

Research Reports on Northern Ireland Welfare Reform Proposals

Briefing for the Northern Ireland Assembly Social Development Committee 21 June 2012

This briefing paper provides an overview of two research reports commissioned by the Northern Ireland Commissioner for Children and Young People (NICCY) to inform the development and scrutiny of the forthcoming Northern Ireland Welfare Reform Bill. The paper:

- *Outlines the role and duties of NICCY;*
- *Introduces the rationale for commissioning each of the reports; and*
- *Provides a summary of the key findings of each of the two reports.*

1.0 The Role and Duties of the Northern Ireland Commissioner for Children and Young People (NICCY)

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)(3) of this legislation, NICCY has a mandate 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. The remit of the Office is 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 order to fulfil its duties, NICCY undertakes a broad range of activities. This includes responding to queries and complaints regarding services for children and young people and supporting them and their families in legal proceedings against public bodies, scrutinising legislation and policy and commissioning research into issues affecting children and young people. In addition, NICCY also creates effective participation opportunities for children and young people and actively supports good participative practices by other organisations.

In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY bases all of its work on the United Nations Convention on the Rights of the Child (UNCRC).



2.0 Report: 'A Child Rights Impact Assessment of the Impact of Welfare Reform on Children in Northern Ireland'.

Goretti Horgan and Marina Monteith, University of Ulster.

Purpose of report

The Minister for Social Development, in September 2011, published a draft Equality Impact Assessment on the Welfare Reform Bill (Northern Ireland) 2011. Under Section 75 of the Northern Ireland Act 1998, the Department has a statutory duty to assess the impact of the proposed legislation on nine categories. The Commissioner was concerned to note that the EQIA did not assess the impact of the proposals on children, under the age category.

The EQIA process is an important way of protecting vulnerable groups from being adversely affected when Government Departments are carrying out their functions, in ensuring that any potential adverse impacts are identified and consideration given to alternative policies, which might better achieve the promotion of equality of opportunity.

The Commissioner raised her concern with the Minister for Social Development, who responded by stating that any gaps in the EQIA was a result of a lack of data and that he welcomed any information we could provide on this matter. In response, NICCY commissioned an assessment of the impact of the proposals on children from Goretti Horgan and Marina Monteith of the University of Ulster. The findings of this research were provided to the Minister, and released publically, in April.

Summary of findings

Families with children are being hardest hit by welfare reform across the UK. But because Northern Ireland has a relatively large proportion of households with children and higher levels of disability, it will lose more income than any other region of the UK outside London. Households with children will lose about 7 percent of their incomes, some 2-3 percent more than childless households. The poorest families will lose most because:



- Benefit rates will progressively become lower and lower as the Consumer Price Index (CPI) is used to uprate them rather than the Retail Price Index (RPI)
- Child Benefit and Working Tax Credit have been frozen;
- Child Tax Credit will be withdrawn at lower income levels than before; *and*
- The weekly working hour's requirement in Working Tax Credit has been increased from 16 to 24 for couples with children – additional hours which are hard to get in the current economic crisis.

The most urgent issue that faces families with children in NI is the impact of changes to Housing Benefit that have already been introduced. These threaten a child's right under Article 27 to a standard of living, which is good enough to meet their mental and physical needs. Many families with children will lose their owner-occupied homes; others will fall into growing arrears until evicted by private sector landlords, while other families will ration food or buy less healthy food in order to pay rent shortfalls. There are several ways in which the Assembly can make a difference without threatening parity:

- DSD can work with mortgage lenders to explore ways, e.g. co-ownership, or renting from banks, that families with children can remain in homes that are being repossessed.
- Households with children could be exempted from the move calculating LHA on 30th percentile.
- DSD could work with mortgage lenders and with landlords to bring down mortgage to rent ratios.
- Housing Executive accommodation that is deemed to be under-occupied, but has children in it could be exempted from reductions in Housing Benefit.
- The Assembly needs to make a clear decision about how older children are dealt with in the calculation of under-occupancy.
- The Assembly should exempt non-resident parents from the shared room requirement in relation to Housing Benefit.

The Assembly does not have power over tax matters, which are not devolved. However, working and child tax credits will be phased out with the introduction of Universal Credit and the Assembly *will* have the power to protect families with children, particularly those with a disabled member, in deciding how it will implement Universal Credit.



