House of Commons

Work and Pensions and Northern Ireland Affairs Committees

Welfare policy in Northern Ireland

First Joint Report of the Work and Pensions and the Northern Ireland Affairs Committees

Thirty-First Report of the Work and Pensions Committee of Session 2017–19

Tenth Report of the Northern Ireland Affairs Committee of Session 2017–19

Report, together with formal minutes relating to the report

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Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

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The Northern Ireland Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Northern Ireland Office (but excluding individual cases and advice given by the Crown Solicitor); and other matters within the responsibilities of the Secretary of State for Northern Ireland (but excluding the expenditure, administration and policy of the Office of the Director of Public Prosecutions, Northern Ireland and the drafting of legislation by the Office of the Legislative Counsel).

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As part of the UK's devolution arrangements, responsibility for welfare policy is transferred to Northern Ireland. When the UK Parliament passed the Welfare Reform and Work Act in 2012, the Northern Ireland Executive agreed to fund a package of measures, worth up to £585 million over four years (to the end of March 2020), to lessen the impact of some of the welfare changes on claimants.

The mitigation package is mainly made up of Welfare Supplementary Payments, which are paid automatically to all eligible claimants. There are two types of payments. The first are payments for up to four years which make up the difference between what claimants actually receive in benefits and what they would have received had the Social Sector Size Criteria ("bedroom tax") and benefit cap not applied to them. The second are payments for up to one year to offset, in full or in part, loss of benefits because of a move from Disability Living Allowance (DLA) to Personal Independence Payment (PIP). The mitigation package also included one-off grants and loans through a Discretionary Support Scheme and Universal Credit Contingency Fund, and funding for independent advisory services for claimants.

The mitigation package was designed on the basis that Northern Ireland faces special circumstances that mean that welfare reforms should not apply there in the same way as in the rest of the UK. The clearest example of special circumstances is the nature of Northern Ireland's social housing stock. Less than a fifth of social housing stock in Northern Ireland has only one bedroom, despite single working-age applicants making up 45% of the social housing waiting list. Social housing in Northern Ireland is also, in practice, segregated along cultural and religious lines. This means that the Social Sector Size Criteria ("bedroom tax") would have a disproportionate impact on people in Northern Ireland if mitigations were not in place. Whilst the mitigation package is not a long-term solution to underlying problems within the social security system, special circumstances can justify different treatment. By the same token, however, claimants in similar circumstances in different parts of the UK should ultimately level up to similar levels of entitlement.

Overall, the mitigation package has been a success. Not all the funding allocated for the mitigation package has, however, been spent. The single main reason is that there was no Executive and Assembly to implement one of the main measures in the original proposed package. There was also a significant underspend in Discretionary Support Awards and the Universal Credit Contingency Fund, which is likely to be because they have restrictive eligibility criteria, such as the income ceiling for Discretionary Support Awards and the requirement that claimants must take out a Universal Credit advance before being eligible for grants from the Universal Credit Contingency Fund. Both these criteria should be removed.

Continuing the mitigation package

The legislation which provides the legal basis for Welfare Supplementary Payments

makes clear that the payments can only be made until 31 March 2020. The Department for Communities cannot change the legislation to extend the payments as it would need to be approved by the Assembly.

The ending of the mitigation payments in March 2020—in particular, the ending of Social Sector Size Criteria and benefit cap mitigations—would mean that over 35,000 households in Northern Ireland would see their incomes fall suddenly, some by hundreds of pounds per month. According to Department for Communities estimates, the ending of SSSC mitigation would affect around 34,000 households, who would be worse off by an average of £12.50 per week. The ending of benefit cap mitigation would likely affect 1,500 households, who would be worse off by an average of £42 per week.

A survey by the Department for Communities found that 78% of respondents were not aware of the Welfare Supplementary Payments Scheme—and 69% of SSSC ("bedroom tax") mitigation recipients were not aware that the payments were due to end. The fact that claimants are not expecting the payments to end will only exacerbate the impact on households. Support organisations in Northern Ireland have rightly described this prospect as a "cliff edge". The special circumstances in Northern Ireland that justified the mitigation package have not changed in the last four years.

