Written evidence to Inquiry into Welfare Policy in Northern Ireland, Northern Ireland Affairs Committee and Work and Pensions Committee

Submitted by the Northern Ireland Commissioner for Children and Young People.

24 May 2019

Executive Summary

1. In Northern Ireland children are the age group at highest risk of poverty, with a poverty rate of 23% compared to 17% for working age adults and 15% for pensioners.[[1]](#footnote-1) Despite this, they are the group most severely impacted by the ‘welfare reforms’ of the social security and tax credit systems. The 2017 Institute for Fiscal Studies’ report ‘Living standards, poverty and inequality in the UK: 2017-18 to 2021-22’ calculated that the relative poverty rate (AHC) across the UK will rise by two percentage points for the general population, but that this was entirely due to a seven percentage point rise in child poverty over this time.[[2]](#footnote-2)
2. Despite this, children have too often been invisible in considerations of ‘welfare reform’ policy. In 2016 the UN Committee on the Rights of the Child, expressed grave concern at the way that children and their families were being impacted, and recommended a comprehensive assessment of the cumulative impact of all the social security and tax credit reforms introduced since 2010. It proposed that the UK government should subsequently make revisions to these, taking into account the best interests of children, particularly those in vulnerable situations.[[3]](#footnote-3)
3. In the absence of the necessary revision of welfare reform policies by the UK government, NICCY was supportive of the NI Executive’s proposal to put in place a financial mitigation package. Mitigations to the ‘benefit cap’ have entirely benefitted families with two or more children, and families are also likely to have benefitted from the mitigation of the Social Security Sector Size Criteria. However, the Mitigation Working Group proposals did not address the changes that resulted from the Summer 2015 Budget decisions, which included some of the changes which most impacted on children and their families, including the ‘Two Child Limit’ to Child Tax Credits and Universal Credit, and the removal of the family element.
4. **NICCY recommends a new mitigation package is implemented from April 2020 and is designed following a comprehensive assessment of the impact of the social security and tax credit changes on children and their families. A full Equality Impact Assessment should be undertaken of the full set of the changes to the social security system since 2010 and the mitigation package designed accordingly.**
5. **The Commissioner would expect the new mitigation package to include the following elements:**
* **Continuation of benefit cap mitigation payments;**
* **Continuation of social sector size criteria mitigation payments;**
* **Continuation of transitional protection for claimants migrating to Universal Credit;**
* **Transition payments for young people aged 16 and 17 moving to PIP – this should be backdated for young people who did not receive this during the first mitigation package;**
* **Mitigation payments for families affected by the two-child limit and the removal of the family element of tax credits – this should be backdated to the point at which the reduced payments were made;**
* **A programme to help to mitigate the costs associated with employment to address the concerns of the Mitigations Working Group.**
1. **In addition, appropriate levels of funding for the Independent Advice Sector, discretionary support to allow a response to particular and pressing needs facing the most vulnerable and projects to address food poverty should be maintained beyond March 2020.**
2. **The NI Affairs Committee and Work and Pensions Committee should remind the NI Government of its obligation to introduce an anti-poverty strategy that tackles the root causes of poverty in Northern Ireland.**

Introduction

1. The Commissioner for Children and Young People (NICCY) was created in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has duties to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons. The Commissioner’s remit includes children and young people up to 18 years, or 21 years, if the young person is disabled or in the care of social services. In carrying out her functions, the Commissioner’s paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions, the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