For example, it can explore ways to take into account of the very low paid nature of much self-employment in Northern Ireland and it can ensure that the criteria under which the disability elements of Universal Credit are triggered do not disadvantage children.

The Assembly should set up an expert group to ensure the Work Capability Assessments (WCA) being carried out to move claimants from IB to ESA and the new assessments which will be introduced as DLA is abolished and PIPs introduced take into account the particular issues of a region emerging from conflict where our high levels of mental ill-health are severely exacerbated by PTSD.

Benefit changes and the introduction of Universal Credit (UC) will also impact on children's rights in Northern Ireland. For example, families with three or more children where there is a severely disabled child are at risk of being affected by the benefit cap while families with five or more children will be hit by it whether or not there is a disabled child. The Assembly should examine how it can stop this effective limit on family size or find other ways of helping larger families meet the needs of their children.

The Assembly must ensure that the scheme to replace the Social Fund is allocated enough **ring-fenced** money to meet the basic material needs of families with children.

The Assembly can ensure that Universal Credit regulations around conditionality and sanctions take into account Northern Ireland's high levels of mental ill health, its lack of accessible and affordable childcare and that the special rules currently applying to lone parents continue under UC.

The Assembly can also ensure that parents bringing up teenage children in areas of multiple disadvantages are allowed to give their children the care and supervision that parents living in better-off areas may not have to, or that better-off parents can buy through out-of-school activities.

Even where there is evidence that a parent could take paid employment but fails to, the evidence that children suffer even more deprivation as a result of overall household income falling indicates that the Assembly must ensure that children do not suffer as a result of such sanctions – while that means removing the sanction of benefit withdrawal from all claimants with dependent children, the amount that this breach with parity would cost would be relatively small as there is no evidence that there would be more than a handful of such cases.



3.0 Report: An Examination of Parity Principles in Welfare and Wider Social Policy

*Barry Fitzpatrick, Independent Consultant and Professor Noreen Burrows,
School of Law, University of Glasgow*

Purpose of report

In Northern Ireland, while social security matters are devolved, the ability of the Northern Ireland Executive to determine its own approach to welfare provision is severely constrained by the 'parity principle'. This was explained by the Department for Social Development in its EQIA on the Welfare Reform (NI) Bill:

'the long standing principle of parity dictates that an individual in Northern Ireland will receive the same benefits, under the same conditions, as an individual elsewhere in the United Kingdom.'

Later the particular constraints were outlined, referring to computer systems and financial penalties, and the Department concluded that, as a result of these constraints,

'any departure from parity needs to be given the most careful and detailed consideration.'

The 'parity principle' has been alluded to quite a bit in discussions to date in relation to implementing Welfare Reform proposals, often without clarity on the degree to which flexibility can be applied. NICCY therefore commissioned Barry Fitzpatrick and Professor Noreen Burrows to produce a paper exploring the parity principle in welfare and wider social policy. This outlines the constitutional and practical context to parity, the factors that need to be considered when considering breaking parity and provides recommendations on how parity can be discussed in relation to Welfare Reform.

Summary of Findings

This report explores the operation of the parity principle in Northern Ireland (NI), drawing on experiences of Scotland. The focus is on the Welfare Reform Bill (Northern Ireland) 2012 (WR Bill), including Universal Credit (UC) and Personal Independence Payments (PIPs), although other areas of policy are also examined.



The report identifies a range of factors, which must be taken into account in considering NI policy variations from parity with GB (or Scotland, England and Wales, as the case may be). These are:-

1. Whether statutory provisions require parity;
2. Whether variations from parity are desirable due to policy considerations;
3. What the financial impact might be on the NI block grant and other expenditure; and
4. Whether practical considerations, for example, compatibility of IT systems, preclude or limit variations from the GB systems.

In relation to the WR Bill, the statutory parity principle in section 87 of the NI Act 1998 is examined. This legislation requires consultation, at the earliest opportunity, between the Department for Social Development (DSD) and the Department of Work and Pensions (DWP) on proposals for changes to social security law, so that the DSD can include its input and consider possible policy variations in NI.

