REPORT

DEVO MORE AND WELFARE

DEVOLVING BENEFITS AND POLICY FOR A STRONGER UNION

Guy Lodge
and Alan Trench

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ABOUT THE AUTHORS

Guy Lodge is associate director for politics and power at IPPR, and co-author (with Iain McLean and Jim Gallagher) of *Scotland's Choices: The referendum and what happens afterwards* (2013)

Alan Trench is professor of politics at the University of Ulster, and is working with IPPR on the Devo More project. He formerly worked at the Constitution Unit at University College London and the University of Edinburgh. He is the author of the blog 'Devolution Matters'.

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IPPR
4th Floor
14 Buckingham Street
London WC2N 6DF
T: +44 (0)20 7470 6100
E: info@ippr.org
www.ippr.org
Registered charity no. 800065

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CONTENTS

SUMMARY OF RECOMMENDATIONS

1. **There is no strong argument for devolving those benefits which are core to the UK's social union,** including job seeker's allowance, employment support allowance and the state old age pension.
2. Devolution of some aspects of welfare would not just supplement the powers of devolved governments, but would also **improve social and economic outcomes in the devolved nations** and enable the formulation of **more joined-up public policy**. This would benefit the UK as a whole. Devolved governments should, however, be responsible for raising a substantial proportion of their own spending through fiscal devolution before taking on welfare responsibilities.
3. **Housing benefit should be devolved**, given how closely it is linked to other aspects of social housing. When universal credit is brought in, the element of it that replaces housing benefit should be disapplied in territories where welfare devolution has taken place, and funding transferred to the devolved government. It should then be open to each devolved government to develop social housing policies and use those resources as it sees fit.
4. Responsibility for active labour market policy should be more integrated, to improve social and economic outcomes and help the long-term unemployed into work. **The Work Programme should therefore be devolved**, again with appropriate funding. JSA and ESA should remain UK-wide benefits, with levels and conditions set by the UK government.
5. Devolved governments should be able to take on a stronger role regarding **childcare**. Many of the levers for this are already in devolved hands. However, stronger fiscal devolution will give devolved governments both the resources and incentives to use the policy levers available to them. **Devolution of the childcare element of the working tax-credit** is an option that would also boost the expansion of childcare provision.
6. **Some small benefits that have a direct interface with devolved social services should also be devolved**. This particularly applies to **attendance allowance**.
7. Devolved governments should be given a **general power to supplement UK levels of welfare**, so that they can use cash payments as well as other policy levers to deliver social policy. In this approach, the level of benefits set by the UK government would serve as a floor, but not a ceiling, for devolved welfare payments. Any increase in a particular benefit would have to be funded exclusively from devolved budgets. Such a model is therefore compatible with both the social union – since all UK citizens would continue to be entitled to a set of defined benefits that comprise social citizenship – and the principles of decentralisation.

1. WHY WELFARE DEVOLUTION IS VITAL TO MAINTAINING THE UNION

1.1 Introduction: Devolution and the welfare state

Devolution has changed the welfare state in some important ways. By some measure, the largest spending areas that were devolved concerned welfare functions: health and education. A range of other important welfare services were also devolved, such as personal social services and housing. This means that the devolved institutions are free to pursue their own distinct policy agendas in these core welfare areas. Consequently, policy has started to diverge across the nations of the UK: if you live in Scotland, for instance, the government there will cover the cost of social care provision for the frail elderly, which has to be paid for in the other nations of the UK. Similarly, all NHS prescriptions are free in Wales, Scotland and Northern Ireland, while in England they are not. These examples demonstrate how welfare entitlements can and do vary across a devolved UK.

However, in other important respects the devolved administrations remain significantly constrained in their approach to welfare. Most obviously, social security – cash benefits and the welfare programmes attached to them – remains a reserved matter. This means that welfare benefits are uniform across the UK and therefore take no account of local conditions such as the cost of living (although housing benefit does vary to reflect local housing market conditions). So while it is possible for the Scottish parliament to implement a generous model of social care for the elderly, it is not able to vary the level of state pension paid to retired Scots, nor to determine the eligibility criteria for pensions or alter the allocation of targeted benefits to pensioners, such as attendance allowance or winter fuel allowance. These are decisions taken exclusively by the UK government.

In other words, the main outcome of devolution in the late 1990s was to hand control of 'distributive' public services to the devolved administrations, but not the 'redistributive' functions of the state (that is, welfare benefits), which were retained by the UK government.[1] There are good reasons for such a division of powers. There is a strong case for devolving control of public services because the devolved institutions are best placed to ensure these services most effectively reflect local preferences and meet local conditions. Equally, redistributive functions – which entail the transfer of resources from one section of people to another – are best exercised at the UK level. The UK government has the scale and range of instruments and resources – social security is the largest domestic spending programme in the UK and in Scotland – to accomplish that more effectively than devolved governments could do. Redistribution can take place across a number of dimensions: between individuals, regions and classes, but also over time – across people's lifetime, helping to balance risks that are greater at some points in one's life than in others.

Social security in this sense is a form of risk pooling. There is a powerful economic logic for the nations of the UK coming together to pool risks and share financial resources across the largest possible area as possible. Economic shocks tend to be asymmetric, affecting individuals and places in different ways and at different times, and sharing resources reduces exposure to such risks. Equally, different parts of the country vary demographically, which creates different pressures over time on welfare benefits – Scotland, for instance, is today ageing more quickly than other parts of the UK. For these reasons social security is one of the major automatic stabilisers used to manage macroeconomic risk.

1 The situation is different in Northern Ireland, and is discussed below.

The 'social union' therefore ensures that if one part of the UK endures a period of economic or social hardship, it can be supported both by itself and by the other parts – on the basis that this is reciprocal, and different places will need support at different times. This can be seen, operating in both directions, when we look at the history of Scotland in the union. Although Scotland makes substantial contributions to UK revenues, including from oil revenues in what would be Scottish waters if it were independent, it has also in recent decades benefited from relatively high levels of welfare spending from the UK pool; spending per head on welfare in Scotland is nearly 2 per cent higher than the UK average.

Debates about welfare highlight the importance of the UK's social union. The fact that much of this redistribution is between individuals and that welfare benefits are the same irrespective of where you live contributes powerfully to a sense of shared social citizenship – itself underpinned by a UK-wide tax system, which everyone pays into. As one leading scholar has suggested, a fundamental principle of UK accounts of social citizenship is that 'benefits and burdens … depend on need, not geography' (Bogdanor 2003). But this is not to suggest that social citizenship rights can only be expressed at the UK level: as discussed above, distributive functions – in particular public services – are devolved with few legal constraints, while core welfare entitlements (in the form of benefits) are held in common across the UK. Social citizenship is therefore shared between the devolved and UK governments (Greer 2009). As we show below, that is common practice in many federal and decentralised systems, and it is part of running a decentralised United Kingdom. The academic debates about both 'welfare nationalism' and 'welfare unionism' miss this basic point.

Then there are other arguments in favour of UK-wide benefits. A uniform pension and benefit system across the country makes it easier for people to move across the UK to work and retire. Different rules about benefits and entitlements could undermine the sort of mobility required by the UK's single labour market, and the sort of shared life chances that come with being citizens of a single state.

For these reasons such a division of powers between devolved and state governments is common in other federal systems. Even in the most decentralised systems, social security tends to be managed at the federal level, with public services controlled at the local level.

This suggests that while there might be scope for devolving some welfare functions there is a limit to how far this can go. A desire to preserve the social union and the economic case for risk pooling at the UK level and ensuring the viability of the single market restricts the room for manoeuvre. And of course any move in the direction of welfare devolution has important implications for fiscal policy: if the devolved institutions are to take on a greater role in welfare they will need to be able to raise at least some of the resources to pay for it (see IPPR's *Funding Devo More* report (Trench 2013) for a discussion of the main options). Financial responsibility is a vital prerequisite for welfare devolution.

1.2 The case for a measure of welfare devolution

While the current division of welfare powers between the UK government and the devolved institutions work in broad terms, they are far from perfect. Though welfare devolution has not featured prominently in previous proposals for strengthening the powers of the devolved institutions there are signs that this is beginning to change, albeit in a very limited fashion, and limited to Scotland.2 For instance, the Scottish

2 The Welsh and Northern Ireland governments have shown little interest in the debate, despite ambivalence about or opposition to the UK government's welfare reform proposals.

Labour Devolution Commission is looking at options for welfare devolution,3 while the cross-party Devo Plus group recommended limited welfare devolution (Devo Plus 2012). Moreover, the current UK government recently devolved council tax benefit and the Social Fund – the first such examples of social security devolution.

There are, without question, major practical and policy problems with devolving some or all aspects of welfare, which are discussed later in this report. But equally there are also powerful reasons to treat devolving welfare as a good, and union-reinforcing, thing to do.

The first reason is simply **the level of public support** for it, at least in Scotland. Survey data has consistently shown that Scots believe that the Scottish parliament should 'make the most important decisions about welfare benefits'. This is discussed in more detail in chapter 2. Enabling a Scottish government (and perhaps in due course other devolved governments) to provide a different sort of welfare 'mix' would ensure that the territorial constitution of the UK as a whole corresponds to what the public wants. Reflecting a clear democratic consensus is a fundamental democratic good. It also helps to maintain the legitimacy as well as the popularity of the state.

Second, there is a case for devolving aspects of welfare that would enable devolved governments to **deliver better social and economic outcomes**. The aim would be to equip the devolved institutions to make progress on things that matter to their electorates but which they are currently restricted from acting on, by being able to take measures that help promote and underpin economic growth and jobs and improve the life chances of their citizens. Powers, in other words, should be devolved with a clear purpose in mind. Focusing on growth and jobs is a necessity in the current economic climate. It also reflects a prevailing consensus among welfare experts about the need to prioritise 'social investment' policies. The core elements of a social investment approach include such things as: publicly funded childcare to boost employment; investment in human capital, skills and lifetime learning; and tackling unemployment, particularly youth unemployment, through active labour market policies. Devolved institutions already control several of the key policy levers that contribute to this approach, but not all of them. In particular a number of the operational programmes that relate to cash benefits such as the welfare-to-work schemes are controlled by the UK government. The fact that welfare-to-work programmes are reserved is particularly problematic since getting people back into work, especially those who have been out of work for a sustained period, requires a joined-up approach from a wide range of agencies (including educational and skills institutions, mental health services, and local authorities), which are all devolved.

The great virtue of a social investment approach is that it prevents debates about welfare devolution being narrow constitutional debates, or from being a tussle between governments for 'more powers' (or fewer). This approach puts the emphasis on devolution delivering tangible, positive gains for everyone; not just more powerful devolved governments, but also for the UK government which has the opportunity to see greater economic growth and prosperity – and most important of all, citizens at large whose incomes, lives and life chances can be improved.

Third, greater welfare devolution would **increase the range of policy choices the devolved institutions can make in areas for which the public already consider them to be responsible**. This is most obviously the case where there are close overlaps between welfare benefits and areas of social policy that are devolved. For

3 Scottish Labour Party 2013

instance, the devolved governments are responsible for most aspects of policy relating to children and elderly people, but the cash benefits that cover these groups are determined and set by the UK government. Housing policy is devolved but control over housing benefit – a major policy lever – is reserved. In such policy areas, an argument can be made that devolution of the cash benefit would allow for better integration of provision to improve services overall, and perhaps contain their costs.

Fourth, lifting the constraints of the present division of powers would **ease intergovernmental conflict** between the devolved institutions and the UK government. A classic case of such intergovernmental friction arose over attendance allowance (a UK-wide benefit) following the introduction of the Scottish policy of free long-term care for the frail elderly. That policy removed entitlement to attendance allowance from claimants in Scotland, because the Scottish Executive was paying for what the UK benefit covered. This became a point of grievance for the Scottish Executive, twice raised in intergovernmental settings, and then became a campaigning issue used by the SNP in the 2003 and 2007 elections. Tensions also arise when UK government benefits policy is demonstrably out of sync with public opinion in the devolved nations, as in the case of the so-called 'bedroom tax'. Without the formal powers to reshape the policy, the Scottish government (and to a lesser extent the Welsh government) have loudly opposed the policy, but the only action taken to redress it has been the Scottish government's efforts to mitigate the measure by pumping money into local authorities via a complex administrative procedure. Removing some of these constitutional tensions could help strengthen the union, as well as produce more comprehensible and effective public policy.

Fifth, devolving welfare powers would **provide incentives for devolved governments to seek to reduce welfare burdens**. As matters stand, devolved funding is not affected by levels of welfare claims; the block grant is the block grant, no matter what, and of course is calculated without reference to factors of relative need. Devolved governments get no extra funding if welfare spending goes up, and if devolved government policies result in a reduced welfare bill, they receive no benefit – whether in the form of increased tax revenues or reduced demands for their resources. A system which shares some of the burden of welfare between both governments, and the resources with which to pay for it, will also create an incentive for devolved governments to promote such goals. Again, this enables both governments and citizens across the UK to benefit.

Finally, limiting the UK monopoly on welfare benefits may **lead to less dysfunctional politics, with devolved governments serving as a form of opposition to the UK government**. Claims that Scotland and Wales are more socially democratic than England have a degree of truth, though they are undoubtedly exaggerated at the popular level. However, they do reflect the outlook of political elites in the devolved nations. The former First Minister of Wales, Rhodri Morgan, invoked the imagery of 'clear red water' to distinguish his proposals for 'progressive universalism' in Wales with the pro-market reforms enacted in England. In Scotland, opposition to the Coalition government's welfare reform agenda is being actively used by the SNP to underpin their case for ending the union: 'vote for independence to save the welfare state' is their rallying cry. The independence white paper made numerous references to how the bedroom tax was being imposed on Scotland by a UK government, as well as emphasising the different approach to childcare that an independent Scotland could pursue. So long as the Scottish government is able to argue that it is excluded from a role in welfare, such arguments will persist. Devolution should not be about creating scope for the politics of blame – and reforming devolution should be about reducing such politics.

Short-term political imperatives, however, are the least persuasive reasons for advocating welfare devolution. It is misguided in the extreme to view the debate on more powers through the lens of seeking to ‘appease’ or ‘placate’ nationalism. The principled case for enhanced devolution is one in which powers are devolved with a clear purpose in mind – such as the social investment case advanced above – and where the ambition is to provide an approach to welfare that reflects and commands popular support.

1.3 Devo More’s aims on welfare

In keeping with the principles that underpin the Devo More project more widely, the proposals set out in this report are intended to strengthen the union generally. First and foremost this means addressing Scottish concerns regarding welfare. However, that needs to be done in a way that does not undermine the interests of Wales or Northern Ireland, which are both in very different financial situations due to significant structural fiscal deficits. Moreover, an approach for Scotland would be capable, in principle, of application to Wales and Northern Ireland as well, should they wish to pursue welfare devolution in due course. Given the overlaps between welfare and fiscal policy, we argue that devolved governments should take on a wider range of responsibility for taxation to support additional powers in respect of welfare functions.

