Northern Ireland Affairs Committee and Work and Pensions Committee joint inquiry into welfare policy in Northern Ireland:

Joint submission from the Joseph Rowntree Foundation, Ruth Patrick (University of York) and Mark Simpson (Ulster University)

Key points

1. The Joseph Rowntree Foundation ('JRF') is currently undertaking research into the experiences of Universal Credit ('UC') claimants in Northern Ireland ('NI'), led by Ruth Patrick of University of York and Mark Simpson of Ulster University. Our interim report (currently unpublished) is attached as an Appendix.
2. The research is at an early stage, but we would be delighted to involve Committee members in the knowledge exchange phase with claimants (autumn 2019) and/or to provide further evidence on the findings to the Committees at a later date. Subject to the agreement of study participants, we could also potentially set up a meeting between participants and Committee members.
3. Our existing research on UC in the UK and on poverty in NI indicates that the impact of reforms to the social security system in NI will differ from the rest of the UK because of the nature of its economy and society.
4. UC is likely to have a disproportionately negative impact on NI due to the higher proportion of homeowners and workless households.
5. The 'two-child limit' will probably have a greater impact in NI because there are a higher proportion of families with three or more children. The effects may differ between Catholic and Protestant communities as a result of differences in family size. The two-child limit will also increasingly nullify the effect of NI's Benefit Cap mitigation payments.
6. Of the mitigation measures currently in place, ending the Social Sector Size Criteria ('SSSC') (i.e. the 'bedroom tax') and Benefit Cap mitigations would have the greatest adverse effects. However, the UK reforms resulting in the biggest financial losses to large numbers of people have not been subject to mitigation measures.

About the authors

7. The JRF is an independent social change organisation working to solve UK poverty. Through research, policy, collaboration and practical solutions, we aim to inspire action and change that will create a prosperous UK without poverty.
8. Ruth Patrick is a Lecturer in Social Policy and Social Work at the University of York. She is an expert in participatory research with people experiencing poverty and people affected by social security changes and the author of 'For whose benefit? The everyday experience of welfare reform' (Policy Press).
9. Mark Simpson is a Lecturer in Law at Ulster University. He focuses on social security, devolution and human rights, including lead authorship of the Equality and Human Rights Commission's report on 'Social security systems based on dignity and respect'.

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Background

10. Social security plays a vital role in enabling low income households to enjoy a life with dignity. Despite being the only part of the UK with devolved control of social security from 1921 to 2016, benefits in NI have generally mirrored those in Great Britain ('GB') in name, eligibility and payment rates. This is the 'parity' convention.

11. The UK Exchequer funds non-contributory social security in NI outside the block grant so there is no loss to NI's budget due to its relatively high number of economically inactive and disabled claimants (explored further below). Any changes to social security in NI that increase spending compared to parity must be paid for from the devolved budget. As there is no legal obligation to maintain parity, different levels of social security entitlement in NI are feasible to the extent that the Assembly desires and commits the necessary resources.

12. Key social security reforms introduced in GB from April 2012 were delayed in NI due to lack of political consensus. For example, the household Benefit Cap was implemented in 2013 in GB but 2016 in NI and the Social Sector Size Criteria ('SSSC') (i.e. the 'bedroom tax') started in Apr 2013 in GB but Feb 2017 in NI.

13. During debate on the unsuccessful Welfare Reform Bill, legislators in NI supported some of the UK Government's key policy objectives, including benefits simplification and ensuring people are better off in work than on benefits. However, they expressed concern about reforms including UC payment patterns, claimant conditionality, assessments for disability benefits and the SSSC.

14. As a result, the 'Fresh Start Agreement' in 2015 brought measures in to temporarily mitigate the effect of certain social security reforms on claimants in NI. £585 million was set aside from the devolved budget over four years to 2019/20 to 'top up' benefit payments affected by UK reforms and introduce UC flexibilities. This later became £501 million after the UK cancelled planned cuts to tax credits.

15. The mitigation top-up payments cover: families with children affected by the Benefit Cap; people affected by the SSSC; claimants affected by time-limiting of contributory-ESA; and DLA claimants and their carers who lose out following a reassessment to PIP. A planned 'Cost of Work Allowance' to support those in work with costs has not yet been implemented due to the absence of the Assembly.

Our research on Universal Credit in Northern Ireland

16. We are currently undertaking research in partnership with UC claimants in NI, with a final report due in November 2019. This will examine the impact of one of the key recent reforms and many of the devolved-level mitigations on their lives, share these experiences with policymakers and draw on the findings to develop proposals for future improvements to policy and practice.

17. Interviews with UC claimants are underway, including those in and out of work, with and without disabilities, single and couple parents. From June 2019, four full-day panel meetings will be convened, where claimants will share experiences of UC and develop their knowledge and ideas for how the benefit could be improved. This will lead to engagement with policymakers and other stakeholders as well as the production of a participant-led output from the project.

18. This study will generate new understanding of how UC is operating in NI, as well as how the mitigations and NI-specific elements of its implementation are being experienced by those directly affected by its rollout.

19. Given that the research is currently at an early stage, we would be delighted to involve Committee members in the knowledge exchange phase of the project (autumn 2019) and/or to provide written or oral evidence on the findings to either Committee at a later date.

20. Subject to the agreement of study participants, we could also potentially set up a meeting between participants and Committee members in the autumn if that would be interest.

21. Our interim report (currently unpublished) is attached as an Appendix.

Specific impact of social security reform in Northern Ireland

22. Although our NI-specific research on UC is currently in progress, our existing research on UC in the UK and poverty in NI indicate that specific aspects of NI's economy and society could result in social security reforms impacting NI in particular ways.

23. According to the latest data released by NI's Department for Communities ('DfC'), 324,000 people in NI (20%) live in poverty, including 102,000 children, 187,000 working-age adults and 36,000 pensioners. Like the rest of the UK, the poverty rate in NI is highest for families with children and lowest for pensioners.

24. The poverty rate in NI has been stable over the last 10 years and is slightly lower than England or Wales but slightly higher than Scotland. However, NI has a high number of the most deprived neighbourhoods in the UK.

25. The lower poverty rate than the UK may be explained by the delayed implementation of social security reforms in NI and lower housing costs (26% of people in the lowest income quintile in NI spend more than a third of their income on housing costs, compared to 47% in the UK).

26. NI has higher worklessness and lower employment than other parts of the UK. This arises mainly from more inactivity (due to health, caring or education) rather than higher unemployment. In comparison to the 12 other UK regions, NI has the second lowest unemployment rate, second lowest employment rate and highest inactivity rate. 55.8% of those unemployed in NI were long-term unemployed, compared to 26.2% in the UK.

27. Employment rates for disabled people in particular are much lower than the UK as a whole. Only 35% of working-age disabled people in NI are employed, compared to 42% in Scotland, 47% in Wales and 50% in England.

28. The poverty rate for homeowners (the largest tenure group in NI) is slightly higher in NI than in the UK as a whole. Because many more people are owner-occupiers than renters in NI, 43% of those in poverty are owner-occupiers, compared to only a third in the UK.

29. Due to parity, savings from social security cuts accrue to the UK Government, while economic losses affect people in NI. Losses arising from reforms up to 2012 were projected to be greater in NI than any other UK region, taking £650 per person per year out of the NI economy, compared to £470 in GB, or £530 in the other worst affected areas (NE/NW England). High levels of disability and economic inactivity are key factors.

Specific impact of Universal Credit in Northern Ireland

30. UC started rolling out in April 2013 in GB but not until September 2017 in NI. There were 12,000 UC claimants in NI by June 2018. Managed migration is expected to transfer around 300,000 legacy claimants in NI to UC between 2020 and 2024.

31. Only a small proportion of the 2015 Fresh Start Agreement fund was allocated to mitigating negative impacts of UC. NI has greater flexibilities around payments of UC than GB, including fortnightly payments and direct payments to landlords by default. There is also a UC Contingency Fund that provides emergency non-repayable grants to UC claimants in short term financial hardship. However, there are no top-up payments such as those for other social security reforms.

32. JRF's recent research on UC suggests that the negative impacts of UC are likely to be particularly strongly felt in NI, due to the higher proportion of homeowners and workless households.

33. For the UK as a whole, we found that the move from legacy benefits to UC is likely to reduce the number of people in poverty in working families by 300,000, but sweep 200,000 more people in out-of-work families into poverty.

34. Even within working families in the UK, homeowners are the main group to lose out under UC, with poverty amongst this group increasing by 200,000. For the UK, we estimate that around 2.8 million people in working families who are owner-occupiers will lose on average £2,100 per year, while 1.0 million will gain on average £1,600.

Impact of the 'two-child limit' in Northern Ireland

35. Evidence from the Institute for Fiscal Studies ('IFS') and the Equalities and Human Rights Commission suggests that the 'two-child limit' is likely to be one of the biggest policy drivers of child poverty in the UK over next few years.

36. The two-child limit has an extremely large financial impact on affected families, most of whom are below or near the poverty line. The IFS estimated that three-child families will lose £2,500 a year on average and those with 4 or more children will lose £7,000. Eventually around 3 million children in the UK will be affected.

37. The policy affects all low-income families with three or more children, whether in or out of work, but around two thirds of families affected will be in work.

38. The two-child limit is likely to have a disproportionate impact on families in NI, which should be taken into account when considering future mitigations.

39. Firstly, the average family size is higher in NI than in the rest of the UK. According to 2011 census data, 21% of families with dependent children in NI had 3 or more children, compared to 16% in England and Wales.

40. Secondly, the Catholic community in NI is likely to be disproportionately affected as members remain more likely to experience poverty and to have more children. The average household size is 2.7 for Catholics, compared to 2.4 for Protestants.

41. Thirdly, the household Benefit Cap almost exclusively affects families with children, particularly larger families. In NI, these families are currently protected by the Benefit Cap mitigation payment. However, the two-child limit will prevent an increasing number

of families from qualifying for this supplementary payment because their benefit income will become capped by the two-child limit instead. In time, the two-child limit will become a more significant factor limiting benefit incomes than the Benefit Cap.

Impact of other social security reforms and mitigations

42. The NI Audit Office's recent report stated that: "Welfare reforms are likely to have a major impact on housing in NI as many social housing tenants rely heavily on benefits. The shortage of smaller properties in NI may result in increased deductions for under-occupancy. This may in turn lead to increasing levels of homelessness, use of payday lenders and impact on the tenant's credit worthiness. Increased levels of debt (in the form of rent arrears) could threaten the financial stability of housing associations posing a risk to both the building and maintenance of social housing in the future."
43. It also said: "There is also a significant financial risk to the NI Housing Executive (NIHE), the largest social landlord in NI, especially with the full roll out of UC and non-renewal of mitigation measures. Early indications from NIHE are that its rent arrears are increasing significantly, against a trend of decreasing arrears, prior to the implementation of welfare reforms."
44. The SSSC is a policy that particularly affects NI. Whereas 19% of working age social tenants in England and 31% of those in GB were estimated to have excess bedrooms in 2013, the equivalent figure in NI was 58%. Ending this mitigation payment will have a significant impact.
45. The DfC also acknowledged in its recent report that the planned end of mitigation funding is likely to present "significant issues to people". It concluded that the end of SSSC mitigation will affect 34,000 people, set to lose on average £50 per month, leading to an increase in rent arrears. There is strong evidence to look at options for continued mitigation of the SSSC, costing £22 million per year.
46. After the SSSC, the mitigation that would benefit the greatest number of claimants were it to continue (at a cost of £3 million per year) is for the Benefit Cap. 1,500 families with children are set to lose on average £42 per week.
47. However, in conclusion, it should be noted that the biggest impacts of social security reform in NI have not been mitigated. While the mitigations to the SSSC, Benefit Cap and PIP have had a high profile, the reforms resulting in the largest financial losses to large numbers of people have not been subject to mitigation measures. These include cuts to tax credits and the changes to annual uprating of benefit levels (including the four-year freeze on benefits). As expanded on above, there have also been no mitigations against changes in levels of entitlement under UC, nor to the two-child limit, both of which we expect to disproportionately affect NI.

