

UNDERSTANDING “PARITY”
DEPARTMENTAL BRIEFING PAPER

Summary

Fundamentally, the policy of parity ensures that a person in Northern Ireland has the same benefit entitlements as his or her counterpart in England, Scotland or Wales. This facilitates free movement within the UK, and ensures that individuals have access to the same benefits, regardless of location and irrespective of whether Northern Ireland can itself generate sufficient revenue to fund the benefits.

Key Factors

Section 87, Northern Ireland Act 1998 requires the Secretary of State with responsibility for social security and the equivalent NI Minister to consult each other with a view to securing single systems of social security, child support and pensions for the UK.

The Statement of Funding Principle at para 5.4 makes it clear that the funding for the social security system is demand-led, and comes from Treasury. It goes on to say that if NI chooses to differ from the GB social security policy, that the funding of the system will be reviewed.

DWP briefed the previous Social Development Committee on parity and advised that if an NI variance led to additional cost, either in NI or in GB, that NI would be required to fund that additional cost from the Northern Ireland block vote – ie in competition with all the other Executive priorities.

The social security system in NI was supplemented by GB to the tune of at least £3Billion approx in 2009/10. This was made up of £395 million to supplement the Northern Ireland National Insurance Fund, and around £2.8 billion (approx) in income-related and other benefits.

If the social security system in NI were to be funded on the basis of the Barnett formula, the resulting money transfer would be far short of the amount actually needed to meet demand. At a time of recession, it is likely that demand would increase, disproportionately, further widening the gulf between the funding received from Westminster, and the local need.

Practical issues include the dependence of the Social Security Agency and Child Maintenance Enforcement Division on Department for Work and Pensions computer systems. Any variance between NI and GB usually means a manual “work around”. NI cannot afford to create, and maintain its own IT systems.

SCOPE FOR VARIANCE

There is limited scope for Northern Ireland to “do its own thing”, due to the financial implications of breaking “parity”. However, it is widely recognised that operational flexibility can, and often does, take account of differing local circumstances. For example, a Job Seeker who is also a Lone Parent would not be sanctioned where they are unable to take up an opportunity to work, due the unavailability of affordable childcare. In NI there is no statutory duty on Local Authorities to provide childcare, unlike the situation in England.

Annex A

1. section 87 Northern Ireland Act 1998

“The Secretary of State and the Northern Ireland Minister having responsibility for Social Security (“The Northern Ireland Minister”) shall from time to time consult one another with a view to securing that, to the extent agreed between them, the legislation to which this section applies provides single systems of social security, child support and pensions for the United Kingdom.”

2. The Statement of Funding Principle para 5.4

“social security benefits in Northern Ireland will be funded on the same model as in Great Britain, that is funding will be in line with actual entitlement of claimants.”

“If, in the future, the Northern Ireland Executive change social security policy to differ from the rest of the United Kingdom, United Kingdom Ministers will need to take a view on whether and how to adjust this funding.”

Annex B

The Doctrine of Parity

Since the formation of a separate Northern Ireland legislature under the Government of Ireland Act 1920, benefits (now known as social security) and pensions have been transferred matters., For the ensuing three decades “social security and pensions type” measures in GB were matched by separate legislation in Northern Ireland. However, as the Northern Ireland administration was unable fully to finance these measures, a series of interest-free loans was provided from Westminster.

2. Following the Beveridge Report, a National Insurance Scheme was introduced across GB and Northern Ireland with separate but corresponding legislation in both jurisdictions. This included the establishment of a separate Northern Ireland National Insurance Fund (to replace the interest free loans). The 1946 National Insurance Acts also provided for arrangements to co-ordinate the GB and Northern Ireland insurance systems to secure that they operated as a single system. National Insurance contributions and benefit rates were therefore set at the same rates in GB and Northern Ireland. The level of benefits was set by reference to economic conditions in GB, this resulted – and continues to this day to result – in higher rates of benefit being paid in Northern Ireland than would be the case if they had been set by reference to economic conditions in Northern Ireland. It also meant that, unless higher rates of National Insurance contributions were levied in Northern Ireland, the Northern Ireland National Insurance Fund was unlikely ever to be self sufficient. Under the Social Services Agreement 1949, the Westminster Exchequer undertook to provide the necessary funding to maintain the rates of non-contributory benefits in Northern Ireland subject to the maintenance of parity.