The mitigation package should therefore be extended after March 2020. This should include the SSSC ("bedroom tax") and benefit cap mitigations, disability-related mitigations already being paid to claimants, and DLA to PIP transition mitigation for 16 year-olds. The Department for Communities should also consider continuing the contract for independent advisory services after 2020.

The UK Government must act quickly to end the uncertainty around the mitigation package. The Department for Communities has said it would need to start contacting claimants in Autumn 2019 if it were not to continue. The Secretary of State for Northern Ireland should therefore make a statement to Parliament as soon as possible to make clear the UK Government's intention to pass the necessary legislation to extend the mitigation package and bring forward such legislation to come into effect before the end of March 2020.

In the absence of such legislation, the Department for Communities has said that it could pay "bedroom tax" and benefit cap mitigations through Discretionary Housing Payments. The Department told us that this would be operationally extremely challenging. This is not surprising, given that around 35,000 claimants might be expected to apply for DHPs in a short period of time, through a system not designed to handle this volume of claims. The fact that such payments would be discretionary and not automatic would also risk some claimants slipping through the net. Whilst this option is preferable to the mitigation payments stopping altogether, the serious risks to claimants and the amount of money that would have to be spent on making changes to the DHP systems that could otherwise to be used to help claimants, should make clear to the UK Government that it has a responsibility to avoid this option having to be used.

We accept that legislation to extend the mitigation package falls within the scope of devolved competence. However, the circumstances surrounding the package ending are clearly exceptional: a potentially drastic impact on vulnerable people and no Assembly to extend the legislation. There are clear precedents for the UK Government legislating to continue payments, and a political consensus that the main parts of the mitigation package should continue. There is therefore no good reason why the UK Government cannot bring forward legislation to extend the mitigation package.

Universal Credit in Northern Ireland

Universal Credit (UC) is the Government's flagship welfare policy, which merges six separate benefits into one, paid as a single, monthly payment in arrears. Universal Credit claimants in Northern Ireland have additional "flexibilities" that are not available to UC claimants in the rest of the UK.

The five week wait

The five-week waiting period for Universal Credit is too long, creating financial difficulties for claimants and encouraging them to take on debt. This is not a problem specific to Northern Ireland: it is a flaw with the design of Universal Credit. The Secretary of State for Work and Pensions has recognised these problems and has said she wants to ensure that claimants receive their first payment as soon as possible, which is welcome. The Work and Pensions Committee will continue closely to monitor developments in this area.

Fortnightly payment

In Northern Ireland, Universal Credit is paid to claimants fortnightly by default. This has worked well, making it easier for low-income households to budget. However, the advantages of fortnightly payment of Universal Credit in Northern Ireland would apply equally to claimants in England and Wales. We can see no reason why DWP cannot replicate fortnightly payments in other areas of the UK, and recommend that the Department for Work and Pensions give claimants in England and Wales the option to receive fortnightly payments of Universal Credit, with fortnightly statements.

Direct payment to landlords

In Northern Ireland, the housing costs element of Universal Credit is paid directly to landlords by default. In the rest of the UK, direct payment to landlords can only be made by request.

Whilst direct payment to landlords in Northern Ireland has generally worked well, it has not been without its problems. We heard concerns about the build-up of residual arrears, where housing benefit or the housing element of Universal Credit does not cover the full cost of an individual's rent, and technical arrears, which occur because the payment schedules and payments due do not match. Because of direct payment to landlords, if claimants move house during their Universal Credit assessment period, their new landlord will sometimes receive the Housing Element for the full assessment period. It is, however, unclear why this happens if the Department receives the necessary information from claimants about their change in landlord. We recommend that the Department for Communities set out in detail, in response to this report, the work it is currently doing to address these problems. The Department for Work and Pensions should also work with the Department for Communities to ensure that the planned automations of UC flexibilities in Northern Ireland are in place within 18 months.