A second concern is to ensure that increased devolved autonomy is accompanied by strengthening the union. Creating a political situation that removes – as far as it is possible – blame from the intergovernmental politics of welfare is one way of accomplishing that. A further concern is ensuring that the public are aware of how much the UK tier of government contributes to welfare provision across the UK in areas where welfare provision becomes a matter of shared and overlapping competences rather than an exclusive UK one. The approaches considered in this report will entail a greater awareness of which government does what for its citizens. This should imply a greater degree of visible unionism as a result.

1.4 Four options for action

In principle, there are four possible overall approaches to dealing with welfare under devolution. Two of these are not workable, however, so below we briefly outline the two unworkable options, before discussing the two models that point the way forward.

Option 1: do nothing

This is attractive to many on the unionist side of the political debate. The combination of practical, financing and political difficulties have led many (such as the Commission on Scottish Devolution 2009, Scottish Liberal Democrats 2012) to say that no change is possible, and that the welfare state as the UK government determines it is both a ‘price of the union’ and ‘what the union does for Scotland’ (or Wales or Northern Ireland). This paper does not accept this position, for reasons already given.

Option 2: Outright welfare devolution

This would be the most radical option. It would imply ending the existing UK-wide welfare state and replacing it with separate regimes, at least for Scotland if not for other devolved parts of the UK. This would undermine a fundamental element of UK-wide risk-sharing and redistribution, and seriously weaken a key part of the tangible shared interests and features of life presently shared by residents of all parts of the United Kingdom. It would therefore not help to preserve the union.

This is reinforced by its financing implications. If social security was devolved almost all Scottish domestic spending would be the responsibility of the Scottish parliament, increasing its budget from around £35 billion to over £50 billion. It would therefore require a substantial form of tax devolution to fund it – something approaching full fiscal autonomy. The Scottish government would retain all the tax revenues they generate, subject to remitting a proportion to the UK government for common UK public services (notably defence and foreign affairs). This option presents numerous problems (discussed in more detail in *Funding Devo More*), and has been politically rejected by all the unionist parties. It would eliminate visible cross-regional subsidy, but would also expose poorer parts of the UK to the effect of having weak tax bases and remove risk-sharing from the state. It might be viable for Scotland, though that is debatable given Scottish needs and demography, but it certainly would not be possible for Wales or Northern Ireland. Even for Scotland, it would require special arrangements for old age pensions given their cost – as was acknowledged by Hughes-Hallett and Scott (2010). Constitutionally, such an approach would mean not just an abandonment of the principle of a risk-sharing social union, it would resemble a return to the pre-1948 poor law regime – where areas with high levels of welfare need and low tax bases were locked into a vicious spiral of providing poor services at high levels of taxation, with those high levels of taxation deterring economic growth and so increasing demand for ever-poorer services. For these reasons we reject this option, and discuss it no further.

Option 3: Devolution of specific benefits

Since outright welfare devolution is neither possible nor desirable, an alternative option would be to devolve specific welfare benefits while leaving others in the hands of the UK government. Some benefits (and resources currently used to pay them) would be transferred to devolved governments. The result would be to enable devolved governments to tailor welfare provision to local preferences while other major benefits would remain UK-wide.

In policy terms this presents a number of options as there are a wide range of benefits: old age pensions, jobseeker's allowance (unemployment benefit), disability benefits, attendance allowance, supplementary benefit and many others. Some benefit payments are linked to national insurance contributions, others are paid on the basis of need from general taxation.

Any decision about whether it is sensible to devolve a particular benefit (or welfare programme) must be based on clear evidence that doing so would help the devolved institutions to meet the policy challenges they face, and to do so *without* undermining the union. To help inform this debate we have developed the following criteria:

- **Whether the benefit is cyclical in nature or not** – ones which are cyclical are less suitable for devolution, given the financial strains these can impose on devolved resources. In particular, benefits which function as countercyclical stabilisers are unsuitable for devolution. From a risk pooling and UK social union perspective it is also important that such benefits (for example jobseeker's allowance) remain UK-wide. Conversely, benefits which relate to predictable indicators (such as demographic ones) may be more suitable for devolution as the costs of these can be foreseen and budgeted for, though that depends on other factors.
- **Whether the benefit relates to, or overlaps with, devolved functions** – ones which have a connection with devolved functions are more suitable for devolution, as this will enable devolved governments to deal with their responsibilities better.

- **Whether devolving benefits and/or related welfare programmes will help boost growth and economic performance** – in line with the social investment approach described above.
- **Whether the factors that affect the benefit are place-related or not** – those which show strong connections to particular locations such as housing markets are more suitable for devolution than those which are not.
- **Whether devolving the benefit would undermine the social union** – major benefits which are redistributive in nature or contributory in character are core to the social union and are not suitable for devolution.
- **Whether devolving the benefit would materially undermine the UK's single market**.

Such criteria rule out devolution of some major benefits, most obviously pensions and jobseeker's allowance. However, there is scope for devolving other benefits, which are discussed further in chapter 3. In particular, we argue that housing benefit and attendance allowance be devolved.

However, one major obstacle for a benefit-by-benefit approach is presented by the UK Coalition government's universal credit (UC), which is intended to incorporate what are currently a number of distinct benefits into a single general benefit. The administrative and political difficulties of removing these from the UC in some parts of the UK but not others are undoubtedly complex. Reformers would be faced with two broad options. One would involve leaving devolved benefits within the UC, but with an agreement between the UK and Scottish governments over shared financing of the various elements within it. Alternatively, devolved benefits could be removed from the UC and operate alongside it. This would be more straightforward to administer, but some of the potential simplicity of this benefit reform would be lost.

Option 4: 'Supplemental welfare'

A fourth option is to enable devolved governments to supplement UK benefits in those instances where they see a case for doing so (for instance, where local circumstances make it beneficial to do so). Any top-up would have to be funded exclusively from devolved budgets. In this approach the level of benefits set by the UK government would serve as a floor, but not a ceiling, for devolved welfare. The UK government's tax bases would serve to cover the financial heavy lifting of providing the bulk of welfare benefits, in a way that remained common to all parts of the United Kingdom. Such a model is therefore compatible with the social union – since all UK citizens would continue to be entitled to a set of defined benefits that comprise social citizenship – and the principles of decentralisation, which underline the case for variation over and above an agreed threshold.

Such a model avoids the serious financial and constitutional difficulties arising from outright devolution. It would also avoid the political backlash that can arise from more generous welfare in some devolved jurisdictions, as it would be clear that either spending in other policy areas had been reduced or taxes had been increased to pay for that. This would therefore minimise concerns in England, an important consideration in the debate on enhanced devolution. However, that would imply a significant measure of fiscal devolution, certainly going beyond the model of the Scotland Act 2012/Silk Commission recommendations.

How such devolved benefits would be administered is an important question. There are two options: either by the Department for Work and Pensions (DWP) through Jobcentre Plus, so that claimants would continue to make claims for benefits to a single agency and receive payments from a single source; or by an agency of the devolved government – whether local authorities or some new body. The supplementary model is discussed further in chapter 4.

Recommendation: There is no strong argument for devolving those benefits which are core to the UK's social union, including jobseeker's allowance, employment support allowance and the state old age pension.

2. MAKING SENSE OF TERRITORY AND WELFARE
SOCIAL CITIZENSHIP AND THE SOCIAL UNION

2.1 The welfare state before and after devolution

Devolution has already reshaped the welfare state profoundly. Until 1999, it was largely true that the UK had a single welfare state; a single system providing similar sorts of social policies across the UK with similar rights for citizens wherever they lived, though with different administrative arrangements particularly in Scotland and Northern Ireland. However, devolution has brought with it significant diversity in health, education, housing and social care policies (see Jeffery et al 2010). The health services across the UK, for instance, are increasingly organised along different lines in Scotland, Wales and Northern Ireland by their respective governments. This means not just different sorts of administrative arrangements for health services and different use of private finance or private contractors, but different levels of waiting lists, different sorts of treatments being available for patients and free prescriptions everywhere except in England. There are significant differences in other policy areas too: university tuition is free for Scottish residents in Scotland; Welsh students from low-income families receive extra support for their studies. Likewise, long-term personal care for the elderly is free in Scotland, while Northern Ireland and Scotland are both looking at ways of limiting the so-called bedroom tax (spare room subsidy) and other aspects of the UK government's welfare reform programme.

Taken together, such variation has resulted in significant divergence in a range of welfare policies across the UK. While the overall impact of these divergences was limited, they nonetheless fragmented a traditional conception of the UK welfare state as conferring similar social rights on citizens wherever they might live in the UK (see Greer 2009.) In this sense a traditional more or less uniform welfare state no longer exists.

Welfare benefits remain the exception to this pattern. While distributive services of the sort described above increasingly vary, the system of redistributive welfare benefits remains untouched. What this implies is that social citizenship is now shared between the UK and devolved governments; if the locus of the postwar welfare state was Britain, it is now Britain *and* Scotland. The question to ask is whether there is scope for allowing welfare benefits to vary in the way entitlements to core public services do.

Welfare unionists say 'no': for them the essence of union is a belief in maintaining the UK as the principal 'sharing community' with UK benefits paid for out of UK taxes according to some measure of need. In contrast, welfare nationalists, say 'yes': they believe that the devolved nation – not the UK – should be the main level of government responsible for welfare provision.[4] Neither position is right politically nor consistent with current reality. Welfare unionism – the 'do nothing' camp – is too inflexible and out of step with the realities of devolved politics, and ignores the fact that social citizenship rights are already expressed at different territorial scales. The problems with the welfare nationalist case are more acute: such an agenda would break the UK social union, with risks pooled and resources redistributed across the devolved nation, rather than across the UK as a whole.

In what follows we make the case for a substantially stronger model of 'welfare pluralism' than the status quo provides for. Our approach seeks to optimise the strengths and attributes

4 For a more detailed discussion about welfare unionism and welfare nationalism see McLean et al (2013) chapter 5, and Jeffery et al (2010). The term 'welfare nationalism' originates in Scottish debates and relates to a fragmentation of Scottish attachment to the UK state as deriving from the reshaping of welfare under the Thatcher governments, and has much less resonance in other parts of the UK. See in particular McEwen (2002) and Keating (2007).

that both levels of government can play in shaping welfare policy: the UK government and the devolved governments would continue to share the provision of welfare in complementary, mutually reinforcing, ways. The UK government provides the backbone of the social union – pooling risks and redistributing resources, while the devolved governments are best placed to respond to local pressures, especially where there are clear overlaps between devolved powers and benefits. This suggests the need for a clearer account of the role and purpose of the union, which is discussed at the end of this chapter.

Below we look at:

- public opinion
- funding welfare: risk pooling and redistribution
- demands for welfare
- lessons from overseas
- welfare pluralism and the social union.

First, however, it is worth saying something about the position of Northern Ireland. While welfare remains pretty straightforwardly a UK-level matter in relation to Scotland and Wales, the position is more complex for Northern Ireland. Northern Ireland is part of the UK tax system, and tax credits and child benefit are paid from UK institutions in the same way and at the same rates as elsewhere in the UK. Its national insurance system is distinct but operates in exactly the same way as that in Great Britain (and is an excepted matter under the Northern Ireland Act 1998, meaning only Westminster can legislate to change it). Other social security benefits are separately administered, by the Northern Ireland Social Security Agency, part of the Department for Social Development. Such benefits are subject to requirements of parity with those provided in Great Britain, but are set by the Northern Ireland assembly and funded by a grant corresponding to the welfare bill from HM Treasury. Parity itself is determined by the UK secretary of state and the Northern Ireland minister for social development, rather than by any hard and fast criteria. The upshot is a system where much of social security is devolved formally but not in substance. That said, the system enables there to be some differences in administration in Northern Ireland, to reflect local circumstances.

2.2 Public attitudes and welfare devolution

In exploring the scope for welfare devolution it is instructive to assess the state of public opinion. Research suggests that welfare benefits are a key area which the public would like to see devolved, certainly in Scotland. Since 2007, the Scottish Social Attitudes (SSA) surveys carried out by the Scottish Centre for Social Research have asked questions about which level of government should be responsible for various policy areas. SSA remains the best survey research there is about constitutional matters, being conducted in a rigorous manner by an academic research organisation with a good reputation and no political bias or desire to secure high-profile headlines. Moreover, they offer a time series of data, showing not just attitudes at one moment in time but also as they develop over time.

SSA data offers a powerful case for further devolution in general, and welfare devolution in particular. Since 2007, SSA has asked respondents on four occasions about their attitudes regarding which level of government should be responsible for various policy areas. Their findings are shown in table 2.1.

Table 2.1
Public attitudes about the division of powers between Scotland and UK levels, 2007–2013

Question: *Which institution should make most of the important decisions for Scotland about?*	January 2007		January 2009		January 2010		January 2012		January 2013	
	Scottish Parliament	UK Govt	Scottish Parliament	UK Govt	Scottish Parliament	UK Govt	Scottish Parliament	UK Govt	Scottish Parliament	UK Govt
NHS in Scotland	63	25	65	25	66	26	66	24	*Not asked*	
Schools in Scotland	62	13	65	12	62	14	63	11	*Not asked*	
Welfare and benefits in Scotland	63	18	60	19	62	25	64	19	57	22
Taxes	*Not asked*		59	33	57	37	56	36	59	32
Defence and foreign affairs for Scotland	34	58	31	61	31	63	34	59	39	53

Source: Data from Scottish Social Attitudes surveys, available at http://whatscotlandthinks.org/ssa?query=&topics=How+Scotland+should+be+governed&companies=ScotCen+%28Scottish+Social+Attitudes%29.
Note: Responses to other options (including local government) omitted. Surveys had between 1,229 and 1,508 respondents.

There is strong public support for the Scottish rather than UK level of government being responsible for the NHS and schools in Scotland. (The schools figure reflects those who wanted local rather than the Scottish government to be responsible for schools, which was a significant number, between 19 and 24 per cent.) Those functions are already devolved, of course, suggesting that in those areas devolution accords with the preferences of the Scottish public. Similarly, around twice as many people support the UK government remaining responsible for defence and foreign affairs as want that to be in the hands of the Scottish government, despite such controversial UK policies as the Iraq war or Trident. (That confirms support for devolution rather than independence.) But there is also strong support for the levels of taxation and that of welfare benefits being decided at Holyrood not Westminster, again by roughly 2:1. Moreover, these attitudes have been remarkably consistent since 2007, varying only by a few points from survey to survey. Some caution is needed, however: such polls do not probe the potential pros and cons of welfare devolution, nor touch on the policy trade-offs that might arise from it.