3. Since 1948 social security and pensions have remained in parity with successive new benefits and changes to entitlement conditions for existing benefits being adopted in both jurisdictions. Some minor differences have existed from time to time largely due to extraneous factors, for example, the housing benefit scheme reflects the different system of local taxation. When the Child Support Scheme was proposed in 1991, the legislation provided for the Department and the Secretary of State for Social Security to seek to secure a single system of child support.
4. The Belfast Agreement specifically cited social security as an area where parity is normally maintained. This was reflected in the Northern Ireland Act 1998 where, although social security, child support and pensions are not designated as either excepted or reserved matters, provision was made to ensure that the systems in the two jurisdictions could continue to work, in effect, as coherent single systems.
5. Section 87 of the Act places a statutory duty on the Minister for Social Development and the Secretary of State for Work and Pensions to consult one another with a view to securing single systems of social security, child support and pensions for the UK. The Minister and the Secretary of State are also given powers in their respective jurisdictions to make arrangements for co-ordinating the operation of the legislation to secure the provision of the single systems and to make reciprocal arrangements to achieve this. Crucially, the Act also makes provision for financial adjustments to support the maintenance of these parity arrangements.

Parity Principle

6. The parity principle operates on the basis that Northern Ireland has the same range of benefits which are paid at the same rates and subject to the same conditions as in GB. In addition, the Child Support Schemes are virtually identical as is the legislation governing private pensions. Changes in existing legislation, and new legislation, as far as possible, take effect at the same time

in GB and Northern Ireland. The parity principle was underpinned by the argument that as people in Northern Ireland pay the same rate of income tax and National Insurance contributions as those in GB, they are entitled to enjoy the same rights and benefits as people in GB, notwithstanding that Northern Ireland is not self sufficient in funding the resulting benefit costs.

Social Security

7. Social security benefits fall into 3 broad categories – contributory, non-contributory/non means-tested and income related. The costs of most of the contributory benefits and their administration are met from the Northern Ireland National Insurance Fund which is financed largely by employers’ and employees’ National Insurance Contributions and annual subventions from the GB National Insurance Fund. Non-contributory and income-related benefits are financed from money voted from general taxation.
8. Under the parity system, a person can move between GB and Northern Ireland and retain their rights to benefit. In the case of most benefits, a fresh claim is not necessary and decisions made in one jurisdiction are respected in the other. Similarly National Insurance contributions paid in one jurisdiction count for benefit purposes in the other. The single system also allows the Department to draw on the specialist expertise of the Social Security Advisory Committee and the Industrial Injuries Advisory Council.
9. The Westminster Government has negotiated a series of reciprocal arrangements with other countries which allow each other’s citizens to have access to the host state’s benefit systems based on entitlement earned in the other state. As these are international agreements, the power to give effect to these agreements in Northern Ireland vests in the Secretary of State. It would be difficult to operate these agreements without the single system which exists due to parity. In addition, certain benefits can be “exported” within the European Union under EC Regulation 1408/71 and EC Regulation 883/04 and , and this would be greatly complicated without parity. To benefit from economies of scale, “overseas” cases are currently handled by the

Department for Work and Pensions on behalf of the Department for Social Development. Again without parity this would not be possible.

Private Pensions

10. The state pension system is complemented by an extensive scheme of occupational and personal pensions. This will be further extended by the introduction of the personal accounts scheme to enable people to save for their retirement assisted by both a State and an employer contribution. The new personal accounts scheme will operate on a UK-wide basis. Outside the public sector, Northern Ireland has a relatively small indigenous private pension industry. Indeed most private pension schemes operating in Northern Ireland are based in GB. The Pensions Regulator, the Pensions Ombudsman, the Pension Protection Fund and the Fraud Compensation Fund, which are funded by levy on pension schemes, and the National Employment Savings Trust operate on a UK-wide basis. Likewise, the Financial Assistance Scheme, which assists members of schemes which became insolvent before the establishment of the Pension Protection Fund, is the responsibility of the Secretary of State for Work and Pensions. Quite simply, the Northern Ireland private pensions sector is too small to support a separate Northern Ireland system, and, without parity, the current private pensions system could not operate.

Child Support

11. The Northern Ireland Child Support Scheme mirrors that in GB with the only major difference being the enforcement process due to differing methods of enforcement of judgments etc in Northern Ireland. The separate but analogous pieces of legislation ensure that both schemes operate in effect as a single system throughout the UK. The Department for Social Development and the Department for Work and Pensions in GB have worked together very closely to ensure that the two Schemes provide a single system of Child Support for GB and Northern Ireland. Indeed the schemes are so similar (and in most

material terms identical) that the Child Maintenance and Enforcement Division in Northern Ireland administers child support cases arising from large geographical areas within GB.

Financial Arrangements

12. As already indicated, contributory benefits are financed from the Northern Ireland National Insurance Fund. However, the revenue raised for the Fund through the collection of National Insurance Contributions has, for many years, been insufficient to meet the cost of contributory benefits in Northern Ireland. Consequently the Northern Ireland Fund has to be balanced each year by a compensatory payment from the GB National Insurance Fund. The cost of paying benefits in Northern Ireland is therefore very heavily subsidised by GB. For example, in 2009-10 the Northern Ireland National Insurance Fund received a transfer of £395 million from the GB Fund. In the same period, expenditure on non-contributory benefits, which are demand-led and financed out of taxation revenue, was approx £2.8 billion. To set this in context, the amount of the subvention from the GB National Insurance Fund and the money received to fund non-contributory benefits can exceed the total amount raised in income tax in Northern Ireland. This funding, which amounts to around £3 billion per annum, is predicated on the maintenance of parity.

13. Non-contributory and income-related benefits are funded from general taxation revenue. In “Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: A Statement of Funding Policy” (October 2010) published by HM Treasury, social security expenditure is classed as part of Annually Managed Expenditure (AME) which is outside the managed block and is not subject to the Barnett Formula. Adjustments to funding are based on the latest economic assumptions produced by the Treasury in conjunction with forecasts produced by the Department for Social Development. Benefits are funded on the same model as in GB, that is, funding is in line with the actual entitlement of claimants. The Statement of

Funding Policy provides for this funding stream to be reviewed if the Northern Ireland Executive breaches the parity principle.

14. In practice, this means that Northern Ireland non-contributory and income-related benefits are demand-led and are funded outside of the managed block. In effect therefore any costs resulting from breaching parity would fall to be picked up by the Executive from the managed block. Treasury has also made clear that any savings resulting from a breach in parity would be recouped and would not be available for use elsewhere in the block. Similarly, as the Northern Ireland National Insurance Fund is not self sufficient, any breach of parity in relation to contributory benefits could result in a cut in the annual subvention which the Fund needs to break even. Again, any deficit would fall to be made up from the managed block. The accepted view of parity is that it applies both to the rate of benefits and the conditions for receipt of benefits. Indeed the Department for Social Development has no power to set different benefit rates for Northern Ireland.

15. However, the increasing trend for welfare reform in particular to impinge on other areas of devolved responsibility, for example, in relation to benefit conditionality (ie training , or other activity which would come under the remit of the Department for Employment and Learning) raises significant resource issues for the Northern Ireland Block. This is particularly problematic where GB Departments fund new initiatives from within existing budgets rather than receiving increased additional funding which would have a Barnett read across. This issue is not unique to Northern Ireland, and both the Scottish and Welsh administrations face similar problems.

Shared computer infrastructure with the Department for Work and Pensions

- 16, At the operational level, the social security systems in GB and Northern Ireland have developed in parallel and have very close inter-relationships. Virtually all the social security benefits paid in Northern Ireland are processed on computer systems provided and operated by the Department for Work and Pensions. Any divergence from the parity principle could result in the Department for Social Development having to fund the development and purchase of a separate Northern Ireland computer system or having to pay the full cost of having access to, and fully funding any necessary modifications to, the GB systems. Likewise the GB Child Maintenance and Enforcement Commission and the Northern Ireland Child Maintenance and Enforcement Division use the one child support computer system. In real terms it would be prohibitively expensive for Northern Ireland to set up its own computer system or to deviate from the GB system in any significant manner. Given the complexity of the social security and child support systems, they would be impossible to deliver without access to such computer systems. The Social Security Agency administers benefits for certain areas of GB utilising the common benefit rules and shared computer systems – this currently accounts for over 700 jobs. Similarly, the Child Maintenance and Enforcement Division administers child support for areas in GB – this accounts for over 1000 jobs.

Implications of Parity

17. The welfare reform agenda has seen an increasing interdependency between social security and areas which are the responsibility of other Departments. This has been particularly apparent in areas which fall to the Department for Work and Pensions in GB but which fall to several Departments here, for example, work-focused interviews (DEL), health and safety at work (DETI) etc. However, increasingly, there are interdependencies with a number of other areas, for example, health and affordable child care. This latter issue came sharply into focus with the Social Security (Lone Parent and Miscellaneous Amendments) Regulations (Northern Ireland) 2008 and subsequently in the Welfare Reform Act NI 2010. In general, we have always taken account of local circumstances in implementing social security policies, for example, there

would be no question of imposing a sanction under the Lone Parent Regulations if local affordable childcare were not available.

18. Generally, Departments work well together to seek to deliver the requirements of parity in social security. A number of Departments are currently working together to address issues arising from further proposals for welfare reform. However, the increasing trend under the welfare reform agenda for social security issues to impinge upon other areas of devolved responsibility does present challenges, not least in relation to funding issues as outlined above.