Child poverty in Northern Ireland

1. Child poverty is one of NICCY’s key priorities, in recognition of the levels of child poverty in Northern Ireland, the profound impact poverty has on the realisation of children’s rights, and the protracted nature of child poverty in Northern Ireland. While government initiatives have led to decreases in child poverty in other parts of the UK, there have been no sustained decreases in child poverty in Northern Ireland since the official poverty statistics started being collated in 2002.[[4]](#footnote-4)
2. As with other parts of the UK, in Northern Ireland children are the age group most likely to be in poverty, with a poverty rate in 2017/18 of 23% compared to 17% for working age adults and 15% for pensioners.[[5]](#footnote-5) Section 75(1) of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions in Northern Ireland to have ‘due regard’ to the need to promote equality of opportunity between people across nine categories, one of which is ‘age’. This places a legal responsibility on government departments and agencies therefore to take action to mitigate any inequalities such as the significant and protracted disparity in poverty rates across the age groups in Northern Ireland.
3. The UN Convention on the Rights of the Child also provides children with the right to ‘a standard of living adequate for the child’s physical, mental, spiritual, moral and social development’ (Article 27) and the right to ‘benefit from social security, including social insurance’ (Article 26). In its examination of the UK State Party in 2016,[[6]](#footnote-6) the UN Committee on the Rights of the Child expressed grave concern at the levels of child poverty across the UK, and urged the UK governments to ensure a clear focus on children in their poverty reduction strategies and programmes. The Committee also recognised the impact of ‘Welfare Reforms’ on children and their families and made the following recommendations:

‘71 (c) Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2026 on children, including children with disabilities and children belonging to ethnic minority groups;

 (d) Where necessary, revise the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration, taking into account the different impacts of the reform on different groups of children, particularly those in vulnerable situations.’[[7]](#footnote-7)

1. On 22 May 2019 the UN General Assembly published the report of the UN Special Rapporteur on Extreme Poverty’s visit to the UK,[[8]](#footnote-8) and this was uncompromising in providing a true picture of the ways in which UK government’s fiscal policies have detrimentally impacted on vulnerable individuals and groups. It commented throughout on the impact of the Welfare Reform changes, including on children and their families. While he was supportive of the continuation of a mitigation programme in Northern Ireland, he argued that the focus should be on addressing the harmful policies causing the hardship:

‘Request the National Audit Office to assess the cumulative social impact of tax and spending decisions since 2010, especially on vulnerable groups, with a view to identifying what would be required to restore an effective social security net;’[[9]](#footnote-9)

‘Reverse particularly regressive measures such as the benefit freeze, the two child limit, the benefit cap and the reduction of the Housing Benefit, including for underoccupied social rented housing;[[10]](#footnote-10)

‘Review and remedy the systematic disadvantage inflicted by current policies on women, as well as children, persons with disabilities, older persons and ethnic minorities.’[[11]](#footnote-11)

NICCY’s work on child poverty and social security policy in Northern Ireland

1. NICCY has engaged for many years with the Northern Ireland Executive and relevant authorities to advise on actions required to address child poverty including advising on the development and implementation of Child Poverty Strategies required under the Child Poverty Act 2010 and later retained in the amended version of Life Chances Act 2010. We have also provided advice in relation to the social security system which, in contrast to the situation in Scotland and Wales, remains a devolved matter under the Northern Ireland Act 1998.
2. In 2012 NICCY commissioned two reports to inform the development of policy in relation to Welfare Reform in Northern Ireland. The first, ‘Making Children Visible: The Parity Question’, was a public law and policy review of the operation of the parity principle in Northern Ireland, both in relation to social security and wider welfare policy.[[12]](#footnote-12) This provided a history of its application and outlined the four factors to be taken into account when considering NI policy variations from parity with GB: statutory provisions, policy considerations, financial impact and practical considerations.
3. The second report, ‘Making Children Visible: Assessing the Impact on Children’[[13]](#footnote-13) was a child rights impact assessment of the impact of welfare reform on children in Northern Ireland. This was commissioned because NICCY was concerned that as discussions on Welfare Reform tended to focus on the direct recipients of benefits, too often little or no consideration was being given to the impact of changes on children.
4. The Commissioner has sought therefore, to bring attention to the impact of welfare reform changes on children, through her engagement with Government Committees, Departments and Agencies. Following the recommendations of the UN Committee in 2016 relating to this, NICCY met with the Department for Communities on a regular basis to alert them to the need to undertake an assessment of the impact of the ‘Welfare Reform’ changes and to put in place mitigations to ensure the best interests of children are made a primary consideration.
5. At the time the UN Committee’s recommendations were being made, the Welfare Reform Mitigations Working Group had published its report and this had been accepted by the NI Executive. However, the Working Group proposals did not refer to the policy changes stemming from the Summer Budget 2015 announcement, including a number that have more directly focussed on reducing the incomes of families with children such as the two child limit and the removal of the of the family element in tax credits and Universal Credit.
6. NICCY has continued to meet with the Department for Communities to raise concerns at the invisibility of children in reporting on social security changes and the mitigations package, and to ask for the UN Committee’s recommendations to be implemented. NICCY has also provided more detailed advice, on a range of related matters, including:
* The need for a NI-specific Equality Impact Assessment of the impact of each of the Welfare Reform changes, in particular the ‘Two Child Limit’;
* The impact of benefit sanctions on children and the lack of a process to take into account their best interests in the process;
* The implications of the non-consensual conception exception or ‘rape clause’: and
* The need for a new Mitigations package to be created, starting in April 2020, which will mitigate the Welfare Reform changes that have impacted severely on children and their families.
1. The Commissioner has also worked with the other three UK Children’s Commissioners to raise concerns at the impact of Welfare Reform changes on children and their families, including submitting a joint letter to the Chancellor of the Exchequer in November 2017, asking him to halt the roll out of Universal Credit and remove the ‘Two Child Limit’. (see Appendix).