Moreover, it is important to note that public attitudes as revealed by SSA (see table 2.2 below) are not straightforwardly in favour of welfare differentiation. In 2011 and 2012 SSA also asked questions about whether the outcome in three key policy areas – university tuition fees, the basic rate of income tax and old age pensions – should be different between Scotland and England or the same across the UK. It repeated the pensions question in 2013. There is less of a time series here, but these responses reflect greater unease about policy variation, especially in relation to income tax (which, following the Scotland Act 2012, will vary between Scotland and the rest of the UK after 2016).

This data suggests a degree of ambivalence and uncertainty about how much variation in policy outcomes is possible. This is supported by recently reported research of a major cross-national survey based at Edinburgh University, the CANS project or 'Citizenship After the Nation State' (see Henderson et al 2013). CANS similarly finds that there tends to be wide public support for maintaining broadly uniform levels of public services while supporting political decentralisation and strong regional-level institutions.

Table 2.2
Attitudes to policy differences, 2011–2013

Policy should be the same/different regarding…	January 2011		January 2012		January 2013	
	Same	Different	Same	Different	Same	Different
University tuition fees	34	61	38	54	*Not asked*	
Basic rate of income tax	50	48	51	44	*Not asked*	
Old age pensions	56	41	63	34	58	37

Source: Data from Scottish Social Attitudes surveys, available at http://whatscotlandthinks.org/search?query=&companies=ScotCen+%28Scottish+Social+Attitudes%29&
Note: Surveys had c.1,200 respondents.
Questions asked:
'Thinking about the tuition fees that university students might be asked to pay, should these always be the same in Scotland as they are in England or, is it OK for them to be different in Scotland – either higher or lower – than they are in England?'
'Should the basic rate of income tax always be the same in Scotland as it is in England or, is it OK for it to be different in Scotland – either higher or lower – than it is in England?'
'Should the old age pension paid out by government always be the same in England as it is in Scotland or, is it OK for it to be different in England – either higher or lower – than it is in Scotland?'

That paradox is perhaps not so hard to explain, however. For Scots the important factor is not that the Scottish parliament enacts a different policy to the UK but that the Scottish parliament is given responsibility for making policy in the first place. At heart this is a matter of democratic legitimacy; the SSA data suggests that Scots believe that on domestic matters the Scottish parliament is best placed to make such decisions. Policy autonomy can act to reinforce democratic legitimacy as voters consider their views and preferences have been formative in determining policy choices.

Those who favour substantial welfare devolution assume that there exists a distinctive Scottish welfare model that reflects traditional Scottish – and by implication not British – values (see Scottish Government 2009: 59). Keating points to the emergence in Scotland of a distinct policy community that is more committed to a traditional social democratic form of welfare provision than that pursued for England by various UK governments (Keating 2007). For welfare nationalists, the point is to challenge the idea that social rights have to be the same across the state and to argue instead that they should differ where values differ. However, the apparent differences identified between political elites north and south of the border are not reflected at the popular level. Public attitudinal research suggests that the Scots and the English are not very different at all when it comes to support for means-testing, equality and redistribution (Curtice and Ormston 2011).

While there is good evidence of public attitudes regarding welfare in Scotland, there is much less data about Wales or Northern Ireland. Questions about functions that should be devolved were asked in the 1999 and 2000 editions of the Northern Ireland Life and Times Survey, but not subsequently. They suggested general support for a wide range of functions to be devolved, but the age of those surveys – and the fact they were done when there was a good deal of optimism about devolution in both the wake of the Belfast Agreement and before rows about decommissioning or suspension of devolution – mean they cannot be regarded as more than indicative now.

Surveys in Wales for the BBC and the Silk Commission (both by ICM) suggest strong support for devolution and for its extension to include policing and criminal justice functions.[5] The most recent Welsh data – also commissioned by the Silk Commission and conducted by Beaufort Research (published in Beaufort Research 2013) – suggests strong support for devolving policing, and divided opinion (51 per cent of respondents) supporting devolution of welfare benefits. With 49 per cent opposed, and no evidence

5 See BBC News (2013) and Commission on Devolution in Wales (2012)

to suggest the Welsh public understand the possible implications of welfare devolution, this indicates no strong demand at present for welfare devolution in Wales, and the second report of the Silk Commission (Commission on Devolution in Wales 2014) does not recommend it (or consider it in any detail).

This lack of clear support in public opinion is no reason to overlook Wales and Northern Ireland when it comes to considering a policy framework for welfare devolution. A Scottish precedent is likely to set a path for Wales and Northern Ireland to follow at some future date, should they opt for substantive welfare devolution. Other polling evidence, including the Northern Ireland Life and Times surveys, surveys on Welsh attitudes carried out by YouGov for the Wales Governance Centre at Cardiff University and research for the Silk Commission, identifies strong support for devolved government generally in both places. A good policy structure has to be capable of application in Wales and Northern Ireland as well as Scotland, despite their very different circumstances.

2.3 Funding welfare: risk pooling and redistribution

Key to which welfare functions might be devolved is how they would be financed. There are strong financial reasons for the UK government to retain a leading if not sole role in providing it.

First, the UK government benefits from a wider tax base than devolved governments can. Its revenues are more stable, derive from a wider range of sources, and its borrowing capacity (if required) is greater. Given that a significant part of welfare spending tends to be countercyclical and to increase in times of limited economic growth, recession or depression, those factors are important in ensuring welfare can be paid for. As welfare benefits function as automatic stabilisers in hard times, they have an important economic effect as well as a welfare one. Welfare spending is volatile and varies significantly from year to year, and so is presently treated as Annually Managed Expenditure (AME) planned on a yearly basis, unlike most devolved spending (and spending by Whitehall departments), which is treated as part of the Departmental Expenditure Limit (DEL) and managed across a whole spending review period.

Old age pensions are somewhat different, as they are not countercyclical. Rather, they are driven by demographic factors and so reflect the effects of an ageing population. This again involves a sequence of policy problems which are also much more effectively resolved at the level of the central state rather than at the level of devolved governments.

Second, the UK government can manage welfare over the whole of the state's territory, not just in part of it. It can manage policies to take account of differing economic conditions and social conditions across the whole state. This means that it can use welfare spending as a tool for interregional as well as interpersonal redistribution, and as a manifestation of the central government's commitments to a shared citizenship. In this sense, which draws on the intellectual heritage of Marshall ([1950] 1992), such social citizenship is a vital adjunct to political and civic aspects of citizenship (see also Greer 2009). It is also part of the fabric of a state which ensures shared support by citizens throughout that state to it, because of the tangible and practical benefits they derive from it.

In addition, the role of the central government in welfare is an important element of ensuring personal mobility across the UK's single market. This is particularly important when it comes to old age pensions; it means that one can work in one place but retire to somewhere else, with full enjoyment of the rights accrued earlier in life in one place and without placing a greater burden on the place one retires to.[6]

Funding the decentralisation of welfare benefits on a large scale is difficult. Much if not all of the required money would need to come from tax revenues directly under the control of a devolved government. As Glennerster (2010) points out, there is already a problem with a failure on the part of policymakers to address the long-term impact on welfare spending of an ageing population. Moreover, IPPR's *Funding Devo More* report (Trench 2013) showed that it is hard to devolve a tax system like the UK's to the extent needed to decentralise welfare spending to a large degree, even if one wanted to. A vertical fiscal imbalance which structurally gives the UK government much greater access to many tax bases than a devolved government could have is an unavoidable feature of the UK's fiscal system. Table 2.3 – reproduced from the *Funding Devo More* report – shows the nature of this problem.

Table 2.3
Major taxes and their revenues, 2010/11

	United Kingdom		Scotland		Wales		Northern Ireland	
	Revenue (£m)	% of overall current revenues	Revenue (£m)	% of overall current revenues	Revenue (£m)	% of overall current revenues	Revenue (£m)	% of overall current revenues
Overall current revenues (excluding North Sea)	542,877	-	45,177	-	18,041	-	12,703	-
Personal income tax	146,628	27.1	10,717	23.7	4,850	26.9	2,575	20.3
VAT	97,277	17.9	7,481	16.6	3,485	19.3	2,898	22.8
Corporation tax	34,661	6.4	2,791	6.2	1,005	5.6	775	6.1
Employee's NI contributions	53,321	9.8	4,373	9.7	1,896	10.5	1,061	8.4
Employers' NI contributions	44,434	8.2	3,645	8.1	1,580	8.8	885	7.0
Fuel duties	27,256	5	2,339	5.2	1,310	7.3	928	7.3
Alcohol and tobacco duties	18,565	3.4	1,880	4.2	855	4.7	759	6.0
Local taxation (council tax and non-domestic rate)	48,412	8.9	3,877	8.6	1,881	10.4	1,028	8.1
These taxes as percentage of overall current revenue	-	86.7	-	82.1	-	93.5	-	85.9

Reproduced from Trench 2013
Sources: For UK and Scotland, *Government Expenditure and Revenue Scotland 2010/11*, table 3.1; for Wales, the Silk Commission report, annex D, table D1 (for UK taxes) and *Welsh Local Government Financial Statistics 2010* (for non-domestic rate and council tax revenues); for Northern Ireland, *Northern Ireland Net Fiscal Balance Report 2008/09*, table 4.1.
Note: National insurance is not identified in those sources as relating to employees and employers, but can be identified in *HM Revenue and Customs Receipts* which suggest apportioned between employees and employers in the ratio 6:5 is appropriate, which has been applied here.

6 European Union rules do enable pensioners to continue to receive pensions from one member state when they take up residence in another – but the UK government freezes pension entitlements to those applying at the time the pensioner leaves the UK, so providing an inferior form of pension to that of people who retire within the UK.

Of the major taxes (that is, those accounting for 3 per cent or more of UK-wide tax revenues), personal income tax – which accounts for about a quarter of total tax receipts – is suitable for devolution. Local taxation accounts for about 9–10 per cent of revenues, and is already devolved and used to help fund local services. Value added tax (about a fifth of tax receipts) is not suitable for devolution thanks to EU rules, though one could assign its receipts. EU rules also prevent devolution of alcohol and tobacco duties (about 3 per cent of revenues) or their replacement by a tax on sales. Corporation tax (around 6 per cent of revenues) is problematic due to EU rules, administrative considerations and (important for welfare) the volatility of its receipts. (These also appear to be concentrated in London and the south-east of England, making it a difficult tool to use to devolve while maintaining a measure of inter-regional equity.)

The only remaining major sources of tax revenue are both ones that have a close connection with welfare: national insurance contributions (NICs). National insurance is now over a hundred years old, and forms the foundation of the British welfare state. Contributions are payable by both employers and those in employment, and (at a lower rate) by the self-employed, and taken together account for about 18 per cent of total tax receipts. In character, employees' contributions are effectively a supplemental income tax, though what forms of income are subject to them is different in detail from what constitutes taxable income (the rules are in the process of being assimilated, however). One remaining significant difference is that employee's NICs are not charged on the income of pensioners. Employers' NICs are a form of payroll tax, commonly used to pay for welfare benefits in federal, decentralised and unitary systems alike. In principle, employers' NICs would make, by some measure, the best potential source of revenue to pay for devolved welfare, if substantial welfare functions were to be devolved.

There would, however, be problems with using NICs as a source of devolved welfare funding. As explored in *Funding Devo More*, there are serious practical difficulties with devolving them. NICs are paid into the National Insurance Fund (unlike normal tax revenues which are paid into the Consolidated Fund) (Trench 2013). That fund runs largely on a pay-as-you-go basis, rather than accumulating reserves to cover future as well as current liabilities. Monies from the fund go to pay contributory jobseeker's allowance, old age pensions and a variety of other benefits with a tenuous connection to contributory elements of welfare as popularly understood. These include some costs of the National Health Service. As the fund is often insufficient to cover the costs of its obligations, it frequently needs to be 'topped up' from the general taxation in the Consolidated Fund. The structure of NICs and the NI Fund are badly in need of updating and reform to accord with the modern tax and welfare system (the last change was in 1975, and was limited in scope), but successive UK governments have failed to act on this.

This means that large-scale devolution of welfare would have a number of serious implications. It would also imply extensive devolution of further fiscal powers in ways that would be difficult to achieve even if they had political support. Such further devolved taxes might not be sufficient to cover the normal costs of welfare, particularly if they were to apply to Wales or Northern Ireland. That would imply either further devolved borrowing, increased reliance on a grant from the UK government, or both. Reliance on grants would not in fact reflect greater autonomy, but would create problems both in calculating such a grant and in political accountability for it. A devolved government is simply in a poor place to manage the large-ticket aspects of welfare, absent a 'devo max' settlement, and even then it would create numerous problems.

2.4 Demands for welfare across the UK: the benefits of pooling risks

The previous section highlighted the importance of pooling risks at the UK level. This section considers the demographic pressures shaping welfare demand and spending – in so doing it emphasises further the case for retaining core redistributive functions in the hands of the UK government.

Looked at in the round, welfare spending across the UK is on the whole closely matched to population. There are, however, some noticeable variations, as table 2.4 shows.

Five of the standard regions have a higher level of welfare spending than their population would explain: the North East, North West and West Midlands regions of England, and Scotland and Wales. The mismatch is particularly notable for Wales and the North East of England. Seven regions have lower levels of welfare spending than their population shares explain: Northern Ireland (somewhat surprisingly), Yorkshire and the Humber, the East Midlands, the East and South West regions of England, London and (particularly) the South East.

Table 2.4
Benefit expenditure by nation and region (and percentage of UK population resident in each), 2010/2011

	£ million	% of total	Percentage of UK population
North East	8,377	4.64	4.19
North West	22,072	12.23	11.14
Yorkshire and Humberside	15,227	8.44	8.51
East Midlands	12,567	6.96	7.20
West Midlands	16,694	9.26	8.76
East	15,480	8.58	9.37
London	22,532	12.49	12.57
South East	21,821	12.10	13.69
South West	14,974	8.30	8.47
Wales	9,840	5.45	4.83
Scotland	15,648	8.67	8.39
Northern Ireland	5,128	2.84	2.90
Great Britain	**180,360**	**99.96***	-

Source: DWP statistical and accounting data, HMRC child tax-credit and working tax-credit up-take expenditure; Department for Social Development Northern Ireland Social Security Agency Annual Report and Accounts 2010–2011, and ONS population estimates for mid-2010.
*Note: Does not equal 100 due to rounding.

Breaking this down further on a national basis (see table 2.5) illustrates some significant points.[7] Old age pensions are a very large proportion of welfare spending as a whole – nearly 40 per cent. There are numerous small benefits which raise questions regarding administration and the way in which they relate to other government services that the recipients use. There are some significant variations between the nations – ill-health benefits account for much more of the welfare budget in Wales than elsewhere, while payments relating to family life (maternity benefits and child and working tax-credits) account for less in Scotland. Housing benefit is a much larger share of the budget in England than elsewhere, which reflects higher housing costs in England, and particularly in London (as IFS data confirms: Phillips 2013: 11).