Split payments

In Northern Ireland, a couple making a joint Universal Credit claim can have the payment 'split' between them on request. However, take-up of UC split payments in Northern Ireland has been extremely low, with only two Universal Credit claims making use of them. The experience of Northern Ireland shows that offering split payments on request is not enough to encourage and enable uptake by those who most need it. Split payments could be implemented in a number of different ways, and the Scottish Government's planned implementation of UC split payments is an opportunity for the Department for Work and Pensions and the Department for Communities to learn what approach works best, with a view to applying it more widely, including in Northern Ireland. In the meantime, the Department for Communities should work with organisations that support claimants to advertise the option to receive split payments more widely.

The two-child limit in Northern Ireland

The two-child limit is the Government's policy that families are not able to claim child benefits for any third or subsequent child born on or after 6 April 2017.

Families in Northern Ireland are likely to be disproportionately affected by the two-child limit: 21.4% of families in Northern Ireland have 3 or more children, compared to 14.7% of families in the UK as a whole. We heard concerns that the two-child limit may discriminate against families with particular moral or religious convictions. In Northern Ireland, Catholic families are particularly likely to be affected in this way. The Government has argued that the two-child limit policy is designed to influence families' decision-making. But the fact that many pregnancies are unplanned suggests that a number of families are not making an active decision to have an additional child. In Northern Ireland there is further complexity, because of the religious and cultural context and because of the legal status of abortion in Northern Ireland, notwithstanding recent Westminster legislation on this issue. The evidence we heard leaves us deeply concerned about the impact of the two-child limit on families in Northern Ireland.

In Northern Ireland, unlike the rest of the UK, there is a legal duty on third parties to report any information about serious offences that may help apprehend, prosecute, or convict an offender. In theory, this may mean that any woman who applies for the non-consensual exemption to the two-child limit should expect to have the case reported to the police by Jobs and Benefit Office staff. The result could be that women are deterred from applying to receive money to which they are entitled, and which their families need. The Department for Communities has offered various reasons why this duty is unlikely to apply to professionals who process applications for the non-consensual exemption. However, subtle distinctions and qualified assurances are unlikely to provide enough reassurance both to affected women and to professionals. If the two-child limit continues to apply in Northern Ireland, this anomaly must be addressed urgently, by the Secretary of State for Northern Ireland in the continued absence of an Assembly and Executive, or by an incoming Northern Ireland Executive.

Monitoring welfare policy in Northern Ireland

The Northern Ireland Audit Office has an important role to play in reporting on the implementation of Executive objectives. In the absence of an Assembly, this scrutiny is more important than ever. Addressing poverty and deprivation is a clear objective from the 2016 draft Programme for Government. The NIAO should prioritise work on the effectiveness of measures to reduce poverty in Northern Ireland, and whether there is a "policy gap" in addressing poverty in Northern Ireland. As part of this, they should also report on the broader context, including the main drivers of poverty in Northern Ireland.

1 The mitigation package

Background

1. As part of the UK's devolution arrangements, responsibility for welfare policy is transferred to Northern Ireland. Welfare policy in Northern Ireland operates on the "principle of parity", the principle that Northern Ireland will generally replicate welfare policy in Great Britain, and that where Northern Ireland has different systems or entitlements, these will be funded through NI Executive funds.[1]

2. The 2015 Fresh Start agreement, which resulted from cross-party talks in Northern Ireland, committed to implementing the welfare reforms legislated for by the UK Parliament in the Welfare Reform and Work Act 2012. The agreement also included funding for a package of measures, worth up to £585 million over four years (to the end of March 2020), paid for by NI Executive funds, to 'mitigate' some of the welfare changes.[2] The NI Executive created a working group, chaired by Professor Eileen Evason, to make proposals for a mitigation package within the agreed budget.