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APPENDIX

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Universal Credit in Northern Ireland: interim report
May 2019

Universal Credit in Northern Ireland: interim report

(Easy read Summary)

Universal Credit in Northern Ireland: key facts

Universal Credit is a new benefit for people on a low income, whether they are in or out of paid work. It replaces six benefits:

- Jobseeker's Allowance (for unemployed people)
- Employment and Support Allowance (for people who are unable to work due to health problems)
- Income Support (mainly paid to lone parents who are not in paid work)
- Housing Benefit
- Child Tax Credit
- Working Tax Credit.

Bringing together these six forms of support is supposed to make working age benefits simpler for people on benefits and the people who run the system.

Universal credit is also meant to encourage people to move from benefits to paid work, and make it easier for them to do so. Politicians promise it will make sure that work always pays more than being on benefits. People on universal credit can lose some of their benefit if they do not look for a job or take part in other required activities.

Most benefits work the same way in Northern Ireland and Great Britain.

However, Universal Credit in Northern Ireland works differently to Great Britain in some small but important ways:

- Social housing tenants in Northern Ireland do not have their benefit reduced if they have spare bedrooms (until March 2020)
- People in Northern Ireland whose income is only from benefits are exempt from the benefit cap, which limits the amount of money people in Great Britain can receive in benefits per week
- People in Northern Ireland who lose part of their Universal Credit payment because of changes to their disability benefits, or changes to disability benefits for someone they care for, receive compensation for a limited period
- Universal Credit is normally paid once a fortnight in Northern Ireland, compared to once a month in England and Wales
- Housing costs for people on Universal Credit in Northern Ireland are normally paid directly to the landlord – in England and Wales people normally receive their full Universal Credit payment and must arrange to pay their own rent
- It is supposed to be easier for people in Northern Ireland who claim Universal Credit as a couple to ask to have the payment split between the two members of the couple, although very few couples have taken up this option
- The longest that anyone can have their Universal Credit payment reduced for not looking for work is 18 months in Northern Ireland, compared to three years in Great Britain

- People in Northern Ireland are less likely to have their benefit reduced or stopped by a benefits sanction.

The UK Government says Universal Credit will be a big improvement to the welfare state and will help more people get off benefits and into paid work. Northern Irish politicians have said that the differences to how Universal Credit works there means people will be better off than those in England and Wales. Universal Credit is still new – it was only introduced to Northern Ireland in September 2017 – and we do not know much about what it is like to live on the benefit.

In Great Britain, there has been criticism of the online application process for Universal Credit, the length of time people have to wait for their first payment and the conditions people have to meet to keep getting the benefit. There has also been concern about how people can budget when they receive a monthly payment and have to arrange to pay their own rent, and about possible problems for women and children when Universal Credit is paid in full to one person in the family. Universal Credit has been introduced at a time when the value of most working age benefits has fallen compared to the cost of living.

Now that people in all parts of Northern Ireland are receiving Universal Credit, research is needed to answer some important questions:

- Does Universal Credit do the things the UK Government wants it to do, making benefits simpler and helping people move from benefits to paid work?
- How do people manage the application process for Universal Credit and the move from other benefits onto Universal Credit?
- Does Universal Credit allow people to have an acceptable standard of living and help them progress in work, look after their families and be involved in their community?
- Do the different payment arrangements for Universal Credit in Northern Ireland help people budget and does the extra money some people receive protect them from severe poverty?
- What should Northern Ireland do after March 2020, when some of the extra support to people on Universal Credit is due to end?
- What can other parts of the UK learn from how Universal Credit works in Northern Ireland?

The University of York and Ulster University's study on the introduction of universal credit in Northern Ireland, supported by the Joseph Rowntree Foundation, will look to answer these questions, working in close partnership with people who are on Universal Credit. The aim will be to come up with suggestions for how the benefit might be improved, and to look at lessons from experiences of Universal Credit in Northern Ireland for the region as well as for other parts of the UK.

Introduction

Universal Credit represents a major innovation in the UK welfare state, as a single means tested benefit to help working age claimants in diverse circumstances meet a wide range of needs. Previously, working age social assistance consisted of a range of benefits for different claimant groups – Jobseeker's Allowance for the unemployed, Employment and Support Allowance for people who are out of work because of illness or disability, Income Support for non-employed lone parents and Working Tax Credits for low-paid employees. Other payments focused on specific costs, notably Housing Benefit (including rate relief in Northern Ireland, equivalent to Council Tax Benefit in Great Britain) and Child Tax Credits. The ambitious attempt to amalgamate these diverse benefits within Universal Credit is one reason why the post-2012 programme of social security reforms has been described as "the most radical reform of the welfare system in a generation." [1] Universal Credit is not only about rationalisation of benefit provision, but aims to alter the relationship between the claimant, the social security system and the paid labour market, while forming part of a 'welfare reform' agenda intended to dramatically cut overall expenditure on working age benefits. However, the birth of the new benefit has been plagued with delays and growing controversy about its impact on claimants throughout the UK, with knock-on effects in Northern Ireland.

Social security is a devolved matter in Northern Ireland – uniquely within the UK prior to the partial devolution of competence to Scotland in 2016. Universal Credit is the brainchild of the UK coalition government of 2010-2015, but in common with most developments in social security since 1921, Northern Ireland is following in the footsteps of Great Britain. The introduction of reforms equivalent to those legislated for in Great Britain in 2012 and 2016 has been controversial within the devolved legislature and Executive, and society. As a result, Universal Credit in Northern Ireland will not be a perfect mirror image of the equivalent benefit in Great Britain, reflecting legislators' desire to protect citizens there from some of the perceived negative consequences of reform.

This report gives an overview of key issues related to Universal Credit in Northern Ireland:

1. Brief summary of the UK-level policy objectives that underpin the development of the new benefit.
2. Overview of the design of Universal Credit and its connections with claimant activation and austerity.
3. The challenge to the principle of parity in social security provision between Great Britain and Northern Ireland in the post-2012 period
4. Differences in how Universal Credit will operate in Northern Ireland compared to Great Britain
5. Progress report on the roll-out of Universal Credit in Northern Ireland thus far, drawing on a largely quantitative study of claimant experiences and perceptions of the new benefit.

The report details the ways in which (and reasons why) Universal Credit is being rolled out in a distinctive way in Northern Ireland. What is missing at present is an empirical engagement with how Universal Credit is being experienced by claimants in the province. The conclusion highlights key questions for forthcoming research on Universal Credit in Northern Ireland, and the potential lessons for policymakers and stakeholders there and elsewhere in the UK.

[1] Committee for Social Development, *Report on the Welfare Reform Bill (NIA Bill 13/11-15)* (NIA 74/11-15, Belfast: Northern Ireland Assembly, 2013)

How Universal Credit works

Universal Credit and UK policy objectives

Universal Credit is the product of two key aspirations in 21st century social security policy: simplification and the incentivisation of paid work. There has been increasing concern that excessive complexity in the system risked leading to reduced take-up, incorrect decisions, administrative overload and poor service. This flowed from the inherent complexity of certain benefits, the interaction between benefits, or between benefits and other services, the involvement of multiple agencies in social security administration and the unforeseen or cumulative consequences of reforms,[2] although researchers note that complexity can be necessary to respond to individual needs.[3] Since David Freud's report on the future of welfare-to-work policy,[4] this simplification agenda has come to be viewed as complementary to what was previously a parallel but separate policy objective, of easing and hastening transitions from out-of-work benefits to paid employment, ensuring that work always pays more than 'welfare'.[5]

The introduction of Universal Credit could therefore be portrayed as a step towards a system of "welfare that works."[6] The rationalisation of working age social assistance has been presented as a triple opportunity. First, it was claimed that revision of the rules on the withdrawal of benefits upon entry to low paid employment would ensure people were better off in paid work than not. Second, that the consolidation of benefit and tax credit income into a single payment would ease the calculation of current and future incomes to ensure claimants *know* they would be better off in paid work. Third, a single payment from a single agency would be able to respond to fluctuations in income from other sources.[7] In practice, the extent to which Universal Credit increases the financial rewards of paid employment compared to the legacy benefits has varied over time and between claimant groups, with an increased work incentive far from universally achieved (see below). This emphasis on incentivising employment sits alongside a disciplinary approach to the enforcement of jobseeking and training obligations, which has shaped the evolution of various benefits but is intimately linked with the arrival of Universal Credit.[8]

The structure and administration of Universal Credit

Universal Credit replaces six benefits. Each of these benefits has a specific purpose and different authorities administer different payments in Northern Ireland:

Benefit	**Purpose**	**Administration (NI)**
Jobseeker's Allowance	Income replacement for the unemployed	Department for Communities

[2] National Audit Office, *Dealing with the complexity of the benefits system* (HC592, London: House of Commons, 2005); N Harris, *Law in a complex state: complexity in the law and structure of welfare* (Oxford: Hart, 2013)
[3] N Harris, 'Complexity in the law and administration of social security: is it really a problem?' (2015) 37(2) Journal of Social Welfare and Family Law 209
[4] D Freud, *Reducing dependency, increasing opportunity: options for the future of welfare to work* (London: DWP, 2007)
[5] D Finn, 'Welfare to work: New Labour's "employment first" welfare state' (2005) 31(2) Journal of Poverty and Social Justice 93; D Freud, HL deb 13 September 2011 vol 730 col 628
[6] Economic Dependency Working Group, *Dynamic benefits: towards welfare that works* (London: Centre for Social Justice, 2009)
[7] Department for Work and Pensions, *21st century welfare* (Cm 7913, London: DWP, 2010); Department for Work and Pensions, *Universal Credit: welfare that works* (Cm 7957, London: DWP, 2010)
[8] P Dwyer and S Wright, 'Universal Credit, ubiquitous conditionality and its implications for social citizenship' (2014) 22(1) Journal of Poverty and Social Justice 27

Employment and Support Allowance	Income replacement for people unable to work due to long term sickness or incapacity	Department for Communities
Income Support	Income replacement for other economically inactive claimants, chiefly lone parents	Department for Communities
Housing Benefit	Means tested support with housing costs	Northern Ireland Housing Executive
Working tax credit	Wage supplement for people in low paid employment	HM Revenue and Customs
Child tax credit	Means tested income top-up for low income households with dependent children	HM Revenue and Customs

Most of the legacy benefits serve a specific group and reflect the needs or expectations that policy deems apply to each group. This distinction does not disappear with the introduction of Universal Credit; rather, awards for different needs are incorporated into the new benefit, which may be paid at different rates and subject to different conditions dependent on the claimant's circumstances. Eligibility is calculated by adding together a personal allowance for a single claimant or couple, housing costs (up to the local housing allowance if renting privately), and additional payments for children (which can vary depending on when the claim commenced), disabled children, limited capability for work-related activity, caring and childcare costs.

Although Universal Credit represents a large step towards the consolidation of the social assistance landscape, it does not bring together all forms of support for low-income households, so arguably does not 'simplify' the system to the maximum possible extent. The discretionary Social Fund, which provided assistance with urgent, one-off or short-term needs, has been replaced by the new Discretionary Support Scheme, which remains separate from Universal Credit.[9] Support with local taxes also lies outside Universal Credit. In Northern Ireland, Housing Benefit previously included support with domestic rates; Universal Credit claimants must apply to the new rate rebate scheme,[10] surely contrary to the consolidating intent behind Universal Credit. In England, both discretionary assistance and support with local taxes are now a local government responsibility. Discretionary Housing Payments, widely used in Great Britain to top up the incomes of claimants affected by the social sector size criteria, form a final source of support outside Universal Credit.[11] The existence of near-universal supplementary payments for under-occupying social tenants and claimants affected by the household benefit cap in Northern Ireland means there is less demand for DHPs, with only half the allocated budget spent in 2017-18.[12]

The single monthly payment under Universal Credit represents a radical departure in how households in receipt of income replacement benefits receive their income. The Government has argued that this change would "close the gap between being out of work and having a job, so it is not such a major shift for people leaving benefits" while giving claimants the right and responsibility to

[9] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 76(1), 135; Discretionary Support Regulations (Northern Ireland) 2016 no 270

[10] Rate Relief Regulations (Northern Ireland) 2017 no 184

[11] Discretionary Financial Assistance Regulations (Northern Ireland) 2001 no 216; Discretionary Financial Assistance Regulations 2001 no 1167; see Meers, J. (2015). Panacean payments: the role of discretionary housing payments in the welfare reform agenda. Journal of Social Security Law, 22(3), 115; Meers, J. (2018). Awarding discretionary housing payments: constraints of time, conditionality and the assessment of income/expenditure. Journal of Social Security Law, 25(2), 102.