A number of factors underlie welfare spending, of which general economic productivity is only one. At least as important is demography, and the age structure of the population of

7 Northern Ireland data is presented in a significantly different form, which makes it impossible to include in this account.

the various nations and regions. Here, Wales currently has a problem in the form of a large proportion of older people, although it is much closer to the UK averages with respect to younger age groups (this is in part because many people choose to retire to Wales, having spent their working lives elsewhere – a natural part of mobility within a single state). Scotland, however, has larger numbers of older people and those in the 45–59 age group who will retire in the foreseeable future, but significantly fewer people in the youngest age group (0–14) who will pay for the pensions of those people when they retire. This problem is borne out by the low level of spending on families with children that is currently incurred in Scotland.

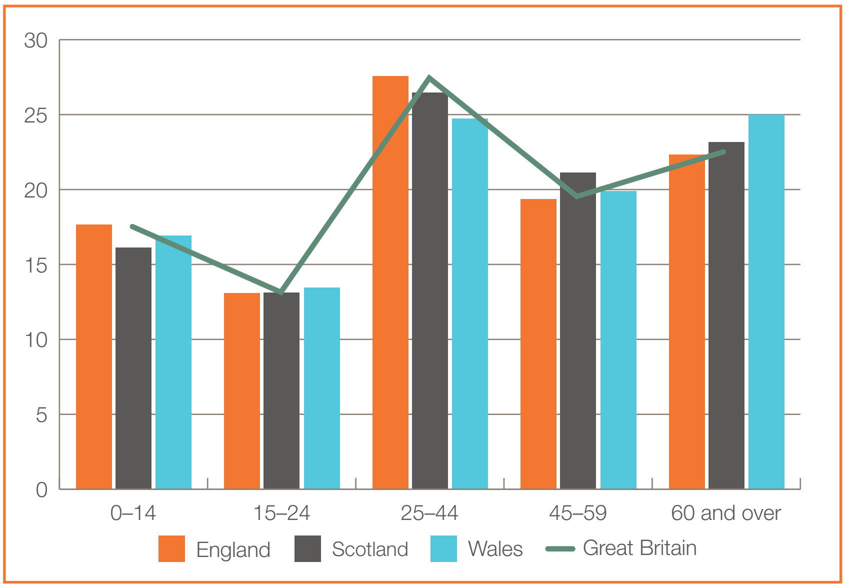
Table 2.5
Expenditure per benefit by country, 2010/2011

	England		Scotland		Wales	
	£ million	% of total	£ million	% of total	£ million	% of total
Attendance allowance	4,356	2.91	481	3.08	388	3.94
Bereavement benefits	500	0.33	61	0.39	32	0.32
Carer's allowance	1,331	0.89	141	0.90	100	1.02
Council tax benefit	4,299	2.87	387	2.48	238	2.42
Disability living allowance	9,630	6.43	1,312	8.39	924	9.39
Employment and support allowance	1,860	1.24	224	1.43	146	1.49
Housing benefit	18,876	12.60	1,661	10.61	893	9.07
Incapacity benefit	4,419	2.95	634	4.05	464	4.71
Income support	6,637	4.43	760	4.86	456	4.64
Industrial injuries benefits	731	0.49	94	0.60	64	0.65
Jobseeker's allowance	4,497	3.00	503	3.22	264	2.68
Maternity allowance	302	0.20	26	0.16	15	0.15
Over-75s TV licences	486	0.32	48	0.31	31	0.31
Pension credit	6,967	4.65	785	5.02	493	5.01
Severe disablement allowance	729	0.49	98	0.62	60	0.61
State pension	57,214	38.20	5,965	38.12	3,631	36.90
Statutory maternity pay	1,848	1.23	188	1.20	92	0.93
Winter fuel payments	2,353	1.57	240	1.53	151	1.54
HMRC child and working tax-credits	22,730	15.18	2,040	13.04	1,400	14.23
Total regional identified expenditure	***149,765***	-	***15,648***	-	***9,840***	-

Source: DWP statistical and accounting data; HMRC child tax-credit and working tax-credit up-take expenditure

Demographic factors indicate the extent to which Scotland benefits from the present arrangements: not only does it have a larger proportion of people of or approaching pensionable age at present, but it also has fewer younger people to pay their pensions in future. A UK-wide approach to risk-sharing for pensions, in particular, reduces the burden imposed on Scottish public finances, as well as supporting the principle of personal mobility within the UK.

Figure 2.1
The age structure of Scotland, England, Wales and Great Britain



Source: adapted from Phillips 2013

2.5 Lessons from overseas

The UK would hardly be unique in having a model in which welfare provision is divided between two tiers of government. Federal and decentralised systems around the world have similar arrangements. As table 2.6 illustrates, even in highly decentralised countries, social security is typically the responsibility of the central government. Distributive welfare functions tend to be allocated to regional or state-level governments and redistributive ones to the federal or central government.[8] However, as the Canadian experience testifies, within this broad pattern there is plenty of scope for local discretion. There, employment insurance is a Canada-wide scheme, though its rules vary regionally (allowing for seasonal patterns of employment in Atlantic Canada). The Canada Pension Plan operates only in English-speaking parts of Canada, with a similar but separate scheme functioning in Quebec. Provinces have, in any case, a broad spending power allowing them to spend on a range of functions including welfare, even where these are federal functions. In Switzerland, divergence between different cantonal arrangements is such that it is possible to apply Esping-Anderson's model of three worlds of welfare within the state itself, and find extensive but hard-to-interpret variations between cantons.[9]

Table 2.6
Legislative responsibility for aspects of welfare in various federal countries and devolved administrations in the UK

	Australia	Austria	Canada	Germany	Switzerland	USA	UK
Old age, survivors and disability	Federal	Federal	Shared	Federal	Federal	Federal	Reserved
Unemployment	Federal	Federal	Federal	Federal	Federal	Shared	Reserved
Work Injury	State	Federal	Provincial	Federal	Federal	State	Reserved
Family Allowances	Federal	Federal	Shared	Federal	Federal	Shared	Reserved
Social Assistance	Federal	Shared	Provincial	Federal	Cantonal	Shared	Reserved
Health	Federal	Federal	Shared	Federal	Federal	Shared	Devolved

Source: Obinger et al 2005, table 1.6 (extended)

8 Obinger et al (2005) provides a comprehensive survey.
9 Armingeon et al 2004. Esping-Anderson (1990) formulated a distinction between three 'worlds' of welfare-state regime: Christian-democratic ones concerned with status protection, social-democratic ones concerned with security and equality, and liberal regimes concerned with ensuring protection of individual interests.

Note: this table relates to legislative responsibility for the functions specified. Implementation and administration may be shared with state or provincial authorities, or with other bodies such as social insurance funds.

The outright exclusion of regional-level governments from welfare responsibilities is unusual, and generally to be found only in the more centralised systems such as those of Australia and Germany. The UK's devolved governments – particularly Scotland – already have a level of spending responsibility that resembles more decentralised systems like those of Canada and Switzerland. If one is going to seek parallels overseas, these are better ones to consider.

Moreover, devolution enables policy innovations to emerge in one unit of government, and then be taken up more widely. This has been particularly true in Canada, where healthcare, pensions and childcare policies all started as initiatives in one province (Saskatchewan in the first case and Quebec in the latter two) before becoming more widely adopted and supported by the federal government. As Béland and Lecours (2007) point out, the positive example of a policy innovation by one government can affect others, and create a different sort of policy competition: in effect, it can drive a race to the top rather than to the bottom. Welfare devolution would strengthen the ability of devolved governments to adopt different policies which could then act as examples for the UK as a whole.

2.6 Welfare pluralism and the social union

At the start of this chapter we suggested that there is a case for greater 'welfare pluralism'. This is really an issue about the nature and purpose of the union, and it is one that has been ducked in the past. Indeed it is widely accepted that the architects of devolution did little to think about the implications of political decentralisation – and the potential it provides for divergent social citizenship rights across the UK – for the social fabric of the union. What is needed therefore is some attempt to identify what the union means, or should mean, in those terms, which are fit for both the 21st century and the devolved United Kingdom.

There are two starting points for this, one social and one economic. On the social side, the starting point needs to be that the union will assure to all its citizens a set of **guarantees for minimum life chances**. Some governments may choose to do more than that minimum and provide more ample services; but the union will assure at least a consistent minimum, for all its citizens, wherever in the UK they live.

In some cases, that minimum will be provided directly by the UK government, on the basis of personal entitlements. Those payments would be the same across the UK, no matter where people live, and relate to satisfying conditions of eligibility (whether to do with personal circumstances or contributions through the national insurance system). In other cases, the UK will ensure there is an adequate level of funding for devolved governments (where they exist) to provide services to their residents. In England, the UK government will remain directly responsible for those services, and devolved governments need to be funded on a comparable basis to ensure adequate provision across the UK. (For details of how this can be done, see Trench 2013.) There are two questions: first, to determine which services should be provided directly and which by devolved governments (the division of powers question); and second, what that level of minimum services should be (the standards question).

In terms of determining what services should be provided directly, and what should be provided by devolved governments, the criteria set out in 'Option 3' in section 1.4 provide a useful guide. Welfare devolution is about improving policy without undermining a fundamental level of shared UK-wide social citizenship, and the redistribution and shared risks that entails. Redistribution can take place across a number of dimensions: between individuals, regions and classes, but also in time – that is, across people's lives, helping to balance risks that are greater at some points in one's life than in others. The role of public policy in helping look after families with small children or older people, for example, can be considerable. The fact that much of this redistribution is between individuals contributes powerfully to shared social citizenship: it means that UK citizens have much in common, whether they live in Bangor, north Wales, or Bangor, Northern Ireland. Distributive services, on the other hand, are often better provided at more local levels by more local tiers of government – again, a common practice in decentralised and federal systems.

When it comes to standards, the nature of devolution means that in many areas these will vary – including those functions that are already devolved. The principal yardstick for them is political. In non-devolved areas of welfare, they will remain consistent as they are set by the UK government. In devolved areas, the UK government may set some broad, high-level standards as a parameter of devolution, but once powers are devolved it will be for devolved governments to determine what use to make of them.

On the economic side, if the UK is to remain a single decentralised state, that will entail retaining a single labour market. Part of that means ensuring that people living anywhere in the UK are able freely to move from one part to another, whether to find or change jobs, or when they retire. Different rules about social rights and entitlements can undermine such mobility. There needs to be, therefore, a consistent set of basic rights across the UK for those aspects of welfare central to employment and people's working lives and those where people have longstanding expectations which have shaped their plans, including ones where they made personal financial contributions. In particular, that means UK-wide standards for levels of support for the unemployed (jobseeker's allowance at present), support for the low-paid (working tax-credits and income support at present), and the minimum wage.

Both of those starting points suggest there is a need for a high degree of commonality in how the welfare state works across the United Kingdom. But that does not mean there is a need for absolute uniformity – and already, in a number of respects, the welfare state varies from place to place. That includes devolution of social security, subject to a rather generalised 'parity' rule, in Northern Ireland (discussed above), the recent devolution of council tax benefit, and varying forms of cash support offered by local authorities.

However, so far the division of powers between UK and devolved levels of government has been somewhat haphazard, driven by a combination of historic patterns of administrative devolution and ad hoc negotiations both before and after devolution. There has seldom been an attempt to think it through coherently. When there have been justifications of the social union (most notably by the Calman Commission, but also the Liberal Democrats' Home Rule and Community Rule Commission [2012]), they have been couched in terms of defending the existing reservation of the social security system and welfare to the UK level. That is to make a number of key assumptions: that devolved governments neither can nor should play a role in welfare; that despite increasing political discontent with welfare, UK provision remains 'what the UK does for Scotland, Wales or Northern Ireland'; and that problems where welfare and currently devolved functions intersect can be ignored. Such welfare unionism both causes practical problems and fails to accord with what appear to be public preferences.

The social union is fundamental to contemporary accounts of the United Kingdom. However, the existence of various shared key benefits for UK citizens and others entitled to reside in the UK does not mean they need to be the only benefits that those living in particular parts of the UK might enjoy. Such benefits already vary somewhat; there is no reason why they cannot vary more, as part of a package of enhanced devolution. Chapters 3 and 4, in particular, address how this might be done. A future social union will entail greater scope for devolved governments to do things differently to the UK government in some limited respects. But at its core will remain a package of key rights that will form part of the entitlement of all UK citizens, wherever they live. The existence of such rights will both be something all UK citizens have in common, wherever they live and whether they have a devolved government or not, and will also help ensure that people can move around the UK – and plan their lives knowing that they can move without affecting their entitlements.

Recommendation: Devolution of some aspects of welfare would not just supplement the powers of devolved governments, but would also improve social and economic outcomes in the devolved nations and enable the formulation of more joined-up public policy. This would benefit the UK as a whole. Devolved governments should, however, be responsible for raising a substantial proportion of their own spending through fiscal devolution before taking on welfare responsibilities.

3. DEVOLVING SPECIFIC BENEFITS AND PROGRAMMES

3.1 The Coalition's welfare reform agenda

Before we explore which welfare benefits and programmes could be devolved, it is first necessary to consider the nature of the Coalition government's welfare reform agenda which is radically reforming social security provision in the UK.

Much of the political controversy surrounding the Coalition's reform agenda has attached to non-structural features of that, notably the 'spare room subsidy' or 'bedroom tax' for recipients of housing benefit, the overall cap on amounts of benefit any claimant can receive, and the replacement of disability living allowance by personal independence payments. It has also involved devolution of some benefits already, including council tax benefit and some elements of the Social Fund. However, most important for present purposes is the structure of the proposed new universal credit (UC), first proposed in the 2010 white paper *Universal Credit: welfare that works* (DWP 2010) and enacted in the Welfare Reform Act 2012.

It is clear that implementation of UC is troubled. While both Coalition parties remain committed to its introduction, there are evidently grave problems with making such a scheme happen. It involves both a dramatic change in the nature of the service provided and a large new computer project to underpin the system and provide interfaces with a number of other government systems to make it work. It is a scheme of very great complexity, which has been assessed as an amber-red project at 'high risk' of failing, according to the Major Projects Authority. The postponement of pilot projects, and their narrowing in geographical scope and the number of claimants affected, supports the view that this project may not in fact be delivered in the form intended, despite the strong government commitment to it.