3. The Working Group was asked to provide recommendations for:

> Those claimant groups who could be defined as vulnerable and for whom the resources within the approved financial envelope should be used to provide financial support in addition to that available through the UK welfare system; and
>
> How best to allocate the available funding to afford the greatest level of protection taking account of the degree by which the proposed changes impact on those vulnerable groups.[3]

The mitigation package

4. The Welfare Reform Mitigations Working Group reported in January 2016. The Working Group recommended mitigation measures falling into three strands:

a) supplementary payments targeted at carers, and those with ill-health, disability or families. These measures were implemented in full through Welfare Supplementary Payments;

b) supporting and protecting claimants through advice, including a specialist helpline to assist claimants in the case of sanctions, to help them to make an appeal or to apply for hardship payments. These recommendations were implemented through funding the advice sector;

c) payments in recognition of the cost of employment, to address working poverty. These were known as 'Cost of Working Allowances'. This strand of the Working Group's recommendations was not implemented, since the Assembly was

1 Department for Communities (WEL0037)
2 Northern Ireland Executive, A Fresh Start: The Stormont Agreement and Implementation Plan (November 2015), pp22–23
3 Report of the Welfare Reform Mitigations Working Group (2016), Appendix 2

not in place to pass the necessary secondary legislation. The Department for Communities was also told by HMRC that any such payments would constitute taxable income, with significant implications for the net benefit to recipients.[4]

5. Most of the spending within the mitigation package is on what the Department for Communities calls "Welfare Supplementary Payments". Claimants do not need to apply for these payments: the Department for Communities identifies all eligible claimants and pays them automatically. Welfare Supplementary Payments fall broadly into two categories.[5] The first category is payments which fully offset the effect of the Social Sector Size Criteria (the "bedroom tax", or SSSC) and the benefit cap.[6] These payments are made for up to four years (the full length of the mitigation package) and make up the difference between what a claimant would have received if the "bedroom tax" or benefit cap did not apply to them, and what they actually receive. The second category is payments limited to a year or less which offset (in full or in part) reduced or lost entitlement to disability benefits (or lost entitlement to Carers Allowance, carers premia, or Income Support as a result of a cared-for person losing entitlement to disability benefits) as a result of a reassessment when moving from Disability Living Allowance (DLA) to Personal Independence Payment (PIP). The different Welfare Supplementary Payments are set out in full in table 1 below.

6. The mitigation package also included Discretionary Support Awards and a Universal Credit Contingency Fund. Discretionary Support Awards are payments made to claimants in case of a need arising from a crisis situation[7] The awards are only available to adults ordinarily resident in Northern Ireland, where the need arises and is met in Northern Ireland, and the claimant's income (or joint income) does not exceed an income threshold.[8] Payments from the Universal Credit Contingency Fund are made through the Discretionary Support Scheme in the form of non-repayable grants. The average value of an award was £240 in 2017–18 and £225 in April-September 2018.[9]

Basis for different provision in Northern Ireland

7. The mitigation package was designed on the basis that Northern Ireland faces specific circumstances that mean that welfare reforms should not apply there in the same way as in the rest of the UK. Professor Eileen Evason, who chaired the Welfare Reform Mitigations Working Group, described the package to us as "mitigations by reference to our special circumstances".[10] Professor Evason explained that the mitigations were designed to offset the impact of reforms that would have a disproportionate effect on Northern Ireland:

> […] the cuts would come in two waves with varying effects across the UK. In the first wave those most affected would be households in high rent areas with London leading the way. With lower rents and less pressure on housing, the impact on Northern Ireland, though unwelcome, would be

4 Department for Communities (2019) Review of Welfare Mitigation Schemes, p13
5 Q206
6 The Social Sector Size Criteria ("bedroom tax") is the Government's policy that working-age social tenants in receipt of Housing Benefit should have a reduction in their benefit entitlement if they live in housing that is deemed to be too large for their needs. The benefit cap is the Government's policy to restrict the total benefits paid to most people of working age. The cap is currently set at £23,000 in London (£15,410 for single people) and £20,000 (£13,400 for single people) in the rest of the UK.
7 The Discretionary Support Regulations (Northern Ireland) 2016
8 Department for Communities (2019) Review of Welfare Mitigation Schemes, p25
9 Department for Communities (2019) Review of Welfare Mitigation Schemes, p26
10 Q145

moderate. Northern Ireland would, however, be the region most affected by the second wave of cuts which would include the cuts to incapacity and disability benefits contained in the 2012 Welfare Reform Act. With regard to the bedroom tax, as elsewhere, the, albeit debateable, logic of this did not fit the nature of our housing stock.