[12] Housing Rights, *Recommendations for discretionary housing payments (DHP) in Northern Ireland pre and post 2020* (Belfast: Housing Rights, 2018)

manage their own income across a whole month, in common with most employees.[13] However, it is far from clear that monthly payment is the norm for *low paid* workers. Low-income households are also disproportionately likely to see both income and needs fluctuate from month to month, which will present a challenge to the aspiration to real-time calculation of entitlement.[14] The success of this and multiple other aspects of Universal Credit's operation will also depend on the smooth functioning of extremely complex IT infrastructure – which has experienced well publicised teething problems – and on the IT literacy of claimants. [15]

Universal Credit and claimant activation

A key objective behind the introduction of Universal Credit is its claimed potential to encourage claimants to engage in paid work through a combination of payment patterns, increased financial incentives and disciplinary measures to enforce engagement with the labour market. For many of the legacy benefits, after a small initial disregard each additional pound in earnings results in a one-pound reduction of benefit, so that the overall gain from each notional pound of earnings is often as low as five pence, in some cases non-existent.[16] Consequently, the pre-2012 system has been criticised as "a system that penalises work."[17] Universal Credit is supposed to produce a steadier, more consistent increase in income as earnings increase.[18] The graphs below illustrate this ambition.

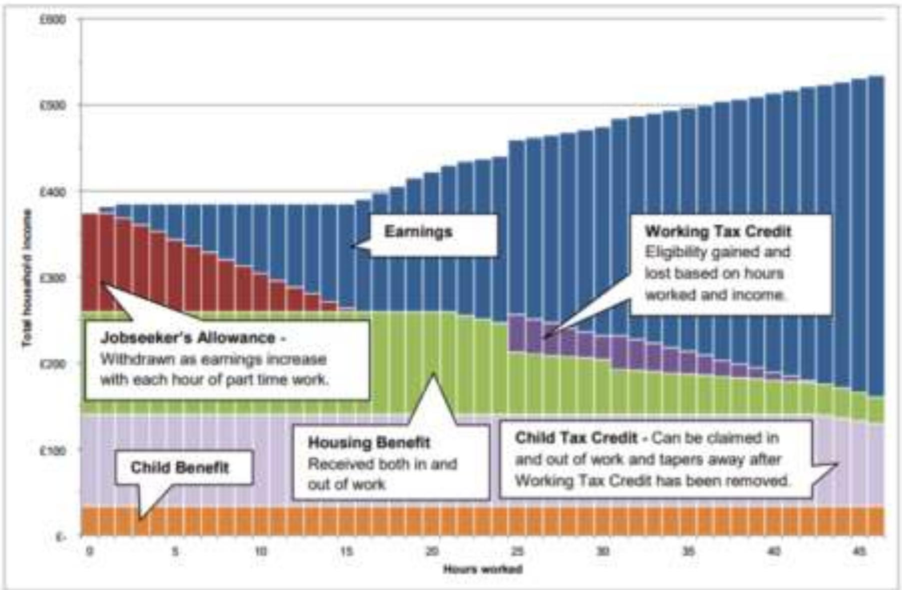

Figure: Total household income under legacy system – couple with two children[19]

[13] D Freud, HL deb 13 September 2011 vol 730 col 630

[14] J Millar and F Bennett, 'Universal Credit: assumptions, contradictions and virtual reality' (2017) 16(2) Social Policy and Society 169

[15] D Béland, P Rocco and A Wadden, 'Obamacare, Universal Credit and the trilemma of public services' (2014) 74(2) Public Administration Review 142, 142; C Easton, 'Welfare that works? The Universal Credit information technology system and disabled people' (2014) 20(3) Web Journal of Current Legal Issues <http://webjcli.org/article/view/354/467>; Comptroller and Auditor General, *Universal Credit: early progress* (HC 621, London: National Audit Office, 2013)

[16] S Royston, 'Understanding Universal Credit' (2012) 20(1) Journal of Poverty and Social Justice 69

[17] Economic Dependency Working Group, *Dynamic benefits: towards welfare that works* (London: Centre for Social Justice, 2009) 16

[18] Department for Work and Pensions, *Universal Credit: welfare that works* (Cm 7957, London: DWP, 2010)

[19] Department for Communities, *Northern Ireland Universal Credit information booklet* (Belfast: DfC, 2016) 12

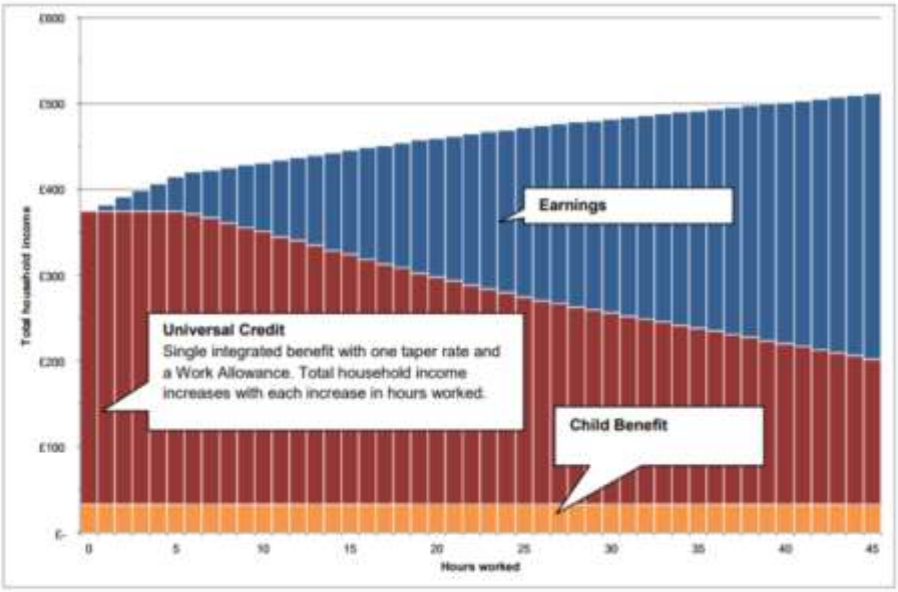

Figure: Total household income under Universal Credit – couple with two children[20]

This effect is achieved through a combination of a work allowance (or earnings disregard) and a taper. The work allowance, which varies depending on the claimant's circumstances, refers to the amount an individual can earn before deductions from his or her benefit payment commence. The taper refers to the rate at which earned income above the disregard results in a loss of benefit income. Most forms of unearned income are not subject to any disregard or taper, so that each pound of income results in a one-pound loss of benefit. The structure of Universal Credit as a single working age benefit is an important factor for lone parents in particular. The need to work at least 16 hours per week to be eligible for working tax credit meant there was little incentive to work fewer hours, whereas under Universal Credit everyone's maximum entitlement is based on their family and housing circumstances, regardless of hours worked, then reduced to take account of other income sources.[21]In practice, Universal Credit does not deliver universally increased financial rewards for paid employment compared to the legacy system. Analysis by the Institute for Fiscal Studies shows that, even under DWP's originally proposed work allowances and tapers, lone parents working more than 30 hours per week were projected to be worse off financially, while second earners within couples would see no real difference if working more than 10 hours per week. [22] Work allowances have subsequently been subject to repeated tinkering. Following the 2015 cuts to the allowance (now partly reversed), 73% of out-of-work lone parents and 29% of claimants with a children and a partner in paid work, but not employed themselves, were expected to see the financial incentive to enter employment reduced compared to the legacy system.[23]

Support for 85% of childcare costs up to a ceiling of £1,108 per month at face value compares favourably to 70% under working tax credit,[24] but according to some calculations in fact represents a

[20] Department for Communities, *Northern Ireland Universal Credit information booklet* (Belfast: DfC, 2016) 13
[21] J Browne, A Hood and R Joyce, 'The (changing) effects of Universal Credit' in C Emmerson, P Johnson and R Joyce, *IFS Green Budget 2016* (London: Institute for Fiscal Studies, 2016)
[22] M Brewer, J Browne and W Jin, *Universal Credit: a preliminary analysis* (BN 116, London: IFS, 2011); Universal Credit (Work Allowance) Amendment Regulations 2015 no 1649
[23] J Browne, A Hood and R Joyce, 'The (changing) effects of Universal Credit' in C Emmerson, P Johnson and R Joyce, *IFS Green Budget 2016* (London: Institute for Fiscal Studies, 2016)
[24] J Browne, A Hood and R Joyce, 'The (changing) effects of Universal Credit' in C Emmerson, P Johnson and R Joyce, *IFS Green Budget 2016* (London: Institute for Fiscal Studies, 2016)

reduction of support for some households in receipt of multiple benefits, who might in effect have been paying only 4.5% of childcare costs.[25]

The introduction of Universal Credit is not only about incentivising employment, but is inseparable from attempts to coerce claimants into paid work, jobseeking and training.[26] The evolution of conditionality in the 21st century has been characterised by the extension of jobseeking and related obligations to a wider range of claimant groups – notably lone parents and those not in paid employment due to incapacity – and escalating sanctions for a wider range of failures. The major innovation in conditionality under Universal Credit is a new obligation on in-work claimants to seek to increase their earnings – whether by changing jobs, taking on an additional job, career progression or requesting more hours – until household income is equivalent to the expected number of working hours at the national living or minimum wage.[27] Self-employed claimants are not subject to in-work conditionality, but those who have been self-employed for at least a year are assumed to earn at least the applicable minimum wage for the expected number of hours per week for the purposes of calculating their Universal Credit payment, even if actual earnings are lower. [28]

The basic conditionality groups under Universal Credit are as follows:

- no work-related requirements due to limited capability for work-related activity, being the carer for a dependent child under one year old or caring for a severely disabled person.
- work-focused interview requirement due to being the carer for a child aged one.
- work preparation requirement due to limited capability for work or being the carer for a child aged two.
- work search and work availability requirement for all other claimants, who may also be subject to the work-focused interview and work preparation requirements.[29]

Failure to take part in a prescribed activity may result in financial penalties:

- Higher level sanction – failure to undertake a work placement, apply for a prescribed vacancy or accept an offer of paid work; loss of paid work voluntarily or due to misconduct (without good reason): 92, 182 or 546 days (1,092 days in Great Britain).
- Medium level sanction – failure to comply with a work search or work availability requirement: disqualification while unavailable for work, plus an additional 28 or 91 days.
- Low level sanction – failure to attend a work-focused or other interview, comply with a work preparation requirement or undertake a specific work search activity: 7, 14 or 28 days.
- Lowest level sanction – failure to attend a work-focused interview by a claimant subject only to the work-focused interview requirement: sanction lasts until compliance is restored.[30]

The sanction consists of the suspension of the personal allowance element of Universal Credit, or 50% of the personal allowance in the case of joint-claim couples. A sanctioned claimant may request a discretionary hardship payment, equivalent to 60% of the suspended benefit, if his or her ability to "meet their immediate and most basic and essential needs" or those of a dependent child, namely

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[25] S Royston, 'Understanding Universal Credit' (2012) 20(1) Journal of Poverty and Social Justice 69
[26] P Dwyer and S Wright, 'Universal Credit, ubiquitous conditionality and its implications for social citizenship' (2014) 22 Journal of Poverty and Social Justice 27
[27] See Social Security Advisory Committee, 'In-work progression and Universal Credit' (OP 19, London: SSAC, 2017)
[28] J Browne, A Hood and R Joyce, 'The (changing) effects of Universal Credit' in C Emmerson, P Johnson and R Joyce, *IFS Green Budget 2016* (London: Institute for Fiscal Studies, 2016)
[29] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 24-27
[30] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 31, 31; Universal Credit Regulations (Northern Ireland) no 216 reg 99-102

accommodation, food, heating and hygiene, is at risk.[31] However, since the payment is recoverable, receiving one effectively prolongs the reduction of income.