The problem with the design of UC is its claim to universality via a merger of all the various distinct benefits into a single consolidated benefit, with what at present are distinct benefits due to become identifiable strands within a single overall payment. This design implicitly assumes a single government will be responsible for providing welfare, and that it can and should make all decisions about that. That principle is in conflict with the approach to a more nuanced welfare state that is being proposed here, which would enable two governments to have greater opportunity to share the provision of welfare to citizens in devolved parts of the UK.

The implementation of UC would make some options regarding welfare devolution much more difficult, notably the devolution of specific benefits, discussed in the next section.[10]

3.2 Benefit devolution and the problem of universal credit

The discussion in the first two chapters has highlighted the challenges with devolving welfare. A desire to preserve the social union and the economic case for risk pooling at the UK level and ensuring the viability of the single market restricts the room for manoeuvre. However, sharing commitments to the overall framework of the welfare state does not mean that some aspects of the welfare state could not be devolved.

The UK government's welfare reform programme means that welfare devolution has already started to take place to a limited extent. The abolition of Crisis Loans and Community Care Grants, previously available from the Social Fund, has led to responsibility for these to be transferred to local authorities in England, and devolved governments in Scotland

10 These are not only problems that affect possible welfare devolution, but also – as the Scottish government's own Expert Group on Welfare recently reported – what an independent Scotland might do once it became a separate state (Scottish Government 2013).

and Wales. The funds administering the former responsibilities of the Social Fund are the Scottish Welfare Fund and the Discretionary Assistance Fund for Wales, both responsible for this for two years from April 2013 (so arrangements may change thereafter). Both are similar in only making grants (not loans), in being discretionary and in being cash-limited; the budgets are £10.2 million in Wales and £33 million in Scotland (comprised of funds transferred from UK government and £9 million contributed by the Scottish government). Both funds make two sorts of grants: to cover emergency situations (Crisis Grants in Scotland, Emergency Assistance Payments in Wales), and to support independent living (Community Care Grants in Scotland, Individual Assistance Payments in Wales). Organisationally, they are different; the Scottish Welfare Fund is administered by local authorities, while the Discretionary Assistance Fund for Wales is run by a commercial IT company 'in partnership' with a voluntary sector organisation and a local authority.

Similarly, council tax benefit has been devolved, to local government in England and devolved governments in Scotland and Wales. The reduction in the amounts paid for this have, of course, caused problems in both devolved countries, with the Welsh government belatedly making up the shortfall from its own resources, after a protracted and embarrassing political row.

The devolution of council tax benefit and partial devolution of the Social Fund have taken place because the UK government has abandoned a UK-wide programme in that area. The proposed introduction of UC creates serious problems for devolving other smaller benefits, as many of them will remain 'strands' of funding within UC. Nevertheless, despite problems with both the design of UC and its implementation, even if UC does go ahead, it would still be possible for certain strands of benefit to be devolved. The relevant strands would need to be identified, removed from UC in relation to claimants in the relevant devolved territory, and become a matter for the devolved government, with a commensurate level of grant from the UK government. It would be for the devolved government to decide whether to pay such benefits, at what levels and on what grounds of eligibility. Those conditions might parallel those applied by the UK government, but need not necessarily do so. A devolved government might, for instance, choose not to pay a cash benefit but instead apply the funds to the direct provision of services. Equally, they might choose to pay cash benefits instead of directly providing services – something that would be possible with the supplementary approach outlined in chapter four.

3.3 Which benefits to devolve?

If one were to devolve other benefits, it is important to choose those benefits in a sensible way. Any decision about whether it is sensible to devolve a particular benefit (or welfare programme) must be based on clear evidence that doing so would help the devolved institutions to meet the policy challenges they face and to do so without undermining the union. To help inform this debate we have developed the following criteria:

- **Whether the benefit is cyclical in nature or not** – ones which are cyclical are less suitable for devolution, given the financial strains these can impose on devolved resources. Benefits which function as countercyclical stabilisers are unsuitable for devolution, in particular. From a risk-pooling and UK social union perspective it is also important that such benefits (for example jobseeker's allowance) remain UK-wide. Conversely, benefits which relate to predictable indicators (such as demographic ones) may be more suitable for devolution as the costs of these can be foreseen and budgeted for, though that depends on other factors.

- **Whether the benefit relates to, or overlaps with, devolved functions** – ones which have a connection with devolved functions are more suitable for devolution, as this will enable devolved governments to deal with their responsibilities better.
- **Whether devolving benefits and/or related welfare programmes will help boost growth and economic performance** – in line with the social investment approach described above.
- **Whether the factors that affect the benefit are place-related or not** – those which show strong connections to particular locations such as housing markets are more suitable for devolution than those which are not.
- **Whether devolving the benefit would undermine the social union** – major benefits which are redistributive in nature or contributory in character are core to the social union and are not suitable for devolution.
- **Whether devolving the benefit would materially undermine the UK's single market**.

On this basis, one can identify benefits which are and are not suitable for devolution. It should be emphasised that these are permissive criteria to identify benefits which *could* be devolved, not necessarily which *should* be devolved. Table 3.1 below attempts to apply in summary form these criteria to the main social security benefits.

Table 3.1
Benefits and their relationship to devolved functions

Benefit	Approx. value, GB, 2010/11 (£bn)	Cyclical benefit?	Relation to devolved functions?	Place-related factors?	Contributory benefits (funded through NI Fund)?
DWP benefits					
Severe disablement allowance	0.9	No	(Civil liability devolved in Scotland & N Ireland)	No	No
Industrial injuries disablement allowance	0.9	No	(Civil liability devolved in Scotland & N Ireland)	No	No
Jobseeker's allowance	5.3	Yes	No	No	No
Employment and support allowance	2.2	Somewhat	No	No	No
Income support	7.9	Yes	No	No	No
Pension credit and minimum income guarantee	8.3	No	No	No	No
TV licences for over 75s	0.6	No	Some limited devolved role in broadcasting	No	No
Attendance allowance	5.2	No	Close overlap – adult social services	No	No
Carer's allowance	1.6	No	Close overlap – adult social services	No	No
Housing benefit	21.4	Somewhat	Close overlap – housing functions	Yes	No
Council tax benefit	4.9	Somewhat	Close overlap – local government functions	Yes	No
Statutory sick pay and statutory maternity pay	2.6	No	NHS devolved, (if GP's certificate needed; eligibility is self-certified initially)	No	No

Benefit	Approx. value 2010/11 (£bn)	Cyclical benefit?	Relation to devolved functions?	Place-related factors?	Contributory benefits (funded through NI Fund)?
HMRC benefits					
Child benefit	12.0	No	Education and childcare devolved	No	No
Tax credits	28.1	Yes	Income tax being partially devolved under Scotland Act 2012; Devo More and other schemes envisage devolution to Scotland	No	No
Contributory benefits – non-voted					
Incapacity benefit	5.5	Somewhat	–	No	Yes
Jobseeker's allowance	0.8	Yes	–	No	Yes
Employment & support allowance	0.9	Yes	–	No	Yes
Maternity allowance	0.3	No	–	No	Yes
State pension	66.8	No	–	No	Yes
Bereavement benefits	0.6	No	–	No	Yes

Note: Figures in brackets denote negative sums, indicating that that scheme runs (or ran) at a surplus.

As table 3.1 above makes clear, the options for devolving specific benefits are limited. In headline terms, we suggest that there is a strong case against devolving benefits which are core to the UK's social union, including job seeker's allowance (JSA), employment support allowance (ESA), and the state old age pension. There is, however, a compelling case for devolving housing benefit, given how closely it is linked to other aspects of social housing.

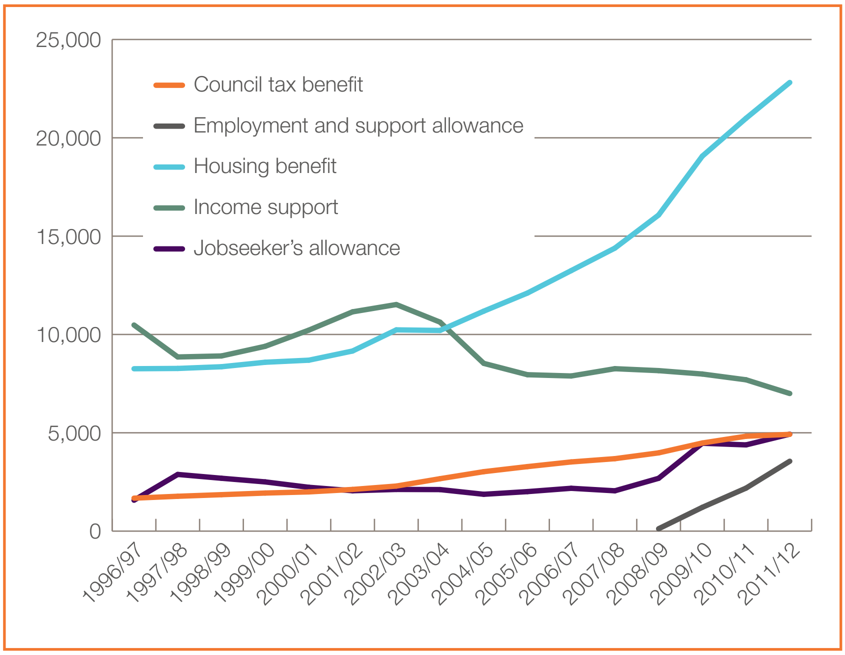
Some small benefits that have a direct interface with devolved policy should also be devolved. This particularly applies to attendance allowance given the overlaps it has with social care provision.

Contributory benefits, paid for from the National Insurance (NI) Fund, are easy to identify. The NI Fund covers a wide range of expenses, not all of which are welfare benefits (in many years it contributes some funding to the NHS), and often runs at a deficit which needs to be made up from general taxation. At present, the major contributory benefits are the basic and additional (or second) state pensions, contribution-based elements of JSA, ESA and incapacity benefit (IB), all of which are time-limited, and maternity allowance and some small bereavement benefits (bereavement allowance, bereavement payment and widowed parent's allowance). Old age pensions and contributory JSA, ESA and IB are clearly redistributive in nature, and so there are strong arguments for not devolving those. Devolving pensions would also undermine the UK single-market.

Recommendation: There is no strong argument for devolving those benefits that are core to the UK's social union, including job seeker's allowance, employment support allowance, and the state old age pension.

Establishing which benefits are cyclical and which are not is more difficult. Figure 3.1 presents the changes in real terms (using GDP deflators) of some of the key welfare benefits, indicating how cyclical or not they are for Great Britain as a whole. Unsurprisingly, JSA and council tax benefit have been cyclical.[11]

Figure 3.1
Breakdown of cyclical benefit spending across Great Britain (£m), 1996/97–2011/12



Source: IPPR calculations of real-terms benefit spending

Employment and poverty-related benefits – under present arrangements, jobseeker's allowance, working and child tax-credits and statutory maternity pay – are cyclical in nature, and so not suitable for devolution. Devolving them would require devolved governments to increase their spending on these benefits during economic downturns, causing considerable fiscal challenges to them.[12] In any case, these have little or no connection to existing devolved functions. While the costs of old age pensions are relatively predictable, the financial burden of devolving them would be very considerable indeed given the amounts involved (they account for over a third of the total welfare budget). They also have no direct connection to currently devolved functions. These are therefore also unsuitable for devolution.

'Disability benefits' includes disability living allowance – quite a large benefit, which is being replaced by the personal independence payment – IB and ESA, and some small benefits such as industrial injuries benefits and severe displacement allowance. Devolving these would present two issues. First, is it consistent with the sort of social union that the UK should be for the UK government to withdraw from a prominent role in providing help to people with disabilities? A union that seeks to assure a range of basic rights to all its citizens should include in those a level of protection for people who suffer from disabilities. If the model of 'supplemental welfare' set out in chapter 4 is followed, there would be nothing to stop devolved governments taking a role in this as well; but key benefits would

11 Income support spending has fallen because of a transfer of lone parents from income support to JSA.

12 Questions about tax credits might arise if all personal income tax were to be devolved, as that would mean that the tax credit would be a credit against no liability. There would be solutions to this, for example by making it a credit against employee's national insurance contributions rather than income tax, for those of working age.

remain a UK-level matter. Second, are the benefits suitable for devolution in a practical sense? Some – notably IB and ESA – have served as ways of dealing with the long-term unemployed in the past. They are, to an extent, therefore cyclical benefits and that creates economic and financial considerations. Those that are not cyclical are disproportionately paid in both Scotland and Wales, with the effect that devolution might well transfer a significant burden there. These benefits would therefore also be unsuitable for devolution.

This analysis suggests that many benefits are in fact unsuitable for devolution, given the nature of the social union or the problems of funding and administering them. Some benefits, on the other hand, are more suitable for devolution. That is particularly true of the mostly small benefits that are targeted on particular problems or groups. (Housing benefit is also a candidate, and is discussed separately below.) The 'small benefits' include: attendance allowance, carers' allowance, maternity allowance, over-75s' TV licences and perhaps winter fuel payments.

The strongest candidate of these is attendance allowance, given its close overlaps with devolved policy in the health and social services. Attendance allowance is paid to those aged over 65 with a disability to help them at home and in their community. It is a non-contributory, non-cyclical benefit. It might be argued that the same case can be made in favour of devolving carer's allowance, a weekly benefit paid to those who help look after someone with substantial caring needs. Carer's allowance has similar overlaps with health and social services. However, it would be difficult to devolve carer's allowance without also devolving disability living allowance (DLA), which is what the entitlement to carer's allowance is based on. As we argue against devolving DLA, we also rule out devolving carer's allowance. Again, the 'supplementing approach' would enable devolved governments that wished to provide additional support to carers to do so.

For attendance allowance there is another important motivation for devolving it: it would help reduce tension between the devolved and UK government, which has arisen in the past where the UK government has threatened to withdraw it if a devolved government provides the services which it is intended to help people pay for. This benefit has caused serious political friction – most notably in blocking the Welsh government's proposals for its own policy for long-term care for the elderly, on the basis of an understanding of devolution that is now outdated. To fund the devolution of attendance allowance, the best approach would be to provide a grant, calculated for instance on the basis of average UK funder per claimant,13 which would then be added to the block grant for the devolved institutions.

Recommendation: Some small benefits which have a direct interface with devolved social services should also be devolved. This particularly applies to attendance allowance.