In relation to policy considerations, a number of existing policy variations are identified, demonstrating that, where the particular circumstances of NI justify it, such policy variations should be examined in relation to existing welfare reforms, which need to be incorporated into the WR Bill and reforms which will be introduced through the Bill. Two such policy variations could include the payment of housing benefit element of UC to landlords and the payment of the child benefit element of UC to the primary carer.

In relation to the financial impact, 'no-cost' or 'low-cost' policy variations are easier to negotiate than ones which have significant financial implications.

On practical considerations, the development of new IT systems for UC and PIPs provides an opportunity to build NI-specific policy variations into the new systems, if they are negotiated early enough for this to be achieved.

Other areas of policy within the Commissioner's remit are also explored, including employment law, employment and training policy, equality law, education law and policy and children's rights more generally. There are areas of policy where there are also devolved powers in Scotland (and now Wales). The report suggests that policy-makers in NI should be more willing to examine devolved solutions in the other devolved countries, what is referred to as devolution triangulation, as well as relying on developments in England (or England and Wales). In welfare policy, this could apply to passported benefits and the operation of Social Fund payments.



The report makes the following **recommendations**:-

1. Although the Welfare Reform Act is already on the statute book in GB, the NI Executive should be fully involved in policy development surrounding secondary legislation required to implement the Act. It should also enter into discussions with the UK Government on a formal system of consultation on, and participation in, development of welfare policy, including opportunities for the identification of potential policy variations at an early stage of policy development, both in relation to social security matters and the consequential impact on more fully devolved matters.
2. It is recommended that the Welfare Reform Bill should not be progressed through the NI Assembly by accelerated passage. Instead, full scrutiny should be made of all aspects of the Bill and consequential secondary legislation, with a view to the identification of potential variations in welfare policy to meet the particular circumstances of NI.
3. Therefore, there may be arguments for a delay in implementing GB welfare reforms in NI until the implications of the reforms in NI (and GB) are more fully understood. However, there could be significant financial implications of such a stance.
4. While it would not be practical to lobby for a significantly different social security system for NI compared to GB, there is ample scope to lobby for the retention of existing variations from the GB model and also further variations to meet the particular circumstances of NI.
5. The NI Executive and Assembly should carefully consider the extent to which existing reforms, and their implementation, can be varied in NI as part of the introduction of the Welfare Reform Act.
6. The NI Executive and Assembly should carefully consider the extent to which existing variations in welfare benefits can be preserved.
7. The NI Executive and Assembly should carefully consider the extent to which variations can be made to Universal Credits and Personal Independence Payments which could alleviate the potential negative impact of these reforms on children and young people in NI.
8. The NI Executive and Assembly should carefully consider the extent to which existing expenditure on passported benefit payments can be preserved, so as to provide a system which meets the needs of children and young people in NI. In



particular, they should look closely at policy development on passported benefits in other devolved countries such as Scotland.

9. The NI Executive and Assembly should carefully consider the extent to which existing expenditure on Social Fund payments can be preserved, so as to provide a system which meets the needs of children and young people in NI. In particular, they should look closely at policy development on Social Fund expenditure in other devolved countries such as Scotland.

4.0 Conclusions

The Commissioner for Children and Young People commissioned both these reports in order to inform the debate on the forthcoming Northern Ireland Welfare Reform Bill. The first report was commissioned to investigate the likely impact of the proposals on children in Northern Ireland, as this had not been addressed in the Department's EQIA. The purpose of the second was to bring clarity to discussions of 'parity' or 'operational flexibilities' in relation to the Welfare Reform proposals through exploring its application more widely.

It is disappointing to note that the final version of the EQIA is little changed from the draft produced in September 2011, and that there has been no further consideration given to the impact of the proposals on children. This is despite the Minister's commitment to giving serious consideration to the findings of the two reports. The Commissioner has met with the Minister on 12 June to discuss the findings of the two reports and the implications for the implementation of his Welfare Reform proposals. The Minister has agreed to arrange further meetings between Departmental officials and NICCY to discuss this in relation to the Bill when it is released.

The Commissioner hopes that the two reports she has commissioned will assist the Committee in its consideration of the Northern Ireland Welfare Reform Bill. The Commissioner will also draw on the findings of the reports in her analysis of the Bill, which will be submitted to the Committee in due course.