Inquiry questions

1. In accordance with our remit, NICCY’s submission will focus entirely on the manner in which Welfare Policy in Northern Ireland has impacted on children and their families, and on the Inquiry questions relating to the Mitigation package and the Two Child Limit.

**What has been the impact of the Northern Ireland Executive social security ‘mitigation package’?**

1. The Department for Communities report ‘Review of Welfare Mitigation Schemes’ outlines the Mitigations Working Group proposals that were subsequently adopted in full by the NI Executive, how they were implemented and provides an analysis of the impact of the ‘mitigation package’.[[14]](#footnote-14) The proposals included mitigations to address reduced payments from the ‘benefit cap’, changes to disability and carers payments, changes to eligibility for ESA, the ‘social sector size criteria’ and the additional costs associated with employment. The latter mitigation was not implemented.
2. Despite the ongoing advice from NICCY, the report did not provide the ‘comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms’ introduced on children or indeed an assessment of the Mitigation Schemes role in mitigating these detrimental impacts. Indeed, children again were entirely invisible in the document, despite being the group with the highest levels of poverty, and being targeted by many of the changes.
3. When considering the different elements of the mitigation package, it is clear that the benefit cap provision particularly benefitted families with payments made to a total of 3,140 households, all of which had their benefits capped from June 2016 - January 2019.[[15]](#footnote-15) At January 2019, 1,320 households were capped and receiving the mitigation payment.[[16]](#footnote-16) All of the households capped and in receipt of the mitigations payment included children. At January 2019, 21% of capped households had five or more children while the remaining 79% had between two and four children. None had one or no children.[[17]](#footnote-17)
4. Lone parent households make up the majority of households capped, with the cap set at £13,400 compared to the £20,000 for couple households.[[18]](#footnote-18) 85% of capped households at January 2019 are lone parent households and only 15% are couples with children. The impact of the benefit cap in Northern Ireland, during January 2019, was a reduction of an average of £47 per week per household which is currently replaced by the mitigations payment.[[19]](#footnote-19)
5. The Commissioner notes that the proposal to mitigate the additional costs associated with employment which was intended in part, to provide funding to lone parents for childcare was not taken forward by the Department for Communities, due to practical problems that subsequently emerged. NICCY believes that other routes should have been found to meet the intention of this proposal even if this required a different approach.
6. NICCY has also been concerned at the way the mitigations package was implemented in relation to young people as they reach the age of 16 and transfer to PIP. While adults are eligible to a supplementary payment through the mitigation package, this has not been made available for young people aged 16 and 17. We understand that this is due to the interpretation by DfC that the Mitigation Working Group proposals did not include young people aged 16 and 17 however, the Commissioner cannot see a rationale for this conclusion in terms of the text of the report, or in relation to the equality duty placed on statutory bodies.[[20]](#footnote-20)
7. Finally, we also note that the delay in migrating claimants to Universal Credit will result in a proportion of claimants not transitioning in time to receive the ‘Transitional element’ intended to top up UC payments to the levels of the previous benefits.