Universal Credit and austerity

The 2010-2015 coalition government identified the level of the public deficit as the most important matter requiring its attention, the UK's "debt crisis" having been the central theme of the Conservatives' election manifesto.[32] Reforms between 2010 and 2015 were projected to reduce annual social security expenditure by £17.2 billion by 2015-16. As a result of the conflation of the welfare reform and austerity agendas, it has been argued that by 2016 Universal Credit looked "very different from its original inception."[33] As the NIAO graph below shows, high profile reforms like the social sector size criteria, introduction of Personal Independence Payment and household benefit cap account for a relatively small share of this cut. Not all of the illustrated reforms affect Universal Credit claimants (unless they also receive the affected benefits, such as Personal Independence Payment), but many do.[34]

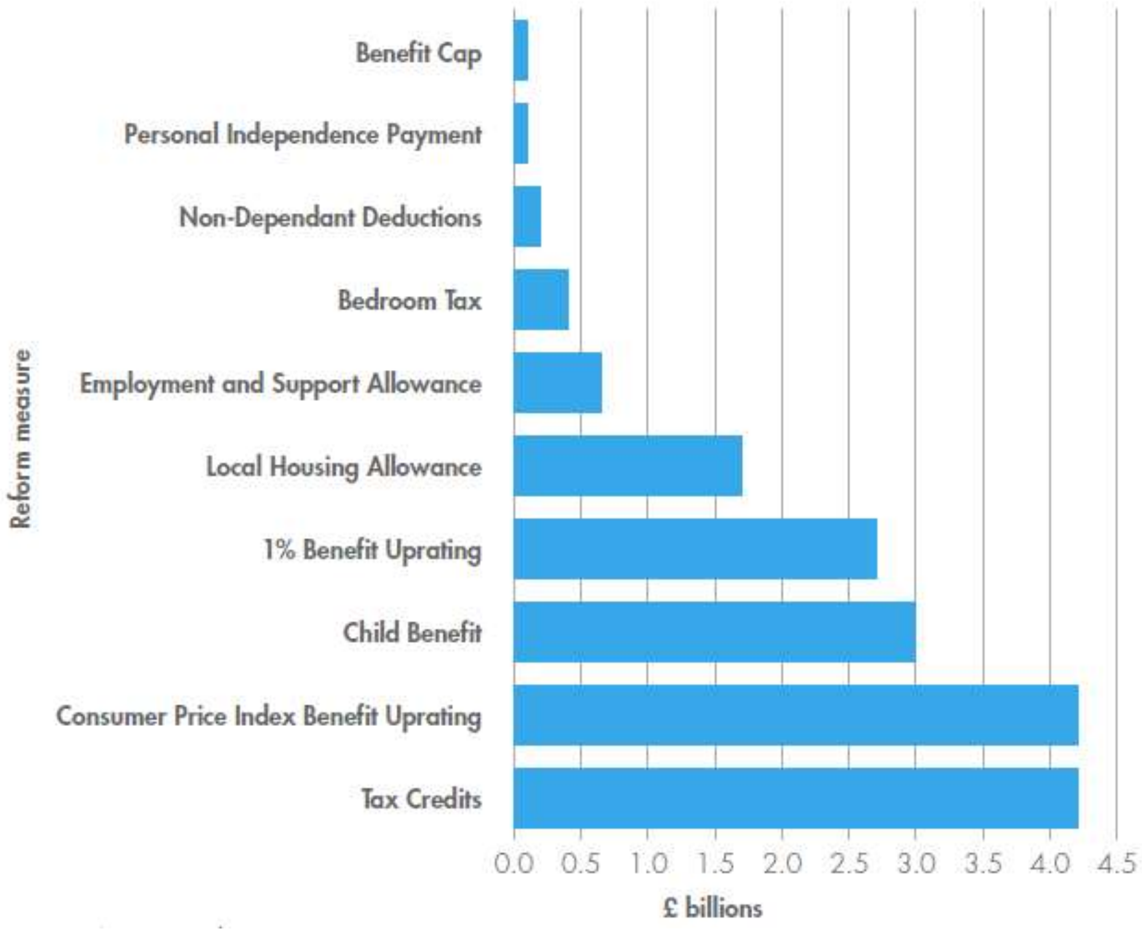

Figure: Northern Ireland Audit Office estimate of UK financial savings in 2015-16 from welfare reforms

[31] Universal Credit Regulations (Northern Ireland) 2016 no 216 part 8 chapter 3

[32] HM Government, *The coalition: our programme for government* (London: Cabinet Office, 2010); Conservative Party, *Invitation to join the government of Britain: the Conservative manifesto 2010* (London: Conservative Party, 2010) viii

[33] D Finch, *Universal challenge: making a success of Universal Credit* (London: Resolution Foundation, 2016)

[34] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

Summary

Universal Credit is supposed to simplify the social security system for both staff and claimants, while making it more likely that claimants will move into paid employment and increase their earnings. Key questions for future research with claimants include whether they do in fact find it easier to access their social security entitlements, manage their claims, including compliance with any applicable conditions, and budget between payments under Universal Credit. It is likely that much will depend on individuals' ability to navigate online application and claim management systems. Whether in-work claimants feel they are financially better off under Universal Credit compared to tax credits and whether out-of-work claimants feel there is a greater incentive to enter paid employment compared to Jobseeker's Allowance and the other legacy benefits will also be of interest. In some cases, including claimants' ability to budget and changes in the financial incentives to enter employment, one challenge will be to separate the effects of the introduction of Universal Credit from the effects of cuts to working age benefits in general.

Northern Ireland's welfare reform 'crisis'

Social security parity and the post-2012 reforms

Despite being the only part of the UK with devolved control of social security from 1921 to 2016, benefits in Northern Ireland have – with rare exceptions – faithfully reflected those in Great Britain in name, eligibility criteria and rate of payment. This practice is known as the parity convention. While on occasions uncontroversial, [35] for the most part policymakers have accepted that parity serves Northern Ireland's interests, helping provide an equivalent level of social protection in one of the economically weaker parts of the UK.[36] Under the parity arrangement, funds are transferred from the national insurance fund (NIF) for Great Britain to the NIF for Northern Ireland to ensure its balance reflects share of UK population – £634,900 in 2017-18.[37] In addition, the UK Exchequer has covered the cost of non-contributory benefits outside the block grant, so that there is no loss to the Northern Ireland budget as a result of its relatively high numbers of economically inactive and disabled claimants. In 2015-16, £2.46 billion was spent on these benefits, with only a small amount of the total drawn from the devolved budget.[38] This figure does not include expenditure on tax credits by HMRC, some £1.3 billion in 2016-17,[39] or take account of the savings that flow from the ability to use DWP IT systems for the payment of benefits rather than develop bespoke systems. Consequently, although the constitutional legislation does not strictly require parity between Great Britain and Northern Ireland – only Ministerial consultation on whether parity should be maintained – the potential cost of providing and administering significantly different benefits has acted as a strong deterrent to divergence.[40]

The usual pattern was not followed with the 2012 Welfare Reform Bill, which was subject not only to a full committee stage – itself unusual for social security legislation – but to additional scrutiny by an ad hoc committee convened to consider the conformity of the Bill with the Assembly and Executive's

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[35] Northern Ireland Assembly Health and Social Services Committee, *Report: social security parity* (NIA 141-I, Belfast: NI Assembly, 1984)

[36] M Simpson, 'Developing constitutional principles through firefighting: social security parity in Northern Ireland' (2015) 22(1) Journal of Social Security Law 31

[37] HM Revenue and Customs, *Northern Ireland national insurance fund account 2017-18* (HC 1604, London: House of Commons, 2018)

[38] Department for Social Development, *Annual report and accounts for year ended 31st March 2016* (Belfast: DSD, 2016)

[39] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

[40] M Simpson, 'Renegotiating social citizenship in the age of devolution' (2017) 44(4) Journal of Law and Society 646

equality and human rights obligations.[41] This reflects not only the controversy that surrounded the reform proposals across the UK, but the expectation that the perceived negative effects would be felt particularly keenly in Northern Ireland (see below). The Committee for Social Development endorsed the key aims of simplifying the administration of social security, making the system easier for claimants to understand and ensuring people are always better off in work than on benefits,[42] while the ad hoc committee could not identify any specific breaches of equality or human rights law.[43] However, neither report was uncritical. Areas of concern included the sanctions regime, the single, monthly household payment within Universal Credit, the treatment of EU migrants and lone parents by the conditionality regime, the assessment process for Personal Independence Payment and the under-occupancy penalty in Housing Benefit.

Following the conclusion of its committee stage in February 2013, the Bill would not be debated in the Assembly again for another two years. The long delay resulted from disagreement between the five parties in the Northern Ireland Executive about the extent to which the Bill should be amended to address the issues identified by the two committees – a "welfare reform crisis" that became a genuine threat to the stability of the devolution settlement as a whole.[44] The two dominant parties, the Democratic Unionist Party and Sinn Féin, appeared relatively united in their concern at the inherited Bill, but divided as to the appropriate response, with the DUP more cautious about divergence from Westminster entailing additional costs. Despite these differences, an agreed position gradually appeared to emerge, ultimately reflected in a formal political agreement[45] and in the large number of amendments accepted when the Bill returned to the Assembly in February 2015. This consensus was to prove fragile: a dispute over whether a proposed supplementary payment fund to protect claimants from financial loss should be open to future claimants or only to continuing claimants led to the defeat of the Bill at its final stage three months later. [46] The next change of tack would come almost as quickly, with the Northern Ireland parties and the UK and Irish governments agreeing to a "fresh start" on a number of contentious issues, including the future of welfare reform.[47] This saw social security powers temporarily transferred from Stormont to Westminster, for the purpose of extending the reforms included in the Welfare Reform Act 2012 and sections 8 to 22 of the Welfare Reform and Work Act 2016 to Northern Ireland.[48] Secondary legislation establishing Universal Credit was eventually made just over three years after Great Britain.[49] In the interim, £173 million was deducted from the block grant to account for the additional cost to the Exchequer of funding benefits in Northern Ireland resulting from (at that point) the non-implementation of reforms that had already occurred in Great Britain.[50]

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[41] Public authorities in Northern Ireland are subject to a public sector equality duty broadly comparable to that in the Equality Act 2010 for Great Britain and all legislation passed by the Assembly must comply with the European Convention on Human Rights – Northern Ireland Act 1998 c47 s6, 75,

[42] Committee for Social Development, *Report on the Welfare Reform Bill (NIA Bill 13/11-15)* (NIA 74/11-15, Belfast: Northern Ireland Assembly, 2013)

[43] Ad-hoc Committee, *Report on whether the Provisions of the Welfare Reform Bill are in conformity with the requirements for equality and observance of human rights* (NIA 92/11-15, Belfast: Northern Ireland Assembly, 2013)

[44] N Emerson, 'Stormont must learn lessons from the welfare reform crisis' (Irish News, 17 January 2019) <http://www.irishnews.com/opinion/columnists/2019/01/17/newton-emerson-stormont-must-learn-lessons-from-the-welfare-reform-crisis-1528719/?ref=sh>

[45] Northern Ireland Office, *The Stormont House Agreement* (Belfast: NIO, 2014)

[46] Sinn Féin, *Welfare: the facts* (Belfast: Sinn Féin, 2015) <http://www.sinnfein.ie/files/2015/Welfare_the_facts_SF1.pdf>

[47] Northern Ireland Office, *A fresh start: the Stormont agreement and implementation plan* (Belfast: NIO, 2015)

[48] Northern Ireland (Welfare Reform) Act 2015 c34; Welfare Reform (Northern Ireland) Order 2016 no 215 (c17); Welfare Reform and Work (Northern Ireland) Order 2016 no 999 (NI 1)

[49] Universal Credit Regulations (Northern Ireland) 2016 no 216; Universal Credit Regulations 2013 no 376

[50] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

The impact of welfare reform in Northern Ireland

Welfare reform since 2010 has generated concern and controversy across the UK, with parties represented in both the Scottish Government and Northern Ireland Executive prominent among the critics. Opposition to measures emerging from Westminster was variously driven by ideological considerations, belief that the reforms would not achieve their stated objectives even when these were desirable and the view that the policy prescriptions of an Anglo- or London-centric elite did not meet the needs of other parts of the UK.[51] All three perspectives could be observed among policymakers in Northern Ireland between 2011 and 2016. Simpson found some ideological opposition to austerity in general and disciplinary welfare-to-work models in particular, but little evidence of an alternative, Northern Ireland-specific ideology of welfare in a fragmented party political environment.[52] Simplification and promotion of a return to paid work were broadly seen as desirable, but lack of opportunity in the Northern Ireland labour market was thought by some to be a much more important barrier to (re-)employment than any disincentive effect of social security.[53]

