal Credit, including the ability to determine the frequency of payments and the recipient;
  - the Welsh Government should have the ability to make additional payments to Housing Benefit / the housing element of Universal Credit;
  - the Welsh Government should have control over local housing allowance and occupancy requirements;
  - the Welsh Government should press for the housing element be separated from Universal Credit at a future date and then seek its full devolution.
  
- **Job seekers benefits:**
  - responsibility for benefits (JSA and Housing Benefit) for 16-24 year old job seekers should be devolved to the Welsh Government as a matter of urgency.
  
- **Employment support services**
  - the Welsh Government should urgently resume discussions with DWP to co-commission the next phase of the Work Programme from 2017;
  - the Welsh Government should resume discussions with DWP to take full control of all aspects of the Work Programme by 2021 at the latest;
  - the Welsh Government should develop a comprehensive labour market strategy, based on evidence and best practice, to inform the provision of all employment support services.

- **Top-up benefits:**

- the Welsh Government should be able to make additional payments to claimants without affecting entitlement to benefits administered by the Department for Work and Pensions, for example to achieve good labour market outcomes.

On disability and carers' benefits, we have concluded that with so few calls from disabled people and carers themselves for devolution and very limited evidence in Wales there is neither the justification nor demand to seek the devolution of DLA and Carer's Allowance to Wales at present, although the position may change.

Where welfare benefits remain reserved, we believe that their importance is such that UK Government needs a revised approach. Most importantly, in considering any changes to UK-wide (or England-only) benefits the UK Government needs to take into account their impact on Wales (and other devolved countries). There should be meaningful consultation with the Welsh Government on changes to reserved benefits that affect devolved responsibilities, with a Joint Ministerial Committee on welfare to manage the interface between devolved and reserved benefits.

We recognise these are not changes to be sought lightly and that further work will be required to consider the potential financial, administrative and policy impacts.

## END NOTES

<sup>1</sup> Although social security is devolved to Northern Ireland the parity principle means that the system mirrors that in the rest of the UK.

<sup>2</sup> A short summary and video recording of each presentation is available at [www.bevanfoundation.org](http://www.bevanfoundation.org)

<sup>3</sup> Greer, SL and Matzke, M. (2009) Introduction: devolution and citizenship rights, in Greer, SL (ed) **Devolution and Social Citizenship in the UK**, Policy Press

<sup>4</sup> Bradshaw, JR (2014) **Some questions about devolving welfare**. Discussion Paper, University of York

<sup>5</sup> Jones, C (2014) **Our future union – a perspective from Wales**. Keynote speech to the Institute for Government, October 15<sup>th</sup>. Available at: <http://www.instituteforgovernment.org.uk/events/keynote-speech-rt-hon-carwyn-jones-am-minister-wales-our-future-union-%E2%80%93-perspective-wales>

<sup>6</sup> Commission on Devolution in Wales (2014) **Empowerment and Responsibility: Legislative Powers to Strengthen Wales**. Box 11.2

<sup>7</sup> Commission on Devolution in Wales (2014) **Empowerment and Responsibility: Legislative Powers to Strengthen Wales**. para 11.3.7

<sup>8</sup> Lodge, G and Trench, A (2014) **Devo more and welfare: devolving benefits and policy for a stronger union**, IPPR

<sup>9</sup> Commission on Devolution in Wales (2014) **Empowerment and Responsibility: Legislative Powers to Strengthen Wales**. para 11.3.5

<sup>10</sup> Birrell, D & Gray, AM (2014) Welfare reform and devolution: issues of parity, discretion and divergence for the UK government and the devolved administrations, **Public Money & Management**, 34:3, 205-212,

<sup>11</sup> HM Government & Scottish Government (2016) **The agreement between the Scottish Government and the United Kingdom Government on the Scottish Government's fiscal framework**,

<sup>12</sup> for example the First Minister in oral evidence to the Lords Select Committee on the Constitution **Inquiry on the Union and Devolution**, Evidence Session No. 18 Questions 242 - 254 Thursday 21 January 2016.

<sup>13</sup> Beatty, C & Fothergill, S (2013) **Hitting the poorest places hardest: The local and regional impact of welfare reform**. Centre for Regional Economic and Social Research Sheffield Hallam University

<sup>14</sup> Wales Audit Office (2015) **Managing the Impact of Welfare Reform Changes On Social Housing Tenants in Wales**, WAO

<sup>15</sup> House of Commons Committee of Public Accounts (2016) **Universal Credit: progress update** Nineteenth Report of Session 2015–16 <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmpublicacc/601/601.pdf>

<sup>16</sup> Scully, R (2016) **The BBC/ICM St David's Day Poll**. <http://blogs.cardiff.ac.uk/electionsinwales/2016/03/07/the-bbcicm-st-davids-day-poll/>

<sup>17</sup> Ibid.

<sup>18</sup> Lodge, G and Trench, A (2014) **Devo more and welfare: devolving benefits and policy for a stronger union**, IPPR

<sup>19</sup> Ibid.

<sup>20</sup> We have not included Northern Ireland because social security is already devolved.

<sup>21</sup> 2011 Census of Population household data and 2011 Housing Benefit data

<sup>22</sup> Stephens, M., Blenkinsopp, J. & Gibb, K. (2015) **The Devolution of Housing Benefit and Social Security: Rebalancing Housing Subsidies in Scotland**, Shelter Scotland

<sup>23</sup> Welsh Government (2010) **Improving Lives and Communities: Homes in Wales**

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## About the Bevan Foundation

The Bevan Foundation develops ideas to make Wales a fairer, prosperous and sustainable place. We are independent of government or any political party, and are funded by subscriptions, donations, grants from charitable trusts and foundations and commissions.

We have made every effort to ensure this report is accurate but responsibility for any errors, and for the views in the report, are those of the Bevan Foundation.

## *Ideas That Change Wales*



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