Reflections on Northern Ireland’s mirror image approach to devolved social security

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Introduction

Northern Ireland is the only UK region in which social security is wholly devolved, but its system has been characterised by "parity, parrotry or plagiarism" of that in Great Britain.[i] This tendency has been reinforced by political preferences to remain aligned with Westminster, subsidies from the UK exchequer and a constitutional provision encouraging, although not requiring, parity.[ii] Almost without exception, Northern Ireland has offered the same benefits, paid at the same rate and subject to the same conditions as Great Britain. [iii]

Northern Ireland was particularly exposed to social security reforms from 2007 to 2016 due to its high levels of under-occupancy in social housing, average family sizes, disability and economic inactivity and lower earnings. These combined to produce a projected loss to the regional economy (due to reforms up to 2012) of £650 per person per year, compared to £530 in North West England, one of the worst affected areas of Great Britain.[iv] Partly for this reason, equivalent legislation failed to complete its passage through the Northern Ireland Assembly,[v] but was later passed at Westminster[vi] after the regional parties agreed to fund a package of mitigating measures.[vii] These include administrative changes to Universal Credit (UC) and supplementary payments to shield claimants from certain financial losses.[viii]

Distinctive features of social security in Northern Ireland

Payment arrangements for UC in Northern Ireland are designed to assist with budgeting. While entitlement is calculated on a monthly basis, as in Great Britain, payments are made twice per month by default. The housing costs element is paid directly to landlords, rather than to claimants.[ix] A commitment was given to split payments to joint-claim couples on request, although in early 2019 it was reported that only two couples had taken this option.[x]

Up to £150 million per year was earmarked for supplementary payments to claimants who would otherwise lose money due to social security cuts, although there has been a large underspend.[xi] The most significant compensates under-occupying social tenants whose housing benefit or universal credit entitlement is reduced by the social sector size criteria (SSSC or 'bedroom tax').[xii] Almost 33,000 claimants receive an average of £12.50 per week,[xiii] eligibility terminating if the claimant moves house and continues to under-occupy by at least the same number of bedrooms. A second supplementary payment negates the effect of the household benefit cap on claimants with dependent children, if they have been continuously in receipt of one of the capped benefits since 2016.[xiv] In July 2018, 1,580 households were receiving supplementary payments averaging £48 per week.[xv] Due to Northern Ireland's relatively low housing costs, relatively few people (with larger families – averaging 3.8 children)[xvi] have benefitted from this mitigation, but the number is likely to have increased as a result of increases to the UC standard allowance and the local housing allowance in response to COVID-19.[xvii] New UC claimants can also request a one-off discretionary grant in addition to or instead of the repayable advance payment.

Remaining supplementary payments are available for up to one year. Most of these compensate for losses resulting from the transition from disability living allowance to personal independence payment, or knock-on effects on other benefits following an unsuccessful application for PIP, such as the loss of carer's allowance.[xviii] A payment is also available to claimants who lose money due to the shortening of eligibility for contributory employment and support allowance.[xix] All supplementary payments were initially due to end in March 2020, but at the time of writing payment is continuing pending a review of the mitigations package, delayed due to the three-year absence of a devolved Executive followed by COVID-19.

Some key reforms are *not* mitigated in Northern Ireland, including below-inflation uprating of the main income replacement benefits since 2010 (including the four-year freeze from April 2016) – the single greatest cause of financial loss to claimants[xx] – and the two-child limit on entitlement to tax credits and UC. Also worth noting is the discretionary support scheme – in contrast to discretionary assistance schemes in England, this is available everywhere in Northern Ireland and allows for the award of non-repayable grants.[xxi]

Claimants in Northern Ireland have also been protected from some of the harder edges of conditionality. On paper, conditionality looks much like Great Britain, with the same groups within UC (full conditionality, limited capability for work and limited capability for work-related activity),[xxii] and convergence towards a contracted-out, payment-by-results model for welfare-to-work schemes.[xxiii] However, Jobseeker's Allowance claimants in Great Britain were typically three times as likely or more to be sanctioned (the gap has largely closed for UC claimants as DWP has reduced its use of sanctions).[xxiv] This appears to reflect an organisational culture that is less suspicious and punitive towards claimants than within the Department for Work and Pensions.[xxv] Northern Ireland's response to COVID-19 has involved a longer suspension of conditionality than in Great Britain.