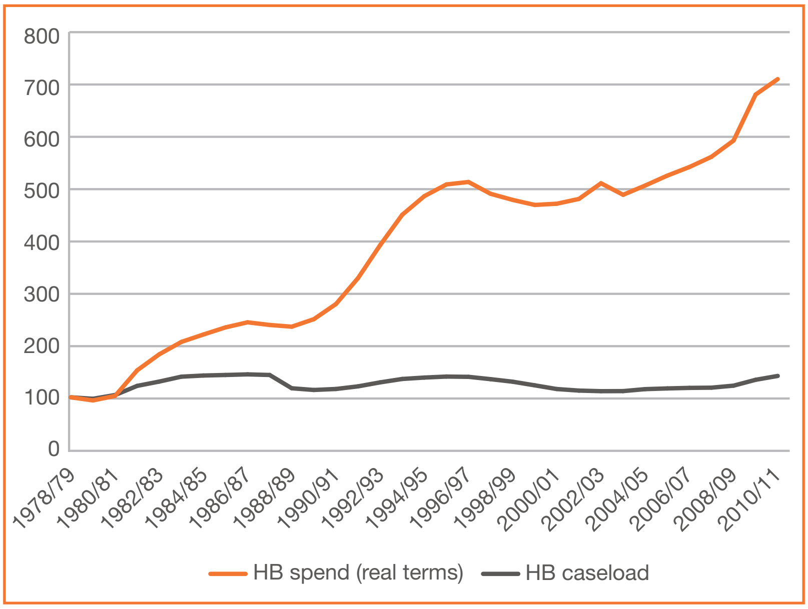
3.4 Devolving housing benefit

Housing benefit (HB) is the most substantial benefit for which there is a clear case for devolving. HB is a relatively large benefit, taking up to about 15 per cent of the total UK welfare budget. As a poverty-related benefit, it is cyclical to a degree – but a notably limited one. The costs of HB have risen dramatically in recent years, but this has been concentrated largely in England (and, it would appear, in London and the south-east). Tellingly, as figure 3.2

13 The average UK calculation would need to include DWP administrative costs.

below shows, the number of HB cases has not increased greatly over the last decade. There is some cyclical change in the number of claimants despite the huge increase in spending, but the increase in spending is overwhelmingly due to increasing rents.

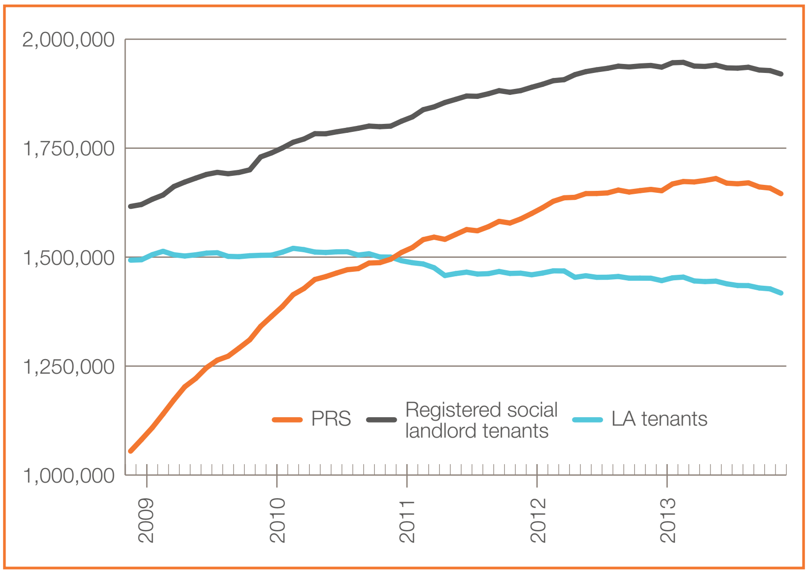
Figure 3.2
Relative growth in housing benefit real terms expenditure and caseload (index 100 = 1978/79)



Source: Hull and Cooke 2012 (authors' analysis of DWP data)

Those increases are not just recent. As figure 3.3 shows, they are particularly driven by increasing rents in the private rented sector rather than those charged by local authorities or housing associations. This may explain why the rates of increase in the amounts payable for HB have increased by considerably more modest amounts in Scotland and Wales than in England; not only has house price inflation been more modest in Scotland and Wales, but much more of the rented housing stock remains in the public sector outside England.

Figure 3.3
Subsidised tenancies, by tenure



Source: DWP 2014

A number of factors drive the costs of housing benefit. Demand for HB relates principally to prosperity and wage levels in the economy. The cost burden is driven by housing costs in general, which are affected by overall property prices and the state of the economy, and the local housing market. The macroeconomic factors – notably interest rates – will remain common across the UK under any scenario that involves devolution or a shared currency.

There are two primary arguments in favour of devolving HB. First, HB is self-evidently a place-related benefit: the level paid already varies by place to take account of local market conditions. It would therefore make sense to devolve control of the benefit to more local levels.

Second and more importantly, there is a strong interaction between devolved policy and HB (which is itself an important policy lever). The devolved institutions are responsible for key aspects of the housing and property market – they control not just housing policy and investment, but also planning policy. As a result of the Scotland Act 2012, the Scottish government will also have responsibility for all property taxes. Devolved governments can encourage the construction of new houses in both the private and public sectors, and in particular they can facilitate increases in the social housing stock through the investments they make, direct or permit.

Devolving HB would offer some significant advantages to both the devolved and UK governments. It would enable devolved governments to make policy for housing in a more holistic way, taking into account the preferences of their voters and their local needs and circumstances. As IPPR as argued elsewhere, devolving HB could potentially contribute to reversing the 30-year drift in public spending away from building homes and towards subsidising rents. In the long-run it would be far better to invest more in bricks and mortar than in making payments to private landlords. The potential benefits for the devolved territories in terms of economic growth and job creation that could flow from such investment adds to the case for giving them responsibility for HB. To appreciate the current imbalance consider that, in 2011/12, Scotland invested £395 million in capital programmes, while the UK Government spent £1.7 billion on supporting rents in Scotland – that is, less than 20 pence in every pound spent on housing in Scotland is actually being used to build more houses or to improve them (IPPR and Rettie 2014 forthcoming).

For the UK government, it would provide a basis for more clearly distinguishing between devolved and non-devolved functions in a principled way, and which would therefore be more explicable to voters. It would also avoid the risks of blame-shifting because of the interaction of devolved and non-devolved functions. A devolved government would not be able to suggest that the UK government's benefits policy was responsible for defects in its housing policy if all relevant levers were in its hands. For instance, the recent disputes between the UK and devolved governments over the bedroom tax could have been entirely avoided if HB was devolved.

The case for devolving HB to local authorities is one that has been considered in detail by IPPR in relation to England, and considered to be a strong one even without such devolved powers (Hull and Cooke 2012, particularly chapter 3). If devolved, it would be open to devolved governments to decide how to provide a replacement for the current form of HB. The Scottish government could then either enter into an agreement with the UK government to integrate its rent subsidy administration with the UC, but with specific rates set in Scotland. Alternatively, it could operate a rent subsidy system outside of UC, as is the case now with housing benefit, which is administered separately from other out-of-work benefits.

Recommendation: Housing benefit should be devolved, given how closely it is linked to other aspects of social housing. When the universal credit is brought in, the element replacing housing benefit should be disapplied in territories where welfare devolution has taken place, and funding transferred to the devolved government. It would then be open to the devolved government to develop social housing policies and use those resources as it sees fit.

3.5 Paying for devolved benefits

Paying for devolved benefits is not straightforward. If the UK government were to devolve a particular sort of benefit to devolved governments, it follows that it should transfer resources so that the government receives money that would otherwise have been paid to claimants for that benefit in that government's territory. This becomes a vital element of the social union: in principle, citizens across the UK in similar circumstances have similar resources available to pay for services for them, no matter where they live. The question is which government makes the choices about how those resources are used to provide a particular combination of services.

However, it is far from simple to calculate what that amount might be. At present, amounts paid by benefit are easily ascertainable, and indeed DWP spending is among the most accurate information on territorial public spending (as DWP knows where each claimant lives and so can straightforwardly attribute such spending). But if individuals no longer need to claim benefits from DWP and report a particular set of circumstances to it, it is impossible to assess accurately with reference to the rest of the UK how much is payable to Scottish (or Welsh or Northern Ireland) claimants by way of, for instance, attendance allowance (or other benefits). Such claims can vary a good deal, which is why social security spending continues to be treated as Annually Managed Expenditure (AME) and adjusted from year to year, rather than as Departmental Expenditure Limit (DEL) funding managed over the course of a spending review period.

The best approach to this problem may be to use estimates based on demographic data. It would be possible to estimate the number of eligible claimants in Scotland (or other jurisdictions) for particular benefits payable in England (and other areas where the UK system prevails). Attendance allowance, for example, is payable to people with certain sorts of disabilities; those numbers can be estimated, on the basis of information about age, the prevalence of ill-health, and so on. That number would then be multiplied by the amount payable by DWP where it was responsible for that benefit, including the costs of administration that DWP presently incurs, and that amount transferred to the devolved government.

The funding for a devolved housing benefit would be provided through an addition to the devolved governments' block grants. IPPR has made the argument elsewhere for an 'affordable housing grant' to allow for housing benefit to be devolved to local authorities; in effect, a high-level grant calculated using a small number of needs-related factors (Hull and Cooke 2012). This would be calculated for three-year periods, based on a 'national' formula that took account of local population, housing costs and relative deprivation, and start with the funds currently provided by central government to local authorities for housing and housing benefit, so changes would be incremental over time and enable local authorities to innovate in policymaking as the resources available to them changed.

This approach is familiar to those interested in devolution as resembling the sort of simple needs-based grant recommended by the Holtham Commission (Independent Commission on Funding and Finance for Wales 2010) and House of Lords Select Committee on the Barnett Formula (2009) for the devolved governments, and incorporated into *Funding Devo More* (Trench 2013). The proposed affordable housing grant would need to be modified to be applied to the devolved governments, as some of the housing functions it would cover are already devolved and form part of the block grants. Nonetheless, the principle of a stream of funding to devolved governments, calculated on the basis of such indicators (all of which are easily ascertainable) is an attractive one. Such a grant would need, of course, to form part of the block grant once it reaches the hands of the devolved government; it would be an unconditional grant for them to allocate as they wished, even if that did not relate directly to housing factors. As with the current block grant, democratic politics would provide a sufficient safeguard to ensure its proper use.

The effect would be that devolved governments would move from having all their funding in the form of a DEL block grant calculated over a spending review period, to having funding from multiple sources. Some of it would come from taxes directly under their control; some might come from tax receipts in their territory assigned to them; some would come from a DEL block grant, and other elements for devolved welfare from AME grants calculated as discussed in this section. That would add a measure of accounting complexity to devolved funding and add a measure of volatility to devolved governments' funding, but present no other significant difficulties.

3.6 Social investment reforms: Welfare-to-work and childcare

As the housing benefit example described above illustrates the case for welfare devolution is most persuasive where it can be shown that it would help equip the devolved institutions to make progress on things that matter to their electorates but which they are currently restricted from acting on. The objective here is to enable devolved governments to take measures that help promote and underpin economic growth, jobs and improve the life chances of their citizens. Powers, in other words, should be devolved with a clear purpose in mind. Focusing on growth and jobs is a necessity in the current economic climate. It also reflects a prevailing consensus among welfare experts about the need to prioritise 'social investment' policies. The core elements of a social investment approach include such things as: publicly funded childcare to boost employment; investment in human capital, skills and lifetime learning; and tackling unemployment, particularly youth unemployment, through active labour market policies. Devolved institutions already control several of the key policy levers that contribute to this approach, but not all of them.

Below we make the case for two specific reforms that are intended to strengthen the social investment capacities of the devolved administrations: devolution of welfare-to-work programmes; and devolving funding to support the roll-out of universal childcare.

3.6.1 Welfare-to-work and active labour market policy

For some years, there has been increasing interest in active labour market strategies in which policy is geared towards positively seeking to help the jobless into work, rather than merely paying benefits and providing access to information about jobs for those out of work.

Active labour market policies call for joining up a range of areas of government action. Some interventions have been managed by government directly, through Jobcentre Plus; others have called for outside help, now in the form of the Work Programme. In both cases, these often need to be complemented by other agencies, whether parts of the NHS or the education system, to help those with health problems or educational needs. All of these areas now cross the boundary between devolved and non-devolved functions, raising practical difficulties that get in the way of improving people's lives and incomes.

In the early years of devolution, these issues had limited practical consequence. While the dividing line between devolved and non-devolved functions was grey, there was sufficient overall similarity in policy approach certainly between the Scottish executive and the UK government (the one a Labour–Lib Dem coalition, the other Labour alone) which meant that there was a broadly consistent approach, supported by ties of trust between the key players.[14] Those circumstances have changed greatly since 2007, and such a claim could not be sustained today.

The Work Programme

The Work Programme is now one of the centrepieces of the UK government's policies for moving people from reliance on welfare to work. It replaces a number of separate smaller programmes that were formerly targeted at more specific groups, as well as work previously done by Jobcentre Plus. Its targets are those for whom it is hardest to find employment: the long-term unemployed (over-25s who have been receiving jobseeker's allowance (JSA) for longer than a year, under-25s for more than nine months and claimants of employment support allowance (ESA). It operates through a range of commercial providers, who are set targets of the proportion of 'clients' who should enter and stay in work, and who in turn enter into subcontracts in many cases with business that deal directly with those clients. Payments are staged and relate to success in finding work for clients – the longer the client stays in work, the greater the payment. Initial payments vary but are modest (£300–£600); 'job outcome fees' (for a client being in employment after six months) are typically £1,200 and thereafter the monthly 'sustainment fee' ranges from £2,200 to £9,620.[15]

This approach has many flaws. First, it introduces a considerable degree of private sector, bureaucratic overhead. Second, it has led to accusations that prime providers have passed difficult or impossible cases to under-resourced subcontractors, and also that difficult cases have been given low priorities or even 'parked'. Third, the structure of payment by results has meant that only large, well-capitalised companies are able to undertake prime provider roles – even though they are likely to lack the local staff, knowledge and other resources to provide services effectively, and so they are intermediaries between the government and the companies or bodies that actually deal directly with clients. And fourth, it is clear that the greatest determinant of success, or failure, in getting clients into work is the state of the wider economy. Successes have therefore been greatest in relatively buoyant south-east England, and least in areas with low GVA and growth rates, like Wales and the north-east of England. The present structure, as a result, creates a risk of rewarding contractors for changes in the wider economy that are not under their control, and equally of penalising them for the same reason.

A further set of problems emerge from the different sorts of clients referred for the Work Programme, and the wider services they need to help support movement into work. The needs of people who have been unemployed for a long time, and are moving off JSA, are different to those of people who have health problems and are moving from IB or ESA.