More pragmatically, the cost-benefit analysis for welfare reform looks different in Northern Ireland than it does at UK level. Due to the parity arrangements, any savings flowing from benefit cuts accrue to the Treasury, while the economic losses affect people in the region.[54] These losses are greater than in any other UK region, welfare reform up to and including Bill before the Assembly in 2013 projected to take £650 per person per year out of the Northern Ireland economy. The equivalent reforms were projected to take an average of £470 per person per year out of the economy in Great Britain, or £530 in the worst affected areas (north east and north west England). High levels of disability and economic inactivity, alongside the previously mentioned labour market weakness, are key contributors.[55] Specific policy changes affecting Universal Credit claimants are likely to have a particular impact. The reduction of Housing Benefit (or the housing element of Universal Credit) to under-occupying social tenants is a prime example. Whereas 19% of working age social tenants in England and 31% of those in Great Britain overall were estimated to have excess bedrooms in 2013, the equivalent figure in Northern Ireland was 58%.[56] The Northern Ireland Housing Executive stated in evidence to the Committee for Social Development that it would have "a major issue" if it were required to find smaller housing units at short notice for such a high proportion of tenants.[57] Consequently, there are serious concerns at the likely impact on funding for social housing development and maintenance of the social sector size criteria.[58]

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[51] M Simpson, 'Renegotiating social citizenship in the age of devolution' (2017) 44(4) Journal of Law and Society 646

[52] See also AM Gray and D Birrell, 'Coalition government in Northern Ireland: social policy and the lowest common denominator thesis' (2012) 11(1) Social Policy and Society 15

[53] See also AM Gray and D Birrell, 'Coalition government in Northern Ireland: social policy and the lowest common denominator thesis' (2012) 11(1) Social Policy and Society 15

[54] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

[55] C Beatty and S Fothergill, *The impact of welfare reform on Northern Ireland* (Sheffield: Centre for Economic Empowerment, 2013)

[56] K Gibb, *The 'bedroom tax' in Scotland* (SP paper 409, Edinburgh: Scottish Parliament, 2013)

[57] G Flynn in Committee for Social Development, 'Minutes of evidence – 25 October 2012', *Report on the Welfare Reform Bill (NIA Bill 13/11-15)* (NIA 74/11-15, Belfast: Northern Ireland Assembly, 2013) 364

[58] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019); Chartered Institute of Housing Northern Ireland, *Impact of welfare changes on rented housing in Northern Ireland* (Belfast: CIHNI, 2017)

The implementation of Universal Credit in Northern Ireland

The implementation of Universal Credit in Great Britain has been a stuttering process. Work commenced in April 2013, but an initial aspiration that the legacy means tested benefits and tax credits would be fully replaced by the end of 2017 has been long since abandoned.[59] The graph below gives an indication of how the projected implementation schedule for Great Britain has slipped back. New claimants who would previously have applied for one or more of the legacy benefits are now required to apply for Universal Credit instead, but the migration of continuing claimants remains at a very early stage. By the start of 2016, there were fewer than 200,000 universal claimants compared to an original plan of 4.5 million.[60]

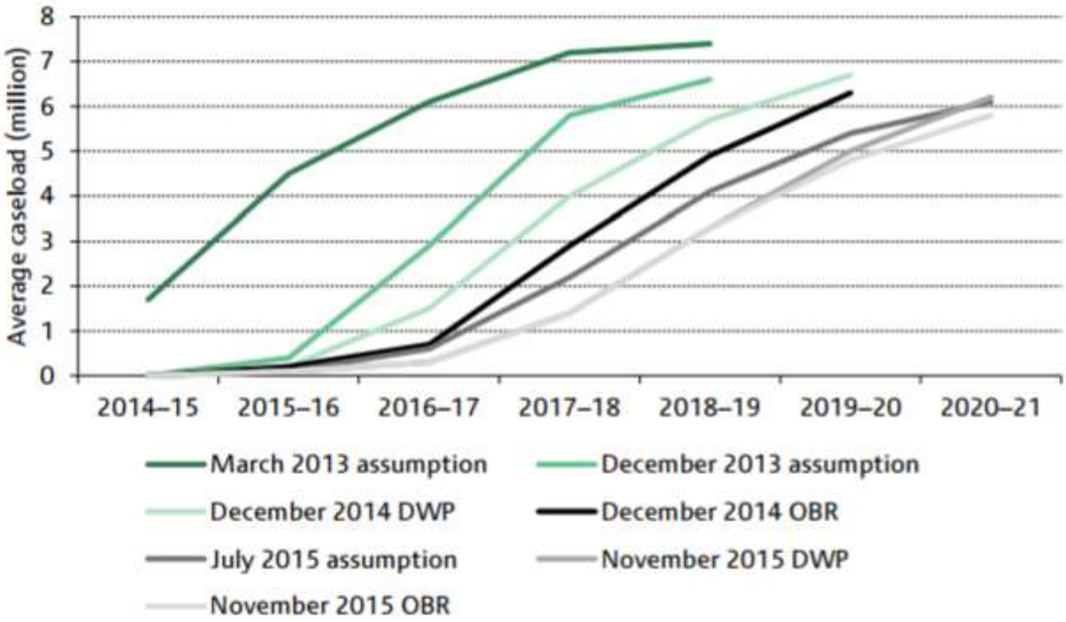

Figure: Changing assumptions about the Universal Credit implementation schedule from the Department for Work and Pensions and the Office for Budget Responsibility[61]

Due to the stop-start legislative process, regulations establishing Universal Credit in Northern Ireland were only made in May 2016,[62] more than three years after the equivalent in Great Britain.[63] Implementation in Northern Ireland did not begin until September 2017, around the time it was initially envisaged that roll-out would be completed in Great Britain.[64] In the event, the repeated delays in Great Britain have led to the Department for Communities revising its schedule since then. DfC presents its approach of following behind DWP as advantageous as it enables "Northern Ireland to take advantage of lessons learned from the experiences of the Department for Work and Pensions."[65] Most recently, this has been reflected in the decision to postpone commencement of the managed migration of continuing claimants of legacy benefits onto Universal Credit from the

[59] Comptroller and Auditor General, *Rolling out Universal Credit* (HC1123, London: National Audit Office, 2018); Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

[60] J Browne, A Hood and R Joyce, 'The (changing) effects of Universal Credit' in C Emmerson, P Johnson and R Joyce, *IFS Green Budget 2016* (London: Institute for Fiscal Studies, 2016)

[61] J Browne, A Hood and R Joyce, 'The (changing) effects of Universal Credit' in C Emmerson, P Johnson and R Joyce, *IFS Green Budget 2016* (London: Institute for Fiscal Studies, 2016) 242

[62] Universal Credit Regulations (Northern Ireland) no 216

[63] Universal Credit Regulations 2016 no 376

[64] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

[65] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019) 4

planned start date of July 2019 to sometime in 2020. This will enable DfC to await the outcome and conclusions of the DWP pilot migration exercise planned for 2019.[66]

Rollout of Universal Credit to new claimants and those with a relevant change of circumstances took place on an area-by-area basis between September 2017 and the end of 2018, with Belfast adopting the new benefit between June and November 2018.[67] 35,000 people were receiving Universal Credit by January 2019.[68] Up to 300,000 continuing claimants were expected to undergo managed migration as the legacy benefits are retired, although delays in the commencement date may reduce this figure somewhat as more people can be expected to move to Universal Credit due to a change of circumstances or cease claiming benefits as time passes.[69]

The introduction of Universal Credit in itself creates a mixture of 'winners' and 'losers' in terms of overall benefit entitlement. Discounting transitional protection and any Northern Ireland mitigation payments, 2016 estimates suggest that 114,000 households will experience an increase in entitlement (average £26 per week), 126,000 will experience reduced entitlement (average £39 per week), with 72,000 households unchanged.[70] The direct impact of Universal Credit, though, is only half the story. The falling value of key benefits, two-child limit to support, household benefit cap, reduction of the local housing allowance, penalisation of under-occupation by social tenants and loss of the additional payment to ESA support group/UC with limited capability for work claimants affect Universal Credit and the legacy benefits alike. Benefits left *outside* Universal Credit and devolved to local government in England have been particularly vulnerable to reduction.[71]

Summary

The differences between how people in Northern Ireland and people in Great Britain will experience Universal Credit – set out in more detail in the next section – will be limited, and in many cases time-limited. Nonetheless, the significance of even small departures from parity should not be underestimated, given how closely aligned the two social security systems have traditionally been. This divergence has occurred in response to ideological opposition to UK Government-led austerity measures, questions about the impact of certain reforms on claimants' human rights and, above all, concerns that the negative effects of reform would be disproportionately felt in Northern Ireland. It is unlikely that many claimants will be in a position to discuss human rights issues or to generalise about the impact of reform on Northern Ireland. Still, there is an opportunity for future research to consider whether individual claimants' experiences might point towards human rights concerns or exemplify some of the ways in which the effects of reform are more keenly felt in Northern Ireland than in Great Britain.

Mitigating the impact of welfare reform

From legislative deadlock to a 'Fresh Start'

Although the Welfare Reform Bill failed to complete its passage through the Assembly, the two committee reports and amendments adopted along the way reflected a shared view among the regional parties that measures were necessary to shield citizens in Northern Ireland from some of the perceived negative effects of the changes made. The Fresh Start agreement ring-fenced £585 million from the devolved budget for a four-year programme of mitigations, protecting certain claimant

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[66] Letter from Colum Boyle to Universal Credit stakeholders (8 January 2019)

[67] Department for Communities, 'Update on Universal Credit rollout schedule' (DfC news release, 2 February 2018) <https://www.communities-ni.gov.uk/news/update-universal-credit-rollout-schedule>

[68] Law Centre NI, 'Law Centre (NI) social security bulletin (no 17)' (Law Centre NI, 1 February 2019)

[69] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)

[70] Department for Communities, *Northern Ireland Universal Credit information booklet* (Belfast: DfC, 2016)

[71] J Meers, 'Discretion as blame avoidance: passing the buck to local authorities in "welfare reform"' (2019) 27(1) Journal of Poverty and Social Justice 41

groups from financial loss, usually for a fixed period. The agreement also promises an unspecified increase in funding for independent welfare advice services. In addition, divergence from Great Britain in Universal Credit payment patterns is a longer standing commitment.

Table: Budgetary allocation to welfare reform mitigations in Northern Ireland[72]

Year		2016-17	2017-18	2018-19	2019-20
Fresh Start Agreement	Agreed amount	£135m	£150m	£150m	£150m
	Welfare	£75m	£75m	£75m	£75m
	Tax credits	£60m	£60m	£60m	£60m
Mitigations Working Group	Welfare	£46m	£89m	£93m	£84m
	Tax credits	£14m	£53m	£49m	£49m
	Administration	£5m	£7m	£7m	£7m
Actual spend		£20m	£58m	n/a	n/a

The agreement specified that some of these funds would be used to compensate social housing tenants who would otherwise lose benefit income as result of the social sector size criteria. A working group was then appointed to make recommendations for the best use of the remaining budget; many, although not all, of its proposals are relevant to Universal Credit claimants.[73] Universal Credit claimants in Northern Ireland can benefit from some of a set of supplementary payments, changes to the payment patterns for Universal Credit and differences in the operation of the conditionality regime. The greatest cumulative financial loss to claimants, however, results from below-inflation uprating of working age benefits and tax credits since 2011 and there have been no proposals to make good this loss of income.[74] Hence, while it might be argued that devolution was acting as "a bulwark against austerity policies,"[75] this has only ever been true to a limited extent. In addition, most of the mitigations only apply to reforms introduced under the Welfare Reform (Northern Ireland) Order 2015,[76] equivalent to the Welfare Reform Act 2012; those made by the Welfare Reform and Work (Northern Ireland) Order 2016,[77] reflecting the Welfare Reform and Work Act 2016, are not subject to the current package. The exception is the supplementary payment for mitigation of the household benefit cap, which is paid at the necessary level to negate the effect of the cap at either its original or later, lower level.[78] Finally, the current set of supplementary payments will expire in March 2020 and it is not currently clear what, if any, financial mitigations will operate after this point.