Lessons for Greater Manchester

The key lesson for Greater Manchester from Northern Ireland is that even in a wholly devolved social security system, the scope for divergence can be limited. The chances of an English region receiving such extensive competences seem slim and this will increase the challenge. Changes to UC payment patterns or the operation of welfare-to-work policy would have to be implemented by the Department for Work and Pensions unless administration of benefits were devolved. Nonetheless, the Scottish experience (see the essay from Professor Sharon Wright accompanying this series: *Social security in Scotland*) suggests neither is wholly out of the question[xxvi] and Northern Ireland offers examples of potential mitigating measures, albeit that these are more palliative than panacea for the various problems associated with UC and the wider welfare reform project.[xxvii]

Many of the current supplementary payments will lose their relevance on completion of the transition from DLA to PIP, although there might be a case for short-term payments to soften income shocks associated with the loss of a disability benefit. Payments to under-occupying tenants and capped claimants make a considerable contribution to household budgets, as evidenced by the rapid growth of rent arrears among the small number of claimants whose eligibility for the SSSC mitigation has terminated.[xxviii] Higher housing costs in England[xxix] would probably mean higher average payments and greater demand for any benefit cap mitigation, but it is also likely that a lower percentage of social tenants are under-occupying[xxx] and expenditure on discretionary housing payments would fall.

Greater Manchester should also consider the gaps in the Northern Ireland mitigation scheme. For some households, the two-child limit on UC and below-inflation uprating of benefits will have reduced income to a greater extent than mitigated reforms, while the SSSC supplementary payment creates inequality between under-occupying social and private tenants, with the latter receiving no automatic assistance if unable to downsize. Ultimately, what can be done to support claimants at regional level will depend on the interaction of available powers, available budget and political will.

About Mark Simpson

Dr Mark Simpson is a Lecturer in Law at Ulster University. His research focuses on social justice and the law. Mark recently completed a study on Universal Credit in Northern Ireland for the Joseph Rowntree Foundation and is currently writing a book on social security and devolution for Hart Publishing.

About the *Devolved approaches to social security in the UK – lessons for Greater Manchester* essays series

SHUSU
Sustainable Housing & Urban Studies Unit

Greater Manchester Poverty Action (GMPA) and the Sustainable Housing and Urban Studies Unit (SHUSU) at the University of Salford invited academics to set out what lessons Greater Manchester can learn from approaches to social security in devolved settings across the UK. Three essays in this series look at aspects of social security policy and practice in Northern Ireland (*Reflections on Northern Ireland's mirror image approach to devolved social security*), Scotland (*Social security in Scotland*) and Wales (*Taking an assets-based approach to Jobcentre Plus support: Lessons from Wales*). A fourth essay (*What can local responses to COVID-19 tell us about the potential and challenges for devolved 'welfare'?*) looks at the role of local actors (from within both the public and VCSE sectors) in supporting people to access and understand welfare provision in the context of COVID-19 and consider the implications for future devolution of the social security system to Greater Manchester.

The essays series is a joint project between GMPA and SHUSU to help inform the development of social security policy in Greater Manchester. Any views expressed in the essays do not necessarily reflect the views of GMPA or SHUSU. The essays series contributes to two of GMPA's core aims to:

- Equip stakeholders from across public, private and VCSE sectors across Greater Manchester with the skills, knowledge and expertise they need to tackle poverty.
- Promote innovative policy and practice-based responses to poverty that draw on good practice, that are evidence based, collaborative and scalable.

The University of Salford is a Principal Partner of GMPA.