14 See Wood 2008

15 House of Commons Welsh Affairs Committee 2013, Annex A: The differential payment model

When it comes to integrating services, the main interface for JSA claimants (other than services provided by subcontractors) is with further education providers, many of which will be part of the devolved education sector. With ESA/IB claimants, the interfaces are often with a complex range of bodies. These will include the health service, especially for general practitioners and mental health services, local authorities particularly for personal social services, and social housing providers. Managing these relationships can be complicated – and of course these are devolved public services. In this area, the success of the Work Programme has been particularly poor. At present, the boundary between devolved and non-devolved services, and the respective priorities of each government, can obstruct efficient provision of services.[16]

3.6.2 The case for devolving the Work Programme

There are good reasons for devolving responsibility for providing support to the long-term unemployed (currently managed through the Work Programme) to the devolved institutions.[17]

The fact that welfare-to-work programmes are reserved is particularly problematic since getting people back into work, especially those who have been out of work for a sustained period, requires a joined-up approach from a wide range of agencies (including educational and skills institutions, mental health services, and local authorities), all of which are devolved. For the long-term unemployed and those claiming IB or ESA, devolving responsibility for the commissioning of the Work Programme would significantly improve the management of the relationship between all the various agencies involved in helping the people concerned, and create a set of incentives to do so effectively. Greater local discretion would also allow for tailoring the Work Programme with local knowledge of the labour market. Devolving Work Programme services – to devolved governments, and perhaps from them to local authorities – would address such difficulties.

Devolution would allow for greater policy innovation and experimentation, and would also potentially enable a wider choice of providers, and models of provision, to provide Work Programme services, rather than restrict it to the present limited range of large suppliers whose main qualification is their balance sheet. It would also create the possibility of these services being provided by public sector organisations rather than by commercial or voluntary sector providers, and so test the proposition that the private sector is necessarily more efficient and effective than the public sector. These are powerful reasons to devolve the Work Programme.

For similar reasons, there might also be a case for devolving responsibility for Jobcentre Plus (JCP) to the devolved institutions. JCP deals with initial claims for JSA and claimants in the first year of their claim, and with some ESA claimants (those not on the Work Programme). Its role in the active promotion of employability and job searches requires local knowledge and integration with services that are being provided by local or devolved governments, and indeed localisation is under serious consideration in England, particularly for vulnerable clients – something welcomed by the Local Government Association there.

Devolution of Jobcentre Plus would involve identifying staff and premises to transfer, as well as responsibility for handling the claims of jobseekers unemployed for less than one year and some ESA/IB recipients. It would enable there to be a joined-up approach to all aspects of welfare-to-work, and would create a readily-available infrastructure for

16 Muir and Parker 2014: 48–51. House of Commons Welsh Affairs Committee (2013) illustrates the problems in Wales.

17 The current Work Programme contracts run until 2016. Our proposal is to devolve responsibility for providing support to the long-term unemployed, whether in the form of the Work Programme or whatever programme (and corresponding budget) replaces it in the next parliament.

the 'supplemental' model of welfare discussed in chapter 4. Devolution would, however, present some major practical problems in identifying staff and premises, and make it harder for the UK government to continue to discharge functions for which it remains responsible.

3.6.3 How devolution should take place

Devolution of the Work Programme cannot and should not be a way of fragmenting key UK welfare benefits. JSA, ESA and, where applicable, IB would continue to be payable to claimants on the same basis as in England, and responsibility for setting levels of those benefits (and the conditions attached to them) would remain determined at UK level.

Once devolved, it would be for devolved governments to decide how to administer the Work Programme. As such they could: manage a service structured like that applying in England; adopt a similar contracting approach but with different criteria for choosing contract structures and contractors; further devolve management or service provision (or both) to local authorities; or seek to provide some or all services itself. These would be devolved choices. The key legal requirement – other than the criteria for payment – would be compliance with the European Union public procurement regime, when services were put to contract, to ensure transparency and value for money in the choice of external providers.

The UK government would need assurances that it would not bear all the risk should the Work Programme underperform in the devolved territories. Equally, the devolved governments would want to retain some of the financial benefits that would arise from the programme's high performance. Some form of agreement would need to be negotiated between the Treasury and the devolved institutions whereby the former agreed to transfer funding on the basis of the effectiveness of the devolved institutions at reducing long-term unemployment and inactivity. Where the Work Programme generates savings to the AME budget these would be passed on to the devolved governments; conversely, should performance be suboptimal and the costs to the UK exchequer were to increase, the devolved institutions (or the contractors, should they retain this model) would have to share some of this burden. Such arrangements would need to assume and reflect normal economic conditions in the devolved territories. Should there be a major economic shock then the devolved institutions would be able to access additional funding from the Treasury, consistent with our account of a risk-pooling and resource-sharing social union.

Recommendation: Responsibility for active labour market policy should be more integrated, in order to improve social and economic outcomes and help the long-term unemployed into work. The Work Programme should therefore be devolved, again with appropriate funding. JSA and ESA should remain UK-wide benefits with levels and conditions set by the UK government.

3.6.4 Delivering affordable childcare

Improving childcare offers many advantages. When preschool childcare and nursery places are good quality, expanding the number funded places increases the rate of employment, reduces child poverty, increases equality in child development and improves relations between parents, as well as increasing tax revenues (Thompson and Ben-Galim 2014). It is for these reasons that universal childcare is a central part of the strong-employment Nordic success story. It is also why the push for more affordable childcare is becoming a major priority across the political divide. The Coalition government has recently announced a £750 million annual package of investment in tax-free childcare, while the SNP has said expanded childcare would be a key priority for an independent Scotland.

Despite having relatively high female employment rates, the UK has comparatively low maternal employment rates. Studies that assess the impact of different areas of family and social policy on employment rates consistently find that the degree of public support for childcare is a significant determinant of maternal employment rates. Countries with greater enrolment rates in publicly funded or provided childcare also have higher maternal employment. Increasing maternal employment rates provides benefits to the public purse. IPPR has calculated that increasing overall maternal employment by five percentage points (up to 62 per cent) would be worth around £750 million annually in increased tax revenue and reduced benefit spending. Increasing the proportion of mothers who are working full-time rather than part-time by five percentage points (up to 52 per cent) would be worth around £700 million a year (Ben-Galim and Thompson 2013). Overall, many mothers say that they do want to get into work or to increase their current working hours, but repeated surveys of parents have found that one very significant barrier is the lack of affordable childcare, the lack of flexibility in the jobs that are available, or both.

More affordable childcare means that work pays more and that mothers are better able to enter a job, and to work more hours. The current and previous UK governments have frequently voiced support for greater maternal employment as a central goal of early years policy. However, the UK remains an international laggard in terms of childcare provision, which has adverse implications for maternal employment rates in particular, and for economic growth and the public finance in general. Moreover, there are still concerns that the current proposals to extend tax-free childcare and support through universal credit may not actually decrease childcare costs, given the consistently high level of price inflation in the childcare market. Devolved governments need a greater range of levers to improve childcare provision than they have at present.

Childcare is, of course, a devolved policy. Many levers relating to it are in devolved hands already, including the power to provide publicly funded childcare facilities. This is why the SNP's claims that independence is the best guarantee of universal childcare are spurious. Under existing powers there is nothing to stop the Scottish government expanding childcare provision in Scotland. Part of the reason the Scottish government doesn't do so is because of the spending decisions it has taken. Most obviously, it has chosen to give relatively generous subsidies to middle-class graduates in comparison to the rest of the UK, when it could instead invest those resources more progressively in early years learning.

However, a problem does arise from the current division of powers in respect of the financial incentives associated with expanding childcare. That is, even if a devolved government does invest in this area, it would reap no financial reward, as the fiscal benefits would flow to the UK exchequer in the form of increased tax revenues and lower benefit payments. Increased fiscal devolution along the lines recommended by *Funding Devo More* (Trench 2013) would redress this problem, as it would enable a devolved government that, through investment, increased the overall prosperity of its economy to increase its *revenues* as well. Indeed, if tax reliefs are devolved as part of a package of income-tax devolution it would be open to a devolved government to expand the scope of those reliefs to provide greater cover of childcare costs and provision. Fiscal devolution therefore supports social investment.

In the absence of appropriate fiscal devolution, a partial way forward would be to devolve the childcare element of the working tax credit (and the future universal credit). This would reduce the financial disincentives discussed above, and bring universal childcare within closer reach of the devolved institutions. This responsibility could be transferred to devolved governments and so converted into supply-side public spending in Scotland and elsewhere. This would build on the existing devolved settlement for nursery education, and enable them to mirror the Nordic model if they so wished. Additionally it would be possible for the Coalition government's proposed new tax relief system for childcare to stop at the border, with commensurate resources allocated to public spending in a similar fashion.

Recommendation: Devolved governments should be able to take a stronger role regarding childcare. Many of the levers for this are already in devolved hands. However, stronger fiscal devolution will give devolved governments both the resources and the incentives to use the policy levers available to them. Devolution of the childcare element of the working tax-credit is an option which would also boost the expansion of childcare provision.

4. SUPPLEMENTING UK-LEVEL WELFARE

4.1 How would a system of supplementing benefits work?

In addition to devolving certain specific benefits, devolved governments should be allowed to supplement existing welfare benefits (or indeed introduce new ones). It would then be open to devolved legislatures to provide forms of welfare benefits as they saw fit, subject to funding these from within devolved resources. Any increases would have to be funded from within the overall envelope of devolved resources (whether the block grant or devolved tax powers), so it would be obvious that devolved governments were making the choice either by increasing tax revenues or cutting other services to provide such benefits. This would minimise any political backlash to such variation from outside the devolved territory.

Such a model may over time lead to some variation in welfare benefits between the nations of the UK – but the degree of variation would be limited, as the costs of doing anything significantly different on social security (such as, for example, making the state pension more generous) are likely to be prohibitive.

The supplementary approach has other major merits. First, it would put devolved governments in a much better position to make effective social policy than they are at present. The current division of powers means that devolved governments have a limited range of tools with which to address policy problems when it comes to social policy. They can provide services directly, or require their provision by other agencies or local authorities. They can regulate the provision of services by others, in the public or private sectors, and can fund the direct provision of services, by public or private sector providers. However, there are significant restrictions to prevent them providing cash benefits to support claimants directly. This approach would give devolved governments similar policy tools to the UK government for the policy areas for which they are responsible. It would avoid the problems of being unable to make cash payments but offering other sorts of services, or clashes between UK cash benefits and devolved services.

Second, it would turn a structural problem of the present system into a policy strength. The nature of both welfare provision and the vertical fiscal imbalance that is a structural feature of the UK's tax system mean that extensive devolution of welfare provision is hard to achieve, certainly without full fiscal devolution (which is only a viable option for Scotland in any event). While the UK remains a single state, fiscal factors mean that the UK government must assume the leading role in providing welfare. That means there will be substantial commonality in the rights of individual citizens to welfare wherever they may live. Politically, the UK government needs to be able to claim credit for that, especially given the amounts of money involved. This approach enables us to treat UK welfare provision not as the only entitlement citizens have, but as a floor that is common to citizens wherever they live – not a ceiling. Devolved governments that wish to provide more generous benefits would be able to do so – and would not be able simply to blame the UK government for the effects of its welfare policy, but would have to explain why they had not taken action themselves.

It would not, however, be possible for devolved governments to seek to *subtract* from the UK level of provision if they thought that was too generous, or inappropriately directed. In that respect, devolved governments would not wholly be masters of their own destiny. Subtraction would present serious administrative issues, but more serious are the objections of principle. Subtraction from UK-level welfare would create significant differences in how the UK government treated its citizens. There is a distinction between different treatment arising because of the actions of different governments, and it arising because a government treats citizens in fundamentally different ways depending on where they live. If the UK government continues to provide the same services to all its citizens, it creates an important element of shared interests and experiences, as part of a social union. This is a strength of the approach, not a problem. This approach would give devolved governments significantly greater autonomy than they have at present, without eroding the essence of a UK-wide welfare state.

A supplementary model would open up a number of important policy options for the devolved governments. From a social investment perspective, they might choose to supplement child benefit in order to support childcare costs, or boost in-work benefits for particular groups to try and incentivise their return to work. Or they might offer additional allowances for unemployed jobseekers to cover, for instance, the cost of job interviews. These may be small additions to existing benefits, involving small ameliorations to the UK system and involving only modest amounts of money, but equally such a model could be used more ambitiously. If England were to pursue a more low-tax, low-spending system, it would be open to a devolved government to raise tax levels and increase welfare spending by providing further assistance to, for example, the elderly or families with small children. The upshot would be that devolved governments would be able, within the overall framework of UK policy, to choose their own distinct approach to social policy, using cash benefits as well as other policy levers, provided they bore the burden of paying for their decisions.

4.2 Administering a 'supplementing' system

The practical operation of such a system of devolved welfare would be more challenging. Two routes offer themselves. One would be to use the existing framework of the Department for Work and Pensions, particularly Jobcentre Plus. The other would be to establish separate devolved agencies for devolved welfare. Parallels to both can be seen in arrangements for collecting devolved taxes under the Scotland Act 2012: the use of HM Revenue and Customs for the Scottish rate of income tax, and the establishment of Revenue Scotland for the new land and buildings transaction tax replacing stamp duty land tax and the replacement for landfill tax.

Using the existing DWP machinery would have many attractions. The DWP has greater experience of and expertise in administering welfare benefits than any other agency in the UK. It has ready access to information about claimants, as much of this is already in its hands. The DWP would therefore be able to administer devolved levels of welfare with a high degree of automaticity, simplifying matters for claimants considerably. So where devolved benefits directly supplemented existing UK benefits, claimants would not normally need to make separate claims (for example, an additional winter fuel allowance or pension supplement). The key factor in establishing eligibility would be residence in Scotland (or other devolved territory). However, this approach would complicate the task for DWP, as it would be treating particular classes of claimants in different ways and would need both to be able to identify particular classes of claimant readily, and to rectify mistakes when those occurred.

This process would be simpler if Jobcentre Plus were devolved. This would then provide a ready-made agency capable of administering devolved welfare functions JSA, ESA and welfare-to-work programmes.

The alternative to having DWP administer devolved benefits would be to establish new devolved agencies to do so. That would have significant downsides, both for the state and the individual. It would, for instance, involve a degree of administrative duplication, and therefore wasted cost. It would also require claimants to make two claims for benefits which might well be closely related – one to the DWP and the other to the devolved agency. Such a system could potentially reduce the extent to which such benefits would actually be received by those entitled to them, as claimants might well fail to make both applications. Furthermore, it could create greater scope for fraud and unmeritorious claims, by those who exploited differences in information as well as eligibility criteria set by two different agencies. (This could be mitigated by effective data-matching between the Benefits Agency and the devolved agency, but that would be after the event, not at the time applications were made.)

On the whole, the balance of convenience would favour using the DWP to deliver welfare within Great Britain. However, that would also require changes to how the DWP works, to ensure that it was adequately accountable to devolved governments for what it did on their behalf. Devolved legislatures providing additional welfare would need to be able to hold DWP officials and ministers accountable for their actions in administering devolved welfare benefits, in the same way that the UK parliament presently can for the non-devolved system. (This would obviously not extend to accountability for non-devolved welfare.) In this respect, it would be necessary to go beyond the sort of accountability that would exist under a purely contractual or service-level agreement arrangement between the devolved government and DWP, to ensure that the discharge of public functions by DWP on behalf of a devolved government ensured sufficient control of what DWP actually did.