Supplementary payments

Article 137 of the Welfare Reform (NI) Order 2015 empowers the Department for Communities to make Regulations providing for supplementary payments to "persons who suffer financial disadvantage" as a result of the reforms flowing from that Order and the Welfare Reform and Work (NI) Order 2016. Article 137A specifically provides for the making of Regulations in respect of supplementary payments to claimants affected by the social sector size criteria. In addition, article 137B envisages a cost of work allowance, in the form of annual one-off payments to in-work

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[72] Northern Ireland Office, *A fresh start: the Stormont agreement and implementation plan* (Belfast: NIO, 2015) 22; actual spend figures from Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019) – note that the allocation for 2019-20 would subsequently be reduced in that year's Budget.
[73] Welfare Reform Mitigations Working Group, *Welfare Reform Mitigations Working Group report* (Belfast: OFMDFM, 2016)
[74] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)
[75] C Murphy, NIA deb 18 November 2015 vol 109 no 7 p22
[76] No 2006 (NI 1)
[77] No 999 (NI 1)
[78] Welfare Supplementary Payment (Benefit Cap) Regulations (Northern Ireland) 2016 no 389 reg 2

claimants of Universal Credit or working tax credits during 2017, 2018 and 2019. Due to the absence of a functioning Assembly during this period, no Regulations in respect of a cost of work allowance have been made and the allowance will not now come into existence during the current mitigations period, despite having been allocated 20% of the mitigations budget.[79] The hiatus of the Assembly has also meant Regulations for the extension of most of the supplementary payments to Universal Credit claimants have not been made. However, the Department has decided to make "administrative payments, similar to the Welfare Supplementary Payments for existing benefits, to help those entitled to Universal Credit who incur financial disadvantage as a result of specified welfare changes." [80] Regulations for any supplementary payments that remain relevant will be laid when the Assembly resumes business.

The social sector size criteria was among the higher-profile reforms of the coalition period and the Executive did not wait for a recommendation from the mitigations working group to announce its mitigation.[81] The legislation provides for a supplementary payment to social tenants whose Housing Benefit or Universal Credit housing costs element is reduced because of under-occupancy[82] for any period between January 2017 and March 2020.[83] The supplementary payment is equivalent to the reduction of Housing Benefit or Universal Credit.[84] Eligibility terminates in most cases when the claimant moves to another social rented property but continues to under-occupy by the same number of bedrooms or more and other changes of circumstance can result in loss of eligibility. [85] A total of 121 social tenants forfeited eligibility for the supplementary payment for this reason between April 2017 and March 2018.[86]

The next case in which a supplementary payment may be made is to a claimant with dependent children (or whose partner has dependent children) whose Housing Benefit is reduced as a result of the household benefit cap. An equivalent administrative payment is available to Universal Credit claimants in the same position. The supplementary payment is equal to the reduction of benefit applied as a result of the cap, so in effect the cap does not apply to households with children.[87] To be eligible for the payment, a claimant must have been in uninterrupted receipt of Housing Benefit or Universal Credit from 30 May 2016 until the date on which he or she comes into scope for the cap.[88] This payment continues until 31 March 2020.

The remaining supplementary payments are of more limited duration. An additional payment is available to individuals whose claim for contributory Employment and Support Allowance began before the limiting of eligibility to 365 days in any two financial years.[89] If eligibility for the contributory benefit expires and the claimant moves onto income-based ESA but his or her award is less than the previous contributory award, or an application for income-based JSA is unsuccessful, or no application is made within 56 days, the payment is equivalent to the difference between the

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[79] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)
[80] Department for Communities, 'Administrative welfare supplementary payments' (Belfast: DfC, undated) <https://www.communities-ni.gov.uk/articles/administrative-welfare-supplementary-payments> accessed 31 January 2019
[81] Northern Ireland Office, *A fresh start: the Stormont agreement and implementation plan* (Belfast: NIO, 2015)
[82] Universal Credit Regulations (Northern Ireland) 2016 no 216 sch 4 para 35; Housing Benefit Regulations (Northern Ireland) 2006 no 405 reg B14(2)
[83] Welfare Reform (Northern Ireland Order) 2015 no 2005 (NI 1) art 137A
[84] Housing Benefit (Welfare Supplementary Payments) Regulations (Northern Ireland) 2017 no 35 reg 3, 5
[85] Housing Benefit (Welfare Supplementary Payments) Regulations (Northern Ireland) 2017 no 35 reg 2, 6
[86] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018)
[87] Welfare Supplementary Payments Regulations (Northern Ireland) 2016 no 178 reg 4, 4A
[88] Welfare Supplementary Payments Regulations (Northern Ireland) 2016 no 178 reg 4 – in the case of Universal Credit, the same principle is applied to the current administrative payment
[89] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 57

previous and current award, including where the current award is zero.[90] Eligibility for the supplementary payment terminates after one year, or on a successful application for contributory ESA, or on 31 March 2020, whichever comes first.[91] The supplementary payment might affect when an individual begins a claim for Universal Credit or the level of his or her award. The disparity between the funds allocated to mitigation schemes and the actual spend on supplementary payments is in part due to fewer people than anticipated experiencing a loss of income due to the time-limiting of ESA.[92]

Various categories of payment to carers may be affected by the transition from Disability Living Allowance to Personal Independence Payment – Carer's Allowance, carer premium within Jobseeker's Allowance, Employment and Support Allowance or Income Support, Income Support for carers and the additional amount for carers in Pension Credit. If the carer has been entitled to one of the relevant payments, but the person cared for moves from DLA to PIP and is not awarded the PIP daily living component at the requisite rate, the payment will be lost. In the case of the carer premium that applies to the benefits to be replaced by Universal Credit, a supplementary payment is equivalent to the premium lost will be awarded, continuing until the person cared for ceases to be entitled to a PIP supplementary payment, a new carer premium is awarded, an appeal is concluded, for one year or until 31 March 2020, whichever is soonest.[93] No payment is made in respect of periods when either the carer or the person cared for is resident in a care home or is a hospital in-patient at public expense.[94]

The final category of supplementary payment is available to claimants of Income Support, Jobseeker's Allowance, Employment and Support Allowance, Working Tax Credit or Pension Credit who lose a disability premium (including severe or enhanced disability premium) as a result of the transition from Disability Living Allowance to Personal Independence Payment. The rules are similar for each benefit. If the claimant is in receipt of the relevant benefit with a disability premium at the point of transition from DLA to PIP, but the claimant or one of the joint-claim couple is not awarded the element of PIP that confers eligibility for the premium, then eligibility for the premium terminates. The supplementary payment is equivalent to the lost disability premium or, where appropriate, the difference between the lower and higher rate severe disability premium. It is payable for one year, until the award of a new disability-related premium, until the termination of eligibility for the main income replacement benefit (eg Income Support) or until 31 March 2020, whichever is soonest.[95] The supplementary payment will also cease at the conclusion of any appeal against refusal of PIP or the requisite component thereof, or if the claimant's PIP award subsequently changes.[96] PIP-related supplementary payments have also seen an underspend compared to initial projections as fewer migrating DLA claimants than expected have seen their awards decrease (19% compared to a prediction of 33%),with more than expected experiencing an increase, and because migration has taken longer than initially anticipated.[97]

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[90] Welfare Supplementary Payments Regulations (Northern Ireland) 2016 no 178 reg 7, 8
[91] Welfare Supplementary Payments Regulations (Northern Ireland) 2016 no 178 reg 9, 10
[92] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)
[93] Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 no 253 part 3; reg 20
[94] Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 no 253 reg 28, 29
[95] The relevant provisions for income support claimants are at Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 no 254 part 2
[96] Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 no 254 reg 32, 39, 40
[97] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)

Payment arrangements for Universal Credit

Universal Credit will be subject to further Northern Ireland-specific features, which do not entail any additional payments to claimants but are designed to address some of the other issues identified by the two Assembly committees, notably to assist with budgeting. These departures from administrative practice in Great Britain were announced, along with the mitigation of the social sector size criteria and some measures affecting other benefits, in a letter from the Minister for Social Development to Northern Ireland church leaders, following a period of negotiation between political leaders, civil society and the DWP.[98] The Minister said Universal Credit claimants in Northern Ireland would:

- Receive fortnightly payments by default, with the option of moving to monthly payments (the default option in England and Wales) if they wish;
- Be offered a choice of a single household payment to an individual or joint back account or a split payment for couples making a joint claim;
- Have the housing costs element of the benefit paid directly to their landlord, unless they opt out of this arrangement.[99]
- Receive transitional protection in line with Great Britain, ensuring no cash-terms reduction of benefit when changing to Universal Credit, unless because of a change of circumstances.

Fortnightly payment are justified on the basis of concerns raised by stakeholders that some claimants might have difficulty budgeting between monthly payments, echoed by the Committee for Social Development's report on the Welfare Reform Bill. Direct payment of the housing element to landlords is intended to enhance housing security by reducing the risk of arrears and ensure "social housing provision has a firm financial basis," housing associations having warned that the sustainability of their finances could be threatened if tenants fail to pay rent.[100] The Minister's letter gives no specific reason for facilitating split payments for joint claimants, but the decision was presumably influenced by the ad-hoc committee's warning that a single payment to one member of the couple – likely to be the male partner – could have "adverse impacts on women and children."[101] This reflects wider warnings that the single household payment could increase vulnerability to domestic abuse. [102] By the end of 2018 it was understood that no split payments of Universal Credit were actually being made in Northern Ireland,[103] although it was reported a few months later that two joint-claim couples *were* exercising the option.[104] No specific measures exist to lessen the impact

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[98] See BBC News, 'Nelson McCausland meeting Lord Freud to discuss NI welfare reform' (BBC News, 16 October 2012) <https://www.bbc.co.uk/news/uk-northern-ireland-19955918>; NICVA, 'Lord Freud meets with sector representatives at NICVA' (NICVA news release, 28 November 2012) <http://www.nicva.org/article/lord-freud-meets-sector-representatives-nicva>

[99] Letter from Mervyn Storey MLA to NI church leaders (20 October 2014) <https://webarchive.nationalarchives.gov.uk/20141203165711/http:/www.dsdni.gov.uk/church-leaders-group-oct14.pdf> accessed 31 January 2019

[100] Chartered Institute of Housing Northern Ireland, *Impact of welfare changes on rented housing in Northern Ireland* (Belfast: CIHNI, 2017)

[101] Ad-hoc Committee, *Report on whether the Provisions of the Welfare Reform Bill are in conformity with the requirements for equality and observance of human rights* (NIA 92/11-15, Belfast: Northern Ireland Assembly, 2013) 4

[102] Women's Aid Federation Northern Ireland, 'Submission to the Ad Hoc Committee on Conformity with Equality Requirements relating to the Welfare Reform Bill', Ad-hoc Committee, *Report on whether the Provisions of the Welfare Reform Bill are in conformity with the requirements for equality and observance of human rights* (NIA 92/11-15, Belfast: Northern Ireland Assembly, 2013); M Howard, *Universal Credit and financial abuse: exploring the links* (London: Women's Budget Group, 2018); S Ditum, 'Why Universal Credit is a feminist issue' (New Statesman, 27 October 2017) 17

[103] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018)

[104] Law Centre Northern Ireland, 'Law Centre NI social security bulletin no. 21 – join the #CLIFFEDGENI COALITION' (Belfast: Law Centre NI, 2019)

of the five-week wait for a first Universal Credit payment following a successful application (with 21% of claimants in Great Britain having to wait longer still for payment in full), leading to reports of growing demand for crisis services.[105]

The appointment of Amber Rudd as Secretary of State in November 2018 was followed swiftly by the announcement of a further round of tinkering with Universal Credit. Several of the changes announced – in the absence of full detail of how they would be implemented – look likely to bring aspects of the administration of Universal Credit in England and Wales into line with Scotland and somewhat closer to practice in Northern Ireland. While noting that increased payment frequency and direct payment of the housing costs element to landlords are already available in certain circumstances in England and Wales, the Secretary of State expressed an aspiration to increase take-up of these options, including by allowing private landlords to request direct payment. There was also a commitment to promote "women's economic empowerment" by addressing ways in which "the current structure of household payments penalises women." This would involve unspecified changes to make it more likely that in joint-claim couples the payment is received by the main carer as well as greater flexibility as to how and when childcare costs are paid.[106]