**What would be the likely effects of the mitigation package coming to an end in 2020?**

1. As many of the payments were limited to a maximum of one year as claimants transferred to the new systems, many of the payments will have ended, or be due to end within a short period of time. The Review of Mitigation Schemes published in March 2019 states that ‘analysis indicated that most claimants affected by the introduction of the relevant welfare reforms will have received the intended mitigation payment by this date.’[[21]](#footnote-21)
2. However, it is important to note that, despite the mitigation package, many will still be worse off than before, as they will have already transitioned to lower benefit levels, and their mitigations payments ended. Indeed others, whose circumstances have resulted in them making new benefit applications during this time, will never have benefitted from the mitigations.
3. If the mitigation package comes to an end in March 2020, as the Department for Communities’ Review demonstrates, it is likely that the biggest impact would be on two, non time-limited, payments, i.e. those mitigating the benefits cap and the social sector size criteria. [[22]](#footnote-22)
4. As outlined above, families with children have been the beneficiaries of the benefits cap mitigation payments, and the loss of these would result in an average loss of £47 per family per week, or almost £2,500 per annum for each of the 1,320 families affected.[[23]](#footnote-23)
5. There are currently around 34,000 households benefitting from the Social Security Sector Size Criteria mitigation payments, receiving an average of £12.50 per week or around £650 per annum. While the Review report does not indicate the demographic composition of these households, many are likely to be families with children.[[24]](#footnote-24)

**What, if anything, should replace the mitigation package from 2020?**

1. We note that the Review report states that:

‘It was concluded that the mitigation policies should not be subjected to an Equality Impact Assessment, as the main aim of the schemes was to mitigate any adverse impacts of welfare reform on the most vulnerable people in society. The schemes in themselves are mitigating measures.’[[25]](#footnote-25)

1. This is not compliant with the Department’s Section 75 duty and so a comprehensive EQIA should be conducted on the full set of social security and tax credit policies to determine which groups are most negatively impacted and a subsequent mitigation package designed accordingly. Given that children are the age group with the highest levels of poverty and in response to the recommendation of the UN Committee on the Rights of the Child, there should be a particular focus on children and their families in this process.
2. Where mitigations have been found to impact positively on children and their families, these should be continued into the next mitigation package. The Review report itself suggests that this should include the mitigations relating to the Social Sector Size Criteria:

‘The Executive clearly intended that claimants would not be affected by the introduction of the Social Sector Size Criteria. Furthermore, evidence clearly shows that the impact of this policy has not abated and is unlikely to change over the next few years with the number of affected claimants remaining largely constant. It is therefore considered that there is strong evidence to consider the continuation of this policy.’[[26]](#footnote-26)

1. The Commissioner also supports the proposal in the Review of maintaining the mitigation scheme relating to the benefit cap:

‘Alongside Social Sector Size Criteria it has been estimated that the mitigation scheme that would benefit the greatest number of claimants, were it to continue, is for the Benefit Cap. As detailed earlier the amount required to continue with this mitigation is an estimated £3.33 million per year. Unlike the disability-related mitigation schemes there is no restriction on the duration of these payments.’[[27]](#footnote-27)