So far as Northern Ireland is concerned, this would be even simpler, as welfare administration is already devolved. Subject to an appropriate variation in how the 'parity principle' is applied, this would be a matter for the Northern Ireland assembly, the minister for social development and the Social Security Agency there.

4.3 Funding a 'supplementing' system

It would be comparatively straightforward to fund a 'supplementing' system, as it would involve discretionary spending rather than the transfer of existing spending obligations. Devolved governments would have the choice to spend on further welfare, from within their own resources. They would be under no constitutional or formal obligation to do so. No spending 'need' could be identified to underpin such a choice, and so no additional resource would need to be devolved to make such a system work. It could even be done within existing funding arrangements.

However, reliance on existing finance would impose significant limits on what devolved governments could actually do. They would be limited to moving money from one claim on spending to another, rather than making better political and policy choices. Devolved governments with access to a wider tax base of their own would be in a better position to make such choices, particularly if they were to seek to have different approaches to the working of the welfare state within the UK.

There are also questions about accountability. A devolved government which chose to provide cash benefits to eligible groups would make that choice at the expense of other spending options. Those paying for such choices, as well as the beneficiaries of them, should be aware of the choices made and their impact. There are, therefore, strong accountability arguments for accompanying such powers with at least a basic level of fiscal accountability (the Calman/Scotland Act 2012 model) if not a broader model like that set out in *Funding Devo More* (Trench 2013).

(See the appendix for a discussion about the legal powers required to enable a supplementary model.)

Recommendation: Devolved governments should be given a general power to supplement UK levels of welfare, so that they can use cash payments as well as other policy levers to deliver social policy. In this approach, the level of benefits set by the UK government would serve as a floor, but not a ceiling, for devolved welfare. Any increase in a particular benefit would have to be funded exclusively from devolved budgets. Such a model is therefore compatible with both the social union – since all UK citizens would continue to be entitled to a set of defined benefits that comprise social citizenship – and the principles of decentralisation which underline the case for variation over and above an agreed threshold.

5. CONCLUSIONS
HOW DEVOLVING WELFARE STRENGTHENS THE UNION

5.1 Our proposals for devolving welfare

Two overall conclusions can be drawn from this report.

First, devolution in the UK accepts a substantial degree of policy variation in what are already (broadly speaking) welfare services. This was the case to a limited degree before political devolution in 1999, and has become much more so since then. Completely excluding welfare from the range of devolved functions has become increasingly obsolete, and can get in the way of devolution working in the way it should. Devolved governments should have a greater role in relation to welfare, both as a matter of general principle and in order for devolution to work better.

None of this alters the strong reasons for the UK government to continue to assume the principal role in providing welfare benefits. That is an element of a social union in which the UK assures certain forms of social protection, directly, wherever they may live. While the UK remains a single state, it should assume that role. Accepting 'welfare pluralism' means accepting the right of both UK and devolved governments to provide welfare. It is also a necessity in practical terms, given the nature of the UK's tax system and the difficulties of devolving a wide enough range of tax powers to facilitate 'welfare nationalism' within the union, and the cyclical nature of welfare spending. The UK government is better placed to manage the risks associated with large redistributive benefits than devolved governments will be. There is no case for the UK government to abandon its role in providing benefits like old age pensions, financial support for poor households or those without jobs.

Second, the devolved role in welfare should involve both devolution of specific benefits and the power to supplement existing benefits over and above the UK floor. The existing benefits most suitable for devolution are those which involve interaction or overlap with devolved policy functions, and which do not involve heavily cyclical spending. Specifically, we recommend devolving attendance allowance and housing benefit, as well as the Work Programme's administration and supporting childcare. In each of these areas, it is now hard to see a rationale for maintaining them at UK level, and strong reasons for devolved governments to deal with these matters instead. This may well result in further divergence in the social rights of UK citizens but devolution has already seen that process advance substantially. Differentiation, it is well to note, does not mean a lack of commonality when it comes to key matters. Some aspects of social citizenship will be different, but other very important ones will remain the same.

5.2 The case for partial welfare devolution

Devolving some benefits and allowing, or enabling, devolved governments to provide additional benefits offers many attractions. As we have emphasised throughout this report, the main motivation for strengthening the role of the devolved institutions in respect of welfare is to enable them to deliver better social and economic outcomes that could improve the life chances of their citizens. Devolving housing benefit, for instance, could well spur growth and jobs if the devolved institutions were to use the power to invest more in bricks and mortar than on subsidising private landlords. From a social investment perspective we have made the case for devolving responsibility for the Work Programme so that the devolved institutions can integrate this scheme with a wide range of devolved agencies, and for increasing the funding capacity of the devolved institutions so they can expand universal childcare. The supplementary model we have proposed could also play an important role in targeting particular groups – for instance, in-work benefits could be boosted for a defined period of time to try to incentivise their return to work.

Greater welfare pluralism would create scope for a range of actions by devolved governments, depending on the resources they choose to commit and the political choices they make. In so doing, it would give devolved governments a role in welfare, and would make it hard for them simply to blame the UK government when they disliked UK-level policies. Instead, they would need to formulate positive plans for welfare given the range of powers at their disposal.

Devolved governments could use these powers in a variety of ways. They might choose to do nothing. They might choose to use the power to provide small cash benefits in appropriate cases. They might use the power to eliminate overlaps or gaps in the sort of help they provide to particular groups, such as poorer families with small children or the frail elderly. At the minimal end, this approach offers ways of improving the effectiveness of devolution in small but useful ways, eliminating conflict between two governments' policies when there is no need, and giving devolved governments access to a wider range of instruments to discharge the functions for which they are responsible.

Devolved governments might go further, though. If they were to do so – and depending on the politics of the various governments in office – this could be crucial to maintaining the union. There is a real prospect that the strength of the Conservatives in England will result in future UK governments pursuing radically different policy courses to those preferred by voters in Scotland and elsewhere. As matters stand, this becomes a constitutional trial of strength, which forces voters in Scotland, Wales and Northern Ireland to accept the UK government approach, or choose to opt out by pursuing independence. Our proposal would enable a different approach: the choice would not simply be between 'exit' or loyalty, but allow voters to give 'voice' to a different option (Hirschman 1990). Coupled with extensive fiscal devolution, this would enable devolved governments to choose a different approach to taxation and welfare to that applying in England. This would in turn enable devolved governments with substantially different policy aspirations to remain part of the UK while at the same time pursuing different sorts of social policy. But importantly, citizens wherever they lived would continue to enjoy the benefits of the UK-wide welfare state.

5.3 Welfare at UK level: rethinking the UK government's role

A new approach to welfare will call for a different approach to making welfare policy on the part of the UK government. In future, however, if the UK government were to propose introducing further new benefits – or changing devolved ones – it would have to address the question of whether the benefit relates to the UK-wide social union, or to devolved functions? In other words, it will have clearly and consciously to distinguish between its role as government of the whole UK, and as government of England (and perhaps some otherwise-devolved parts of the UK).

This implies a significant change in how the UK government approaches the devolved nations of the UK. To a substantial degree, there is nothing new in this; the same issue arises in relation to such areas of policy as health, education or agriculture, which are already largely (but not entirely) devolved and where UK-level policy can profoundly affect what devolved governments do. With implementation of the scheme for partial income tax devolution in the Scotland Act 2012 – let alone any more advanced scheme, such as that proposed in *Funding Devo More* (Trench 2013) – the issue will arise for fiscal matters as well. To date, however, the UK government has adapted poorly to the discipline of such an approach.

Questions about the capacity in which the UK government acts have wide implications. If the benefit relates to the UK-wide social union, it would need to be introduced on the same basis of entitlement across the UK. If it relates to devolved functions, it would apply only in those parts of the UK that had chosen not to devolve welfare; presumptively, this would mean such a benefit would apply in England but not Scotland, Wales or Northern Ireland. If the new 'England-plus' benefit drew on additional resources, there might need to be a mechanism to determine whether it triggered an entitlement to some additional resources for devolved governments.[18]

5.4 A new approach to national insurance?

Changes in the way welfare aspects of the social security system works raise another question: that of the role of national insurance. The present system of national insurance already fails to fit the purposes which it is supposed to serve (Trench 2013, particularly sections 2.4 and 4.5). The changes proposed here both create a need to revisit the present structure of national insurance, and a way of redesigning it so that it works more effectively in both financial and political terms.

National insurance has acquired – at least for some – a totemic significance as a way of contributing to welfare. The long-established principle has been that national insurance contributions are a way of paying for certain contributory benefits, which the claimant enjoys either when need arises (in the case of contributory jobseeker's allowance, incapacity benefit and other benefits) or on retirement (in the case of the old age pension). However, as *Funding Devo More* (Trench 2013) pointed out, these bear little relationship to the way national insurance contributions, and the National Insurance Fund, presently operate. The workings of the NI Fund remain largely unchanged since 1975, though there have been changes to NI contributions, most recently with what constitutes income for NI purposes becoming the same as income for income tax purposes.

The changes proposed here would make the NI Fund, and the contributions that relate to it, explicitly part of the UK level of welfare rather than devolved welfare. NI contributions would support interpersonal redistribution, across both space and time, whichever part of the UK one lived in and wherever one had worked during one's working life. The NI Fund would bear the cost of a smaller number of explicitly UK-wide benefits, from national insurance contributions which would become an explicitly UK-level tax to fund welfare benefits.[19] In effect, NI contributions would be a form of income tax levied at UK level to pay for UK public services, with pensions and social security being the first claim on those revenues.

18 This would depend on the extent to which UK-wide fiscal resources were deployed to fund the benefit. The greater the extent of fiscal devolution, the less strong the case for such compensation would be.

19 *Funding Devo More* suggested that employer's NI contributions could become a devolved tax. If that were to happen, there would be a further need to consider how to fund UK-wide benefits; but the principle that the first way of doing so was from employee's NI contributions should remain. Even if the NI Fund needed to be supplemented by general tax revenues, that would mean no more than a modest alteration of existing arrangements.

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APPENDIX
LEGAL POWERS FOR A 'SUPPLEMENTING' SYSTEM

For Scotland and Northern Ireland, some of the legal powers needed for a 'supplementing' approach are already in place, though not all of them are. There are also substantial problems in relation to Wales. The legal changes needed to implement a 'supplementing' system would be limited, but are important.

For Scotland, the Scotland Act 1998 can be construed as conferring a general power on the Scottish ministers to spend money on matters related to their functions. That means that, of course, such spending must be duly authorised by the Scottish parliament, and that the purpose of such spending must not 'relate to a reserved matter', given its effect 'in all the circumstances'. These are the standard tests for competence of devolved legislation set out in section 29 of the 1998 Act. The key reservation here is that relating to social security set out in Head F of schedule 5 to the 1998 Act, and particularly the reservation relating to social security schemes (Head F1).[20] At the very least, that reservation would appear to apply to many cash benefits which the Scottish government might wish to offer directly, or have administered through other agencies such as local authorities, if these provide 'benefits' for 'social security purposes'. The scope of the exceptions specified in that reservation, and the 'illustrations' of what is reserved, indicate the limited role of devolved Scottish institutions in this area at present and the extent to which it remains the sole preserve of the UK level. At the very least, this creates a considerable degree of uncertainty about what the Scottish parliament might have power to do, which would need to be removed for a practical scheme of supplemental welfare

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20 That head, in full, provides as follows:

'F1. Social security schemes
Section F1.
Schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits.
Requiring persons to –
(a) establish and administer schemes providing assistance for social security purposes to or in respect of individuals, or
(b) make payments to or in respect of such schemes,
and to keep records and supply information in connection with such schemes.
The circumstances in which a person is liable to maintain himself or another for the purposes of the enactments relating to social security and the Child Support Acts 1991 and 1995.
The subject-matter of the Vaccine Damage Payment Scheme.

Illustrations
National insurance; Social Fund; administration and funding of housing benefit and council tax benefit; recovery of benefits for accident, injury or disease from persons paying damages; deductions from benefits for the purpose of meeting an individual's debts; sharing information between government departments for the purposes of the enactments relating to social security; making decisions for the purposes of schemes mentioned in the reservation and appeals against such decisions.

Exceptions
The subject-matter of Part II of the Social Work (Scotland) Act 1968 (social welfare services), section 2 of the Chronically Sick and Disabled Persons Act 1970 (provision of welfare services), section 50 of the Children Act 1975 (payments towards maintenance of children), section 15 of the Enterprise and New Towns (Scotland) Act 1990 (industrial injuries benefit), and sections 22 (promotion of welfare of children in need), 29 and 30 (advice and assistance for young persons formerly looked after by local authorities) of the Children (Scotland) Act 1995.

Interpretation
'Benefits' includes pensions, allowances, grants, loans and any other form of financial assistance.
Providing assistance for social security purposes to or in respect of individuals includes (among other things) providing assistance to or in respect of individuals –
(a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,
(b) who qualify by reason of low income, or
(c) in relation to their housing costs or liabilities for local taxes.'

to work. The extent of devolved powers in this area at present is little-known, and that enables devolved institutions to remain silent even where they can identify a problem and have the powers to address it, instead leaving it to Westminster to deal with.

Legislative change would also signal the approval of the UK parliament for the Scottish parliament and government taking on a role, which would be of value symbolically as well as legally.

For Northern Ireland, the issue is rather different. Obstacles lie not in the exceptions and reservations set out in schedules 2 and 3 to the Northern Ireland Act 1998, though the operation of national insurance and contributory benefits paid from that are reserved, and the role of the social security and child support commissioners is reserved. Rather, the difficulty arises from the provisions regarding parity of the systems of welfare in Great Britain and Northern Ireland under section 87 of the Northern Ireland Act 1998. However, the impact of this is limited, as the key requirement is for agreement between ministers rather than more direct legal controls, so the main change needed would be a different ministerial approach. Nonetheless, the approval of the UK parliament for a changed policy framework would be both necessary and appropriate.

For Wales, the National Assembly has the power to pass legislation which provides for the enforcement of other provisions within its legislative competence (Government of Wales Act 2006, section 108[4]). Legislation which relates to the devolved subject areas set out in schedule 7 to the 2006 Act would be within the Welsh assembly's powers. However, it would also be necessary to ensure that this addressed another constraint on the assembly's powers: the protection for functions of UK ministers. Devolved legislation may only affect such functions incidentally or consequentially, unless it has consent from the secretary of state. In practice, this would be a serious factor, so there would need to be further legislative changes to ensure that the Welsh ministers could act in the area of providing financial assistance if the assembly authorised that.