Claimant activation

In principle, Universal Credit claimants in Northern Ireland are subject to the same set of behavioural conditions as their counterparts in Great Britain. As noted above, Universal Credit is intended to act as a system of "welfare that works,"[107] in the sense that its operation is geared towards moving claimants into paid employment and enabling them to progress in employment, through a combination of the removal of barriers, incentivisation and coercion. The same claimant groups exist and are subject to the same kind of conditions. The only significant legislative difference is the limitation of the maximum sanction period (for repeated higher level failures) to 546 days. The DWP and DfC decision maker guides for Jobseeker's Allowance and Universal Credit sanctions are also the same in substance.[108]

In practice, conditionality has tended to operate differently for claimants in Northern Ireland, even if there has been convergence towards a similar contracted-out, payment-by-results model for activation schemes.[109] A snapshot shows that whereas in the calendar year 2014 the number of Jobseeker's Allowance sanctions in England and Wales was equivalent to 31% of the average quarterly claimant count, in the financial year 2013-14 the sanctioning rate in Northern Ireland was equivalent to 13% of the quarterly claimant count in early 2014. The gap is even wider when higher level sanctions are considered in isolation.[110] The comparison is not perfect as statistics on

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[105] Comptroller and Auditor General, *Rolling out Universal Credit* (HC1123, London: National Audit Office, 2018); C Drake, *Universal Credit and debt* (Citizens Advice, 2017)
[106] A Rudd, 'Universal Credit: personal welfare' (speech at Kennington Jobcentre, January 2019) <https://www.gov.uk/government/speeches/universal-credit-personal-welfare>
[107] Department for Work and Pensions, *Universal Credit: welfare that works* (Cm 7957, London: DWP, 2010)
[108] Department for Work and Pensions, 'Chapter 34: JSA sanctions' in *Decision maker guide vol 6* (London: DWP, 2013/last update 2019); Department for Communities, 'Chapter 34 – Jobseeker's Allowance sanctions' in *Decision makers guide – vol 6* (Belfast: DfC, 2018); Department for Work and Pensions, 'Chapter K1: sanctions: general principles' in *Advice for decision making: staff guide* (London: DWP, 2013/last update 2019); Department for Communities, 'Chapter K1 – sanctions – general principles' in *Advice for decision making* (Belfast: DfC, 2019)
[109] Department for Employment and Learning, 'Minister announces new employment programme Steps 2 Success (NI)' (DEL news release, 18 June 2013) <http://www.northernireland.gov.uk/news-del-180613-minister-announces-new> accessed 28 October 2015
[110] Author's calculation based on figures from: Department for Work and Pensions, 'Jobseeker's Allowance and Employment and Support Allowance sanctions statistics' (London: DWP, 2015) <https://www.gov.uk/government/collections/jobseekers-allowance-sanctions> accessed 28 October 2015; Office for National Statistics, 'Regional labour market, May 2015' (Newport: ONS, 2015) <http://www.ons.gov.uk/ons/rel/subnational-labour/regional-labour-market-statistics/may-2015/stb-regional-

sanctioning have not been routinely published in Northern Ireland and the information used here was released in response to an Assembly question. This will now change due to the new duty placed on the Department to report regularly on the operation of sanctions, including the number imposed, duration and reason.[111] Other analyses have suggested that between 2012-13 and 2014-15, the sanctioning rate in Great Britain had "gone from around three times higher than Northern Ireland to around five times higher."[112] Policymakers in Northern Ireland have suggested that this reflects an organisational culture within the Northern Ireland Social Security Agency that is less suspicious and punitive to claimants than that within DWP.[113]

The mitigations working group recommended the creation of a dedicated helpline to assist sanctioned claimants with appeals or hardship payment applications, and that the claimant should automatically be informed of this service when being informed of the sanction.[114] This function has now been subsumed within the general welfare changes helpline. The Department for Communities has also published a leaflet giving general advice on how to avoid a sanction.[115]

Mitigations after 2020

The Fresh Start agreement provides for funding for a package of welfare reform mitigations until March 2020. As outlined above, various supplementary payments flowing from the introduction of Personal Independence Payment or reform of contributory Employment and Support Allowance are only payable for a maximum period of one year after the relevant financial loss takes effect. It is likely that these payments will no longer be relevant after 2020, even if there is an ongoing loss of income on the part of the affected individuals. For example, the number of people likely to be in scope for the ESA supplementary payment by March 2020 is so small that DfC has been unable to carry out a full statistical analysis of the impact of its withdrawal.[116] Payments to claimants affected by the benefit cap or social sector size criteria are made on an ongoing basis and there is an urgent need to consider what will happen to these mitigations after 2020. Differences of practice other than supplementary payments – the shorter maximum sanctioning period and the payment arrangements for Universal Credit – can be expected to continue.

Supplementary payments to claimants affected by the social sector size criteria represent the most significant mitigation in terms of expenditure, at more than £22 million per year (on average, £12.50 per claimant per week).[117] Assembly debate on the legislative consent motion that paved the way for the Northern Ireland (Welfare Reform) Act 2015 was marked by sometimes bitter disputes about whether the motion would effectively result in the introduction of the 'bedroom tax' to Northern Ireland.[118] Even setting aside the small number of claimants whose benefit has been reduced due to under-occupancy after moving house, it is clear that the social sector size criteria *will* apply in Northern Ireland after March 2020 in the absence of legislation to prolong the mitigation. Anecdotal

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labour-market-may-2015.html> accessed 28 October 2015; Minister for Social Development, AQW 46136/11-15, 2 June 2015; Minister for Social Development, AQW 46169/11-15, 9 June 2015

[111] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 125

[112] A Tinson, 'Welfare sanctions in NI: the facts' (Scope NI, 1 April 2016) <https://scopeni.nicva.org/article/welfare-sanctions-in-ni-the-facts>

[113] M Simpson, 'Renegotiating social citizenship in the age of devolution' (2017) 44(4) Journal of Law and Society 646

[114] Welfare Reform Mitigations Working Group, *Welfare Reform Mitigations Working Group report* (Belfast: OFMDFM, 2016)

[115] Department for Communities, 'Jobseeker's Allowance sanction information' (Belfast: Northern Ireland Executive, 2018)

[116] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)

[117] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018); Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)

[118] NIA deb 18 November 2015 vol 109 no 7 p19-69

evidence from housing associations suggests many tenants seeking to move house during the mitigation period did not know that the supplementary payment could be lost as a result,[119] and it seems fair to assume that some will be unaware of the possible ending of the payments in 2020; some may be entirely unaware of the size criteria.[120] In July 2018, some 32,777 social tenants were receiving supplementary payments. Given the extent of under-occupancy in Northern Ireland and the fact that 45% of the social housing waiting list consists of single people, while only 18% of the stock consists of one-bedroom properties, it is likely that large numbers of people would be affected by the ending of the mitigation.[121] The small number of claimants who had lost supplementary payments by June 2018 saw their average rent arrears increase from £46 prior to the end of the supplementary payment to £174 by November 2018. Outright withdrawal of the mitigation is projected to result in a collective loss of benefit of £21 million per year; the resulting increase in arrears is likely to be less, but still significant. [122]

The household benefit cap is one of the less costly mitigations, with just under £4 million spent in 2017-18,[123] but like the social sector size criteria the associated supplementary payment is available on an ongoing basis throughout the mitigation period, not for a fixed period per claimant. The general enabling provision in the primary legislation sets no cut-off date for supplementary payments made under it,[124] but the Regulations provide that payments end in March 2020.[125] In July 2018, 1,580 households were receiving supplementary payments, £48 per week on average but with eight per cent of capped claimants receiving £100 per week or more. 84% of capped claimants are lone parents, with all of the remainder couples with children.[126] The Department for Communities has suggested that termination of the supplementary payment could be compensated for through the Discretionary Housing Payments scheme, as the underspend against the DHP budget in 2017-18 was roughly in line with spending on the benefit cap supplementary payment.[127]

The provision of the 2015 Order that empowers the department to make supplementary payments is not subject to any time limit, nor does it limit supplementary payments to the mitigation of financial losses flowing from that Order – the reforms in the 2016 Order also fall within its scope.[128] Consequently, there is potential for the current supplementary payments to be extended, or for new mitigations to be introduced. The main advice sector organisations in Northern Ireland have called for the retention of "a number of the current mitigations" – these are not identified, but are likely to include the social sector size criteria and household benefit cap – and suggested mitigations additional to those currently in place. These include:

- A one-off, non-recoverable payment to support new Universal Credit claimants through the five-week period before a first payment is received.

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[119] Chartered Institute of Housing Northern Ireland, *Impact of welfare changes on rented housing in Northern Ireland* (Belfast: CIHNI, 2017)
[120] Northern Ireland Housing Executive Research Unit, *Welfare reform in Northern Ireland: a scoping report* (Belfast: NIHE, 2018); Northern Ireland Housing Executive Research Unit, *Tenant perceptions, awareness and experience of welfare reform* (Belfast: NIHE, 2018)
[121] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018)
[122] Northern Ireland Housing Executive Research Unit, *Welfare reform in Northern Ireland: a scoping report* (Belfast: NIHE, 2018)
[123] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018)
[124] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 137
[125] Welfare Supplementary Payment Regulations (Northern Ireland) 2016 no 178 reg 4(6)
[126] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018)
[127] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)
[128] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 137

- A supplementary payment to mitigate the non-availability of transitional protection to legacy benefit claimants who are required to claim Universal Credit due to a change of circumstances (natural migration).
- Funding for unspecified services to address the needs of low income tenants affected by various aspects of welfare reform.
- A supplementary payment to mitigate the effect of the two child limit on Universal Credit and Child Tax Credits, so that each additional child brings the same top-up to income.
- A supplementary payment to mitigate the loss of a disabled child premium as the result of the transition from Disability Living Allowance to Personal Independence Payment.
- Discretionary support to be paid as a grant, not a loan, to households including a child or disabled person.
- No additional conditionality for lone parents of children under five years old.
- No sanctions applied to households including a child or disabled person.
- Increased funding for advice services, including specialist housing advice, tribunal representation and co-location of services.

Whether, and how, such a package could be put in place in the current context is uncertain. The Northern Ireland Assembly was dissolved for an election on 24 January 2017. It met again on 13 March 2017, when the sole item of business was the signing of the roll of membership and has not met since, although at the time of writing a new round of political negotiations to explore the prospects for restoration was getting underway.[129] Regulations providing for payments to persons who suffer financial disadvantage require affirmative resolution by the Assembly.[130] As noted above, the Assembly gave its approval to Regulations putting in place various supplementary payments but did not do so for those payable to Universal Credit claimants, although these have been prepared in draft form.[131] This has not prevented such claimants receiving supplementary payments. Legally speaking, it might be possible to question whether making these administrative payments is within the powers conferred on Department for Communities by the legislation. However, the Fresh Start agreement provided a strong political mandate and the necessary funds to put the recommendations of the Mitigations Working Group into practice. [132] The political intent would have been thwarted had the gradually increasing number of Universal Credit claimants been unable to access supplementary payments equivalent to those available to legacy benefit claimants, with the Regulations in respect of legacy benefits providing the detail of how each payment operates. In the case of the proposed cost of working allowance, the political mandate and budget were present but the legislative detail was absent, and the payment has not been introduced.