**Recommendations**

1. **NICCY recommends a new mitigation package is implemented from April 2020 and is designed following a comprehensive assessment of the impact of the social security and tax credit changes on children and their families. A full Equality Impact Assessment should be undertaken of the full set of the changes to the social security system since 2010 and the mitigation package designed accordingly.**
2. **The Commissioner would expect the new mitigation package to include the following elements:**
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* **Continuation of transitional protection for claimants migrating to Universal Credit;**
* **Transition payments for young people aged 16 and 17 moving to PIP – this should be backdated for young people who did not receive this during the first mitigation package;**
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* **A programme to help to mitigate the costs associated with employment to address the concerns of the Mitigations Working Group.**
1. **In addition, appropriate levels of funding for the Independent Advice Sector, discretionary support to allow a response to particular and pressing needs facing the most vulnerable and projects to address food poverty should be maintained beyond March 2020.**
2. **The NI Affairs Committee and Work and Pensions Committee should remind the NI Government of its obligation to introduce an anti-poverty strategy that tackles the root causes of poverty in Northern Ireland.**

**What is the impact of the two-child limit on families in Northern Ireland?**

1. The NISRA paper on the impact of the summer budget 2015 provided estimates for the ‘savings’ to Government made from each of the policy changes, including the new ‘two child limit’. As the reduction is £2,780 pa for each child affected, we have been able to calculate from these figures the number of children for whom the per child element has been withdrawn, as outlined in figure 1 below.

Figure 1: Impact of two child limit on families in Northern Ireland. [[28]](#footnote-28)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Policy | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
| Limiting child element to 2 children for new births in tax credits (£m) | 0 | 5 | 14 | 21 |
| Limiting child element to 2 children for new claims in UC (£m) | 0 | 2 | 8 | 12 |
| Total ‘savings’ (£m) | 0 | 7 | 21 | 33 |
| Estimated number of children for whom per child element will be withdrawn.  | 0 | 2,518 | 7,554 | 11,870 |

1. We have requested the following updated data from the Department for Communities for each year from 2016-17 to date:
* The ‘savings’ from the Two Child Limit, along with the estimated number of children from whom it has been withdrawn;
* The ‘savings’ from the withdrawal of the family element of CTC and UC, along with the number of households from which it has been withdrawn;
* The number of young people aged 16-17 who have transitioned from DLA to PIP and not received the transitional payment, along with the average payment they would have received if included in the mitigation package.
1. It is important to note that the two child limit disproportionately affects families in Northern Ireland more than other parts of the UK, due to larger family sizes. It should also be noted that, for many families, this would be in addition to reductions in other elements of their benefits, for example the removal of the family element in tax credits and UC for new claimants which has been a reduction of £550 pa per family affected, estimated to have affected 11,000 families.[[29]](#footnote-29)

Conclusion

1. Children are the age group with the highest rates of poverty in Northern Ireland. Despite this, many of the Welfare Reforms introduced over recent years have been targeted at children and their families. The 2017 Institute for Fiscal Studies report ‘Living standards , poverty and inequality in the UK: 2017-18 to 2021-22’ found that, between 2015-16 and 2021-22, the relative poverty rate (AHC) is projected to rise by 2 percentage points for the general population.[[30]](#footnote-30) All of this increase is due to a much more significant rise in child poverty, of seven percentage points, over this time. In contrast, the relative poverty rates for pensioner and working-age parents are projected to remain fairly constant.[[31]](#footnote-31) This is a substantive breach of Northern Ireland’s equality legislation.
2. There is evidence of increasing hardship among families in Northern Ireland, for example the increasing reliance on foodbanks. Concerns about the cuts to low income households have been raised both domestically and internationally, with Concluding Observations focussing on this from the UN Committee on Economic, Social and Cultural Rights and through the Universal Periodic Review process.
3. NICCY hopes that this submission proves informative to the Inquiry into Welfare Policy in Northern Ireland, and will be happy to provide further information if required. As stated above we frequently engage with DfC seeking further information and will, of course share relevant information with the Committee.
4. In the absence of a NI Executive, we have engaged with all NI political parties to make them aware of the importance that a new Mitigation package is designed and implemented without delay, with a particular focus on the impact that the Welfare Reform changes are having on children and their families. The Commissioner is grateful for the work of the two Committees on this Inquiry and hopes that the final report will take into account her recommendations outlined above.

Appendix: Letter from the UK Children’s Commissioners to the Chancellor of the Exchequer, November 2017.