[i] L Lundy, 'Parity, parrotry or plagiarism? Legislating for the unemployed poor in Northern Ireland 1838-1995' in N Dawson, D Greer and P Ingram (eds), *One hundred and fifty years of Irish law* (Belfast: SLS Legal Publications, 1996)
[ii] M Simpson, 'Developing constitutional principles through firefighting: social security parity in Northern Ireland (2015) 22(1) Journal of Social Security Law 31; Northern Ireland Act 1998 c47 s87
[iii] M Simpson, 'Developing constitutional principles through firefighting: social security parity in Northern Ireland (2015) 22(1) Journal of Social Security Law 31; Northern Ireland Act 1998 c47 s87
[iv] C Beatty and S Fothergill, *The impact of welfare reform on Northern Ireland* (Sheffield: Centre for Economic Empowerment, 2013)

[v] Welfare Reform Bill (NIA Bill 13/11-15)
[vi] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1); Welfare Reform and Work (Northern Ireland) Order 2016 no 999 (NI 1)
[vii] Northern Ireland Office, *A fresh start: the Stormont agreement and implementation plan* (Belfast: NIO, 2015)
[viii] Welfare Reform Mitigations Working Group, *Welfare Reform Mitigations Working Group report* (Belfast: OFMDFM, 2016)
[ix] Department for Communities, 'Universal Credit and rented housing: guide for landlords' (Belfast: DfC, 2019) <https://www.communities-ni.gov.uk/articles/universal-credit-and-rented-housing-guide-landlords>
[x] Law Centre Northern Ireland, 'Law Centre NI social security bulletin no. 21 – join the #CLIFFEDGENI COALITION' (Belfast: Law Centre NI, 2019)
[xi] Department for Communities, *Review of welfare mitigations schemes* (Belfast: DfC, 2019); Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)
[xii] Welfare Reform (Northern Ireland) Order 2015 no 2006 (NI 1) art 137A
[xiii] 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)
[xiv] Welfare Supplementary Payments Regulations (Northern Ireland) 2016 no 178 part 2
[xv] 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)
[xvi] Department for Social Development, *Northern Ireland benefit cap information booklet* (Belfast: DSD, 2016)
[xvii] N Harris, C Fitzpatrick, J Meers and M Simpson, 'Coronavirus and social security entitlement in the UK' (2020) 27(2) Journal of Social Security Law 55
[xviii] Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016 no 250; Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 no 253; Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 no 254
[xix] Welfare Supplementary Payments Regulations (Northern Ireland) 2016 no 178 part 3
[xx] Northern Ireland Audit Office, *Welfare reforms in Northern Ireland* (Belfast: NIAO, 2019)
[xxi] Discretionary Support Regulations (Northern Ireland) 2016 no 270
[xxii] Universal Credit Regulations (Northern Ireland) 2016 no 216
[xxiii] 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
[xxiv] A Tinson, 'Welfare sanctions in NI: the facts' (Scope NI, 1 April 2016) <https://scopeni.nicva.org/article/welfare-sanctions-in-ni-the-facts>
[xxv] R Patrick and M Simpson, *Universal credit could be a lifeline in Northern Ireland, but it must be designed with people who use it* (York: JRF, 2020) < https://www.jrf.org.uk/report/universal-credit-could-be-lifeline-northern-ireland-it-must-be-designed-people-who-use-it>
[xxvi] See Wright in this volume
[xxvii] R Patrick and M Simpson, *Universal credit could be a lifeline in Northern Ireland, but it must be designed with people who use it* (York: JRF, 2020) < https://www.jrf.org.uk/report/universal-credit-could-be-lifeline-northern-ireland-it-must-be-designed-people-who-use-it>
[xxviii] Northern Ireland Housing Executive Research Unit, *Welfare reform in Northern Ireland: a scoping report* (Belfast: NIHE, 2018)
[xxix] Local housing allowances for a three-bedroom property range from £95.33 to £120.91 in Northern Ireland and from £166.85 to £172.60 in Manchester. However, LHAs are based on private sector rents and will be an imperfect guide to likely social rents. See Northern Ireland Housing Executive, 'Current LHA rent levels' (Belfast: NIHE, 2019) <https://www.nihe.gov.uk/Housing-Help/Local-Housing-Allowance/Current-LHA-rent-levels>; Manchester City Council, 'Local housing allowance (LHA) rules' (Manchester: MCC, 2019) <https://secure.manchester.gov.uk/info/200008/benefits_and_support/4249/local_housing_allowance_lha_rules/3>
[xxx] 19% of working age social tenants in England under-occupy, compared to 58% in Northern Ireland – K Gibb, *The 'bedroom tax' in Scotland* (SP paper 409, Edinburgh: Scottish Parliament, 2013)