No funding was committed to similar measures beyond March 2020 and it is not apparent that a comparable political commitment was made. Advice sector organisations have argued that the political intent of *A fresh start* was that application of the social sector size criteria should be deferred indefinitely, except where the legislative exception applies, and that the underspend up to the present could be treated as surplus funds to be spent on further mitigations.[133] This might conceivably form a basis for the continuation of certain of the current supplementary payments, but

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[129] T May and L Varadkar, 'Statement by PM Theresa May and Taoiseach Leo Varadkar' (Prime Minister's Office, 26 April 2019) <https://www.gov.uk/government/news/statement-by-pm-theresa-may-and-taoiseach-leo-varadkar-26-april-2019>; K Bradley, 'Secretary of State for Northern Ireland statement on political talks' (Northern Ireland Office, 26 April 2019) <https://www.gov.uk/government/news/secretary-of-state-for-northern-ireland-statement-on-political-talks>

[130] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 137(5)

[131] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)

[132] Northern Ireland Office, *A fresh start: the Stormont agreement and implementation plan* (Belfast: NIO, 2015); Northern Ireland Executive, *Budget 2016-17* (Belfast: Northern Ireland Executive, 2016)

[133] Advice NI, Housing Rights and Law Centre NI, 'Welfare reform: mitigations on a cliff edge' (Belfast: Advice NI, Housing Rights and Law Centre NI, 2018)

not for any of the additional forms of assistance the advice providers advocate. Legislation empowers senior officers of the Northern Ireland departments to exercise Ministerial functions in the absence of a Minister until August 2019.[134] However, given that Regulations under art 137 of the 2015 Order require approval by the to take effect, it seems unlikely that this would provide a basis for the creation of additional supplementary payments. The prospect of the UK Parliament legislating for additional support for citizens in Northern Ireland that is not available to those elsewhere in the UK appears equally remote. Further, the surplus of £136 million in the mitigations budget for 2016-17 and 2017-18 was reallocated to other services and the Secretary of State has reduced the allocation for supplementary payments in the 2019-20 Budget by £29 million.[135] A functioning Assembly is therefore likely to be a precondition to the development of a reprofiled mitigations package, as the Department acknowledges:

> "The Department will not be able to make amendments to the existing mitigations legislation as it is subject to Affirmative Resolution (i.e. must be approved by the Assembly)… In the absence of a functioning Assembly it is considered that the only viable option for providing the legal authority for the Department to make mitigation payments beyond 2020 would be for the Westminster Parliament to bring forward appropriate legislation." [136]

The report goes on to state that the UK Parliament could *not* in fact legislate for social security in Northern Ireland in the absence of a further legislative consent motion from the Assembly, but this is not strictly true. As the sovereign legislature, it is within the competence of Parliament to legislate in any area of policy, anywhere in the UK, although by convention it normally does not legislate on devolved matters in the absence of legislative consent from the affected region.

Summary

Northern Ireland is not alone in seeking to shield citizens from some of the perceived negative effects of 'welfare reform', but thanks to the extent of its devolved social security powers it has been able to put in place the most ambitious set of mitigating measures for Universal Credit claimants. While Scotland has introduced comparable flexibilities around payment arrangements and made additional payments to negate the effect of the social sector size criteria, the other supplementary payments are unique to Northern Ireland. Since these payments are generally made automatically, it is possible that not all beneficiaries will realise they are receiving a top-up to their benefit. This means that research with Universal Credit claimants will have to carefully consider participants' circumstances to determine whether they are likely to be in receipt of a supplementary payment. How much claimants feel they benefit from the various mitigation measures and the likely impact of the future withdrawal of supplementary payments are among the most important questions to be answered about Universal Credit's operation in Northern Ireland.

Universal Credit in Northern Ireland: the research evidence to date

The main published research on Universal Credit in Northern Ireland to date is the initial study conducted by the Department for Communities in line with its obligation to report regularly on the impact of welfare reform in Northern Ireland. This examined awareness of various reforms among people affected (or, in the case of Universal Credit, likely to be affected) by them. It found that 77% of claimants of benefits scheduled to be replaced by Universal Credit knew of the new benefit,

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[134] Northern Ireland (Executive Formation and Exercise of Functions) Act 2019 c28 s1-3; Northern Ireland (Extension of Period for Executive Formation) Regulations 2019 no 616

[135] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019); Department of Finance, 'Northern Ireland Budget 2019-20: explanatory notes and tables' (Belfast: Department of Finance, 2019) <https://www.finance-ni.gov.uk/publications/northern-ireland-budget-2019-20>

[136] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019)45

although only 10% knew "a great deal" or "a fair amount."[137] Awareness of other changes likely to affect Universal Credit claimants (the benefit cap and social sector size criteria) was higher, while only 34% of applicants for discretionary assistance knew of the change from the Social Fund to the new system of discretionary support payments. The 'pre-Universal Credit' claimant group was not asked to comment on communications received as implementation had not reached this stage, but across the board there were significant levels of dissatisfaction with the clarity, adequacy and timeliness of information provided about reforms – particularly among those in scope for the benefit cap.

Table: Awareness of specific reforms likely to affect the respondent and perceptions of related communications[138]

Reform	Awareness	Communications clear	Communications adequate	Communications timely
Benefit cap	97%	48%	41%	46%
Discretionary support	34%			36%
ESA time limit	57%	39%	37%	
PIP	79%	67%	67%	
Social sector size criteria	92%	54%	59%	70%
Universal Credit[139]	77%			

The published data do not show how detailed claimants' awareness of the changes was. For example, an individual might be aware of the existence of a high profile reform like the 'bedroom tax' (although even this is not guaranteed)[140] but not know whether or how it would affect him or her. Previous engagement with social tenants found that some thought Northern Ireland would be exempt from the latter policy or did not realise that the current mitigation payments would only be available for a limited period.[141] Questions specifically focused on the mitigations show extremely limited awareness among some claimant groups.

Table: Awareness of existence and receipt of supplementary payments[142]

Reform	Aware of supplementary payments	Claimant unaware whether supp. payment received	Claimant knows when supplementary payment ends
Benefit cap	67%	11%	44%
ESA time limit	56%	28%	27%
Social sector size criteria	74%		69%
PIP	22%	12%	41%
Universal Credit	17%	7%	

[137] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019) 30
[138] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019) 4-5
[139] This group consisted of recipients of benefits that will be replaced by Universal Credit: Jobseeker's Allowance (15% of respondents), Employment and Support Allowance (42%), income support (16%), housing benefit (7%) and tax credits (21%)
[140] Northern Ireland Housing Executive Research Unit, *Tenant perceptions, awareness and experience of welfare reform* (Belfast: NIHE, 2018)
[141] Chartered Institute of Housing Northern Ireland, *Impact of welfare changes on rented housing in Northern Ireland* (Belfast: CIHNI, 2017)
[142] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019)

Participants in the DfC survey in receipt of benefits to be replaced by Universal Credit were asked a range of specific questions about the administration of the system. Given the claims made about the greater simplicity to the claimant of Universal Credit, it will be interesting to compare these figures with responses as the new benefit rolls out. Notably, 20% of legacy benefit claimants said it was not easy to make and maintain their claim.[143] In a simpler, more streamlined benefit, the hope would be that this figure will decrease. Given the reported difficulties of engagement with a fully digital application and compliance process, [144] the fear must be that it could increase. 31% of 'pre-Universal Credit' respondents in the DfC survey used the internet no more than once a month and only a third said they had previously managed a benefit claim or looked for jobs online, or would be interested in doing so.[145]

In the DfC survey, 78% of prospective Universal Credit claimants agreed with the statement "I would be better off in work or working additional hours." However, this finding says nothing about whether the introduction of Universal Credit has increased perceptions that people would be better off in employment, which would be the case for most out-of-work claimants regardless. 30% of respondents in scope for the benefit cap did feel that its introduction had increased their motivation to enter employment.[146] Even under the legacy system, most claimants felt they knew what conditions they had to meet to retain their entitlement and were well supported in their jobseeking. However the significant minorities who disagreed should not be ignored – particularly the 10% who felt they had *not* received a clear explanation of their benefit conditions, potentially putting them at risk of a sanction.[147] Ultimately, it may be inferred that supply was the biggest obstacle between claimants and a return to paid work: 52% disagreed with the statement that "there are a sufficient variety of jobs that I can apply for."[148] This is in keeping with the findings of previous research with policymakers[149] and highlights that changes to the conditionality regime and deduction rates can only ever have a limited impact on labour market engagement in the absence of sufficient suitable opportunities.

Summary

As this section demonstrates, the research evidence base on Universal Credit in Northern Ireland is limited to date, and largely based on projections of financial impact and survey research with actual or prospective claimants. There is a need for qualitative research that allows for an in-depth exploration of claimants' experiences of Universal Credit, including the Northern Ireland-specific mitigations, to help answer the questions highlighted throughout this report.

Conclusion & next steps

The implementation of Universal Credit in Northern Ireland remains at a relatively early stage, although sufficient numbers of claimants are now receiving the new benefit to make this an opportune time for a study of its impact. Thus far, little research evidence exists of the impact of

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[143] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019) 26
[144] C Easton, 'Welfare that works? The Universal Credit information technology system and disabled people' (2014) 20(3) Web Journal of Current Legal Issues <http://webjcli.org/article/view/354/467>; G McKeever, M Simpson and C Fitzpatrick, *Destitution and paths to justice* (London: Legal Education Foundation/York: Joseph Rowntree Foundation, 2018)
[145] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019) 28
[146] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019) 10
[147] See M Oakley, *Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013* (London: DWP, 2014)
[148] Analytical Services Unit, *Welfare reform (NI) claimant baseline surveys* (Belfast: DfC/NISRA, 2019) 27
[149] M Simpson, 'Renegotiation social citizenship in the age of devolution' (2017) 44(4) Journal of Law and Society 646

Universal Credit on claimants in Northern Ireland. This will be partially addressed by the participatory research currently being conducted by the report's authors into experiences of Universal Credit in Northern Ireland.

Like most aspects of the devolved social security system, Universal Credit represents a policy inherited from Great Britain rather than devised to meet the specific needs of Northern Ireland. Nonetheless, it is clear that a significant part of the policy community shares DWP's aspirations for the benefit, that it should deliver a simplified system of working age social assistance, under which claimants have fewer barriers and greater financial incentives to enter and progress in paid employment. At the same time, there has been some ideological opposition to UK governments' austerity agenda, of which the 'welfare reform' project is one strand, and more widespread concerns that certain features of Universal Credit – notably the social sector size criteria – are ill suited to the specific circumstances of Northern Ireland. Consequently, although Universal Credit shares the same objectives and largely works the same way on both sides of the North Channel, there are some differences, albeit that these are limited, in some cases temporary and potentially becoming less stark given recent announcements from DWP.

Given the current, country-specific rollout of Universal Credit in Northern Ireland it is critical and timely to explore experiences of the benefit, and to contribute to an emergent knowledge base on how far the benefit is assisting people to meet their essential needs and support (or undermine) their efforts to meet their own aspirations, whether these centre on parenting, care work, paid work or other objectives. This is something that will be explored by the research currently being undertaken by this report's authors: a participatory, study into claimants' experiences of receiving Universal Credit in Nothern Ireland.

This research will explore whether Universal Credit is succeeding in its own terms by incentivising and supporting jobseeking behaviour and ultimately transition to and progression in paid employment, as well as the effects of the Northern Ireland-specific payment patterns and supplementary payments. The experience of transitioning to Universal Credit (whether from paid work or from another benefit) will also be of interest given the concerns identified elsewhere about the digital application process, subsequent wait for an initial payment and extent of administrative errors when processing claims in Great Britain.[150] Equally importantly, the project will evaluate UC from the claimant perspective. The research will develop recommendations for the future evolution of Universal Credit in Northern Ireland, including but not limited to a package of mitigation measures beyond the expiry of the current supplementary payments in 2020. It will also identify lessons for governments in Great Britain based on the claimant experience in Northern Ireland and (in particular) the Northern Ireland-specific aspects of its operation. In keeping with the participatory ethos of the project, this will be led by the claimant-participants themselves across a series of research workshops and stakeholder engagement activities, with support from the rest of the research team and voluntary sector partners.

It is envisaged that this research will make a useful contribution to understandings of Universal Credit's effectiveness, to the impact of devolved differences in its implementation, and to broader debates about the future mitigation packages in Northern Ireland post-2020. Against a context of continued academic, political and media interest in Universal Credit, and continued concern about its rollout, the research arguably has the potential to be both impactful and highly relevant.

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[150] Child Poverty Action Group, 'CPAG's early warning system – report on Universal Credit top issues' (London: CPAG, 2018); C Drake, *Universal Credit and debt* (Citizens Advice, 2017); Comptroller and Auditor General, *Rolling out Universal Credit* (HC1123, London: National Audit Office, 2018)

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