* [You can view the letter here](https://www.niccy.org/media/3322/niac-submission-appendix-letter-to-p-hammond-nov-17.pdf)
1. All figures are for Relative Poverty (After Housing Costs) in 2017-18. Department for Communities (April 2019), ‘Poverty Bulletin: Northern Ireland 2017/18’, (Belfast: DFC). [↑](#footnote-ref-1)
2. Hood, H., and Waters, T., (2017), ‘Living Standards, poverty and inequality in the UK: 2017-18 to 2021-22, (London IFS). [↑](#footnote-ref-2)
3. UNCRC, (July 2016), ‘Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, (Geneva: UNHCHR). CRC/C/GBR/CO/5. [↑](#footnote-ref-3)
4. See NICCY (June 2018), ‘Statement on Children’s Rights in Northern Ireland’, (Belfast: NICCY), Fig 1, p38. [↑](#footnote-ref-4)
5. All figures are for Relative Poverty (After Housing Costs), as the main measure that NICCY has used to track changes in child poverty rates since it was established. We recognise that there has been a sustained decrease in Absolute Poverty. Department for Communities (April 2019), ‘Poverty Bulletin: Northern Ireland 2017/18’, (Belfast: DFC). [↑](#footnote-ref-5)
6. UNCRC, (July 2016), ‘Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, (Geneva: UNHCHR). CRC/C/GBR/CO/5. [↑](#footnote-ref-6)
7. Ibid. [↑](#footnote-ref-7)
8. Alston, P., (April 2019), ‘Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Special Rapporteur on extreme poverty and human rights, (Geneva: UN Human Rights Council). [↑](#footnote-ref-8)
9. Ibid Para 96(c) [↑](#footnote-ref-9)
10. Ibid Para 96(d) [↑](#footnote-ref-10)
11. Ibid Para 96(j) [↑](#footnote-ref-11)
12. Fitzpatrick, B., and Burrows, N., (2012). ‘Making Children Visible: The Parity Question’, (Belfast: NICCY). [↑](#footnote-ref-12)
13. Horgan, G., and Monteith, M., (2012), ‘Making Children Visible: Assessing the Impact on Children’, (Belfast: NICCY) [↑](#footnote-ref-13)
14. Department for Communities (March 2019), ‘Review of Welfare Mitigation Schemes’, (Belfast, DfC). [↑](#footnote-ref-14)
15. DfC/NISRA, (January 2019), ‘Benefit Cap: Northern Ireland’, (Belfast, DfC). [↑](#footnote-ref-15)
16. Ibid [↑](#footnote-ref-16)
17. Ibid [↑](#footnote-ref-17)
18. The benefit cap was reduced in November 2016 from the earlier level set at £26,000 per annum. [↑](#footnote-ref-18)
19. Ibid [↑](#footnote-ref-19)
20. NICCY has requested information on the number of young people who migrated to PIP and did not receive the mitigation payment received by adults in the same situation. [↑](#footnote-ref-20)
21. DfC (March 2019), ‘Review of Welfare Mitigation Schemes’, (Belfast: DfC), p50 [↑](#footnote-ref-21)
22. Ibid [↑](#footnote-ref-22)
23. Ibid [↑](#footnote-ref-23)
24. Ibid [↑](#footnote-ref-24)
25. Ibid, para 3.28 [↑](#footnote-ref-25)
26. Ibid [↑](#footnote-ref-26)
27. Ibid, p51. [↑](#footnote-ref-27)
28. NISRA (Sept 2015), ‘The impact of Summer Budget 2015’, (Belfast: NISRA). The estimates of children affected were derived from this report and confirmed by DfC in November 2017. [↑](#footnote-ref-28)
29. These figures were provided to NICCY by the Department for Communities in November 2017. [↑](#footnote-ref-29)
30. Hood, H., and Waters, T., (2017), ‘Living Standards, poverty and inequality in the UK: 2017-18 to 2021-22, (London IFS). [↑](#footnote-ref-30)
31. Ibid [↑](#footnote-ref-31)