Table 1: Welfare Supplementary Payments

Policy/scenario	Extent of mitigation	Expenditure 2017–18	Duration of payment	Caseload 2016–17	Caseload 2017–18
Benefit cap	Actual loss	£3.8m	Up to 4 years	2,020	700
Social Sector Size Criteria	Actual reduction [except where claimant moves and continues to under-occupy]	£22.1m	Up to 4 years	34,000	5,360
Loss of Employment and Support Allowance (ESA) due to time-limiting of contributory ESA	Difference between contributory and income-related ESA awards; or full contributory ESA award	£5.9m	Up to 1 year	2,320	600
Moving from Disability Living Allowance (DLA) to Personal Independent Payment (PIP)	(a) claimants not qualifying for PIP–paid DLA award up until appeal outcome	£16.7m	Until appeal outcome notified	540	4,450
	(b) claimants qualifying for PIP but who lose >£10 per week–paid 75% of the loss		Up to 1 year	870	8,150
	(c) claimants not qualifying for PIP but who have 4 points on assessment and disability a result of NI conflict-related injuries		Up to 1 year	-	-
Loss of disability premia/elements due to not qualifying for PIP or lower rate of PIP	Actual value of premia/elements previously awarded	£2.4m	Up to 1 year	120	1,170

Loss of Carers Allowance / Income Support / Carers premia	Actual loss of Carers Allowance/ Income support/ carers premia due to loss of PIP by the person cared for	£2.3m	Up to 1 year	150	1,380

Source: Department for Communities (2019) Review of Welfare Mitigation Schemes; Advice NI, Housing Rights, Law Centre NI, Welfare Reform: Mitigations on a Cliff Edge (2018)

Housing stock in Northern Ireland

8. One of the most significant ways in which Northern Ireland differs from the rest of the UK is its housing stock, particularly its social housing stock. The UK Government has said that one of the main aims of the SSSC is to encourage social tenants to move to suitably sized properties.[11][12] If there is little or no suitable housing stock for tenants to move into, however, then this will not be able to happen.

9. Research by the Northern Ireland Housing Executive (NIHE) found that many claimants would be affected by the SSSC because of a mismatch between the size of most social housing in Northern Ireland and the situation of tenants. 88% of NIHE properties, and 68% of other housing association properties, have two or more bedrooms. Overall, therefore, less than a fifth (18%) of self-contained social housing stock in Northern Ireland has only one bedroom. However, single working-age applicants make up 45% of the social housing waiting list, and a similar proportion of housing allocations.[13] Inevitably, this means that many of these tenants are likely to be subject to the "bedroom tax" if they are allocated social housing.

10. The Comptroller and Auditor General for Northern Ireland agreed that the current composition of social housing stock was a significant problem, telling us that:

> Historically we have a lot of larger properties in the social rented sector, three-bedroomed houses, so there is quite a lot of mitigation that goes to the Housing Executive; I think it was £16 million last year. There are 25,000 properties that are under-occupied, I think. A wider issue then is looking at the composition of social housing stock and in the longer run how to get that more commensurate with modern-day requirements. That is a big issue and that is where I suppose mitigation has been particularly beneficial.[14]

11. The cultural context in Northern Ireland also means that social housing is, in practice, segregated along cultural and religious lines, further reducing the availability of suitable housing for different tenants. Professor Eileen Evason told us:

> [In] Northern Ireland, we are very segregated. In fact, even when you buy a house you go on the web to find out the composition of the area you are moving into, so that is a very intractable problem.[15]

11 Professor Eileen Evason (WEL0008)
12 House of Commons Library (February 2016) Under-occupying social housing: Housing Benefit entitlement, Briefing Paper 06272, p6
13 Northern Ireland Housing Executive, Welfare Reform NI: A Scoping Report (2018), p43
14 Q195
15 Q102

Kate McCauley, Policy Manager at Housing Rights, added that:

> Around 90% of the social housing stock in Northern Ireland is located in what we refer to as single identity communities.[16]

For example, George, a claimant in receipt of Housing Benefit and SSSC mitigation payments, told us that he was worried that he may not be able to live in an area where he felt safe if he was forced to move as a result of the "bedroom tax":

> I live in Carrickfergus and it's my persuasion, I live in quite a safe place. I don't know where I would be moved to in Carrickfergus.[17]

12. We also heard that tenants in Northern Ireland would be subject to the SSSC even where tenants in a similar property in England and Wales would not be, because bedrooms are classified differently in Northern Ireland. Connswater Homes, a housing association, told us:

> Northern Ireland differs from the rest of the UK in respect to the legislation which stipulates the minimum size a bedroom should be in order to be classified as a bedroom. Northern Ireland doesn't have similar legislation and in effect tenants could have one of their bedrooms classified as a bedroom, which wouldn't adhere to the minimum bedroom sizes outline in the Housing Act 1985 for the rest of the UK. Therefore tenants in Northern Ireland could be paying bedroom tax on a bedroom that would not be classified as bedroom in England, Scotland and Wales.[18]

Claimant vulnerability and poverty in Northern Ireland

13. Professor Evason argued that the Welfare Reforms Mitigations Working Group focussed on mitigations for loss of, or reduced, entitlement to disability benefits because of high levels of physical disability and mental ill-health in Northern Ireland.[19]

14. The British Association of Social Workers Northern Ireland argued that special provision in Northern Ireland is necessary because of the ongoing impact of the Troubles:

> The variation in the level of welfare entitlement in NI compared to that in England, Scotland and Wales must be considered in the context of the ongoing personal, cultural and structural legacy of The Troubles. The interlinked impacts of societal trauma and poverty have led to disproportionately high rates of mental health problems, including depression and post-traumatic stress disorder. For this reason, NI must be afforded special consideration with regards to welfare entitlement.[20]

We asked Kelly Andrews, Chief Executive, Belfast and Lisburn Women's Aid, and Professor Eileen Evason how distinct the mental health needs of Northern Ireland are. They told us:

16 Q105
17 Q88
18 Connswater Homes (WEL0011)
19 Q104
20 British Association of Social Workers Northern Ireland (WEL0003)

> **Kelly Andrews:** […] there is a direct correlation between suicide rates and mental ill health and the legacy of the Troubles. In Northern Ireland there is a 25% higher prevalence of mental illness than in England. When you look at the figures for increase in suicide rates, it is quite horrendous. Incidence of suicide in Northern Ireland has risen 115% in comparison to 10% for the UK equivalent. There is a direct link between the legacy of the Troubles, and also poverty plays a key factor within suicide rates. If someone has no money, perhaps for a long, long period of time, that can aggravate a mental health illness.
>
> **Professor Evason:** What you have to remember in Northern Ireland is before we actually had the conflict we were in a worse position than anywhere else. Certainly, looking at figures relating to disability, we had higher levels of disability than most regions in Britain. We certainly had a more severe mental health problem, so you have that legacy, which was caused by poverty, different class structure, migration and various other factors. You had that, and then we piled on top of that all of the disability and mental ill health from the conflict.[21]

Differing levels of entitlement within the UK

15. Professor Eileen Evason acknowledged to us, however, that the mitigations cannot continue indefinitely and are justified because of the special circumstances in Northern Ireland. She added that it would be unfair to treat claimants in similar circumstances in different parts of the UK differently in the long-term:

> I do think there is an argument in Northern Ireland to say, "We cannot have higher levels of benefit in Northern Ireland in perpetuity but, operationally, can we look at things and say, 'Is there a way in which the Department can reorganise things, redo, tweak the item […]?'"
>
> […] it is very hard to say to somebody living in deep poverty in London, "Oh, people in the same circumstances in Northern Ireland are being treated better", and I do have problems about equity but it does seem to me to be quite justifiable to say we should have higher payments and different arrangements where we have very different circumstances.[22]

16. **The mitigation package in Northern Ireland reflects the fact that special circumstances can justify different treatment. The clearest example is the impact of the Social Sector Size Criteria ("bedroom tax"). In Northern Ireland, less than a fifth of social housing has only one bedroom but nearly half the people who need social housing are single tenants. Without mitigation in place, claimants in Northern Ireland would be penalised for the lack of suitable social housing stock, which evidently lies outside their control. The mitigation package is not, however, a long-term solution to underlying problems within the social security system. Whilst special circumstances can justify different treatment, by the same token claimants in similar circumstances in different parts of the UK should ultimately level up to similar levels of entitlement.**

21 Q131
22 Q115, Q176

Has the mitigation package worked?

17. The evidence we received suggested that the mitigation package has generally been effective in achieving its aims. The Cliff Edge NI Coalition, a group of claimant support organisations including Advice NI, Housing Rights and Law Centre NI, concluded that "the mitigation package has been instrumental in insulating claimants in NI from some of the most severe impacts of the Government's Welfare Reform programme."[23]

18. The Comptroller and Auditor General for Northern Ireland told us that he considered that the mitigation package had generally been effective in achieving its aims, although he remained concerned about the level of underspend (which we discuss further below):

> Certainly to some extent it has alleviated some of the hardships that it was meant to alleviate. The real problem is going forward, because of time lags and the fact that the fund is running out in March 2020 and it has not spent the amount that was originally projected.[24]

19. Denver Lynn, Director at the Northern Ireland Audit Office (NIAO), told us that implementation of the mitigations had been relatively smooth, and that the systems for identifying and paying claimants had, on the whole, worked well. While some of the mitigations involved manual processes, the level of error has not been higher than it would have been otherwise:

> Mitigations involve a lot of manual workarounds, but our understanding has been that those have been appropriate, on the whole. The appropriate people have received the benefits they expected to receive. Early indications are that there are some errors within that, but the DfC annual report and accounts record error inherent in benefits and that would be the same for DWP.[25]

20. The *relative* administrative cost of processing mitigation payments was higher than originally anticipated (£9 per £100 spent, compared to a budget of £7 per £100).[26] However, the *overall* cost of administration for the mitigations is lower than originally budgeted.[27]

Welfare Supplementary Payments

21. Claimants do not need to apply for Welfare Supplementary Payments (WSP), since the Department for Communities identifies all eligible claimants and pays them automatically, without the claimant having to apply for them. This has meant, however, that many claimants are not aware that they are receiving these payments. Kate McCauley, Policy Manager at Housing Rights told us that:

> There is a whole range of research, even by the Department, which says that a lot of people here receiving these mitigation payments do not even realise that they are getting them because they are automatic.[28]

23 Cliff Edge NI Coalition (WEL0033)
24 Q241
25 Q180
26 Q194
27 NIAO, Welfare Reforms in Northern Ireland (2019), Appendix 5
28 Q124

22. While some payments, such as those to mitigate the "bedroom tax" and the benefit cap, are applied automatically to all claimants affected by those policies, other payments which provide mitigation in the case of transition or loss of eligibility are still paid without the claimant having to apply, but are only triggered when the claimant appeals. This has made accessing some mitigations difficult for claimants. The North Belfast Advice Partnership, for example, told us that:

> […] with DLA to PIP migration, in order to access the mitigation package people needed to lodge an appeal … this was not communicated by DFC [Department for Communities] to DLA to PIP clients therefore many individuals lose out on this