Parity of Timing

19. As there are in effect single systems of social security, child support and pensions in GB and Northern Ireland, there is the obvious need to maintain parity of timing to ensure that as far as possible any changes are implemented at the same time in GB and Northern Ireland. In relation to subordinate legislation, the Department for Work and Pensions and the Department for Social Development work very closely to achieve this. In addition, in recognition of the need to maintain parity of timing, the primary legislation provides for Statutory Rules in this field to be subject to the Confirmatory Procedure in cases where the corresponding GB Statutory Instrument has to be laid in draft and approved by resolution of both Houses of Parliament. Under the Confirmatory Procedure, the Statutory Rule does not require Assembly approval prior to making but ceases to have effect unless the Assembly approves it within 6 months of its coming into operation. This allows subordinate legislation in this field to have common operative dates across the UK.
20. However, given the length of time involved in the Assembly Bill procedure, it is more difficult to achieve this in relation to primary legislation. This is not a new problem – indeed in recognition of the need to maintain parity of timing, the Northern Ireland Parliament enacted the Social Services Parity Act (Northern Ireland) 1971 to allow social security parity measures to be enacted by Order rather than by the Bill procedure. Such Orders ceased to have effect if the

legislature did not approve them within 6 months of making. This greatly speeded up the enactment of parity measures, for example, when the Westminster National Insurance Act 1971 received Royal Assent in July 1971, the corresponding Northern Ireland Order was enacted two days later. During direct rule, parity was maintained by the occasional direct extension of Westminster Bills but in the vast majority of cases by negative resolution Orders in Council.

21. Therefore the unique position of social security and the need to maintain parity of timing has long been recognised, for example, in the Social Services Parity Act (NI) 1971 and the use of the negative resolution Order in Council procedure during Direct Rule. Furthermore the Belfast Agreement specifically cited social security as an area where parity is normally maintained. Where appropriate, the accelerated passage procedure has been used to allow the maintenance of parity of timing in this field.
22. Clearly, in view of the public interest in this area, where there is sufficient time between the enactment of the Westminster Act and its coming into force, the expectation is that the full Bill procedure would be followed. However, in the past, it was relatively rare for a social security, child support or pensions Bill not to contain time-critical provisions, and therefore for the Accelerated procedure to be followed. More recently, the Welfare Reform act NI 2010 went through the full legislative process. However, where there are time-critical provisions, delaying the implementation of parity legislation in this field for several months, which is the inevitable outcome of the full Assembly Bill procedure, arguably denies people in Northern Ireland the same rights as people in GB. In addition, it is necessary to give members of the public and employers (for example, to prepare for changes to payroll systems for pensions purposes) sufficient time to prepare for changes to the law. However, use of this accelerated passage procedure is considered on a Bill by Bill basis and is ultimately a matter for the Executive.
23. Even with using the accelerated passage procedure, there can be an undesirable hiatus between the enactment of the Westminster and Assembly

Bills. For example, a number of MPs and MLAs raised concerns on behalf of their constituents in relation to the Pensions Act 2008. Until the Assembly Bill received Royal Assent on 11 February 2008, Northern Ireland law remained out of step with that in GB, and members of the public here complained that they were disadvantaged in not being able to plan with certainty for retirement as the reduction in the number of qualifying years needed for a full pension had not been enacted in Northern Ireland. Had accelerated passage not been used, this situation would have continued for many months.

24. It is important to note that Equality Impact assessments are a crucial part of the process. Although an initial assessment of policy proposals for equality implications occurs when they are being issued for consultation, there can be differences between the original policy proposals and what ultimately appears in the Bill following the consultation exercise. Similarly, the Westminster Bill can be substantively amended as it proceeds through Parliament. Frequently, the final Equality Impact Assessment can only be carried out and issued for consultation when the final shape of the Bill is very clear – normally after Report Stage in the House of Commons. It is not possible to secure Executive Committee approval for the introduction of the Bill until the outcome of the Equality Impact Assessment is known. In addition, frequently Westminster Bills in this field can be substantially amended in the second House. It is therefore generally not recommended to begin an EQIA any earlier. Almost inevitably there is a time lag between a Westminster Bill, and its NI equivalent.

25. There is a general consensus that the policy of parity in this field has served Northern Ireland well. However, during the debates on the 7 Bills brought before the Assembly in this field, it was clear that the legislative process can be frustrating for Members of the Assembly and Minister alike given that the scope for unilateral action by the Assembly in this field is so limited. More recently there was cross party support for a motion brought by the previous Chair of the Social Development Committee, Simon Hamilton MLA , supporting the then Minister, Alex Attwood's efforts to make the case for greater flexibility in the observance of "parity" in NI, and enabling the particular circumstances economic and otherwise, to be taken into account. Following

discussions with the Social Development Committee it has been agreed to engage with the Committee on policy proposals, Green Papers, White papers and the Westminster Bill at an early stage