

**SOCIAL SECURITY PARITY – A NOTE FOR THE
SOCIAL DEVELOPMENT ASSEMBLY COMMITTEE
from Law Centre (NI)**

INTRODUCTION

The principle of social security parity has dominated the policy rationale for the development of social security in Northern Ireland for over 80 years. The original financial arrangements between Britain and Northern Ireland were derived from the Government of Ireland Act 1920. Under the Act, Northern Ireland was provided with powers to set its own priorities and fund all transferred services from its own resources. In effect, the principle of parity has never been enshrined in legislation and this remains the case today. Instead, the concept of parity emerge as a general principle on the basis that it was advantageous to Northern Ireland, in that Northern Ireland could not fund a social security system the equivalent to Britain's without financial subsidy. In 1938, the government formally, committed itself to funding any deficit in the Northern Ireland budget on the basis that it was not the result of a standard of social expenditure higher than, or of a standard of a standard or taxation lower than that of Great Britain¹.

As a result of historical unemployment, poor health and other factors the greater reliance on social security led to the received wisdom that parity is in the best interests of Northern Ireland.

THE POSITION TODAY

Section 87 of The Northern Ireland Act 1998 provides that:

“The Secretary of State (ie of Work and Pensions) and Northern Ireland minister responsible for Social Security shall from time to time consult one another with the 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’

The legislation does not require social security parity, but does signal the desirability of providing co-ordinated systems of social security. Social security remains, however, a transferred matter with separate primary and secondary legislation with its own separate administrative arrangements.

A further driver (or constraint) on parity is the arrangements set by the Treasury in funding devolved administrations. In 2000, the Treasury issued a statement of funding policy which includes the view that:

“Social security benefits in Northern Ireland where adjustments are based on the latest economic assumptions produced by the Treasury in conjunction with forecasts produced by the Northern Ireland department responsible for social security.

¹ Social Security Parity in Northern Ireland Johnathan Bradshaw PRI University of York 1989.

These benefits 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 funding².

In effect, this is seen as a 'shot across the bows' to the Northern Ireland Executive and Assembly that there are risks associated with fundamentally moving away from parity of provision in social security. Furthermore, in the section on charging for devolved public services the statement sets out that:

'Responsibility for setting charges for devolved public services will rest with the devolved administrations. They can decide whether they wish to following United Kingdom Government policy on fees and charges in specific cases. The general principle that applies is if a devolved administration chooses to charge more, the additional negative public expenditure receipts will accrue to its budget and if it chooses to charge less, it will need to meet the costs from within its budget'³

This has also been taken to mean that if the Northern Ireland Assembly decided of its own volition to spend more on social security by adopting a more favourable or generous approach than in Britain then the additional expenditure would have to come from its own budget. On the other hand, if the Assembly decided to save money on social security by adopting a less favourable approach then any saving would return to the Treasury in Britain. This interpretation, however, has never been tested.

PARITY IN PRACTICE

Benefit rates are the same whether a person lives in Belfast or Birmingham. There are (and always have been) significant differences between social security provision which recognise particular circumstances in Northern Ireland.

At a macro level, these include retaining a rates and rate rebate system in Northern Ireland rather than council tax and council tax benefit. Elsewhere, greater powers to make deductions from social security benefits are maintained in Northern Ireland, different rules apply to studying and entitlement to benefit and there are different administrative arrangements for the delivery of benefits. More recently, amendments to housing benefit to cap eligible rent on large properties were not introduced in Northern Ireland and the administrative arrangements for lone parents with young children having to actively look for work were applied differently in Northern Ireland. The former has now been brought back into line following recent changes made to housing benefit.

² HM Treasury: Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly

³ Opcit HM Treasury Section 7.1

THE WELFARE REFORM (NI) ORDER 2010

The recent Welfare Reform (NI) Order 2010 contained a number of provisions that are not found in the equivalent legislation the Welfare Reform Act 2009 enacted in Britain. These included Northern Ireland not taking powers to require those addicted to specific drugs to have to accept treatment in order to continue to qualify for benefit. Similar powers were also taken to cover misuse of alcohol. The new coalition government subsequently abandoned this intention which had been considered by the previous labour government.

An equivalent power to contract out the provision of social fund loans either in specified areas or throughout Britain was not taken for Northern Ireland. A pilot scheme to allow pension credit to be awarded without a claim being made to improve take up benefit was included in the GB Act but, not the Northern Ireland Order.

Powers to enable people with disabilities aged 18 or over to have a greater choice and control over the way services are provided by local authority social services departments and other providers were taken in the GB welfare reform legislation. The equivalent powers were not included in the Northern Ireland Order.

Arrangements for the Child Maintenance Enforcement Commission (CMEC) to have the powers to apply to a court to withhold the right to a driving licence or a passport from anyone who has arrears of child maintenance were taken in the GB Act but, not the Northern Ireland Order.

In effect, there is not absolute parity between the two social security systems, in that, differences have emerged on a number of minor and more substantive issues to reflect the different circumstances that apply in Northern Ireland.

UNIVERSAL CREDIT

It is already clear from the current Welfare Reform Bill going through Parliament in Westminster introducing Universal Credit and other changes will not be absolutely mirrored by our own legislation likely to be published at the end of this year. Council tax benefit will not be part of Universal Credit instead it will be administered by local authorities with considerable local discretion about applying the arrangements. It is difficult to see how such localism in managing a rate rebate scheme would make any sense in Northern Ireland. Parts of the Social Fund will be transferred to local authorities who again will be given considerable autonomy in how to manage the transferred funds. In Northern Ireland the Social Fund or its equivalent will almost certainly remain within the Department for Social Development.

New arrangements already introduced to encourage people of working age back to work with increased sanctions for failure to engage are underpinned by the new Work Programme in Britain which is designed to offer a comprehensive range of training and other work related opportunities to get back to work. In Northern Ireland there will not be an equivalent programme ready until at least April 2012 and it is arguable that there is not sufficient funding for such an approach.

Legislation to require lone parents to actively seek work and engage with the DWP down to from when a youngest child is aged one is predicated on there being sufficient child care and after school provision to make it work. In Britain, there is a childcare strategy, a lead government department driving the strategy and a statutory duty on local authorities to provide adequate childcare. None of these ingredients currently apply in Northern Ireland. In effect, there will be parts of the current Welfare Reform Bill in Britain which will not work if replicated in its entirety in our own forthcoming Bill.

SUMMARY

It is difficult to find anyone who would argue that Northern Ireland should develop its own completely different social security system. In any event, the financial arrangements would militate against such an approach. Instead, historically there have always been a number of differences between legislation in Britain and Northern Ireland to reflect different circumstances and conditions. The issue is where and to what extent the breathing space between the two systems should be developed and on what basis.

Law Centre (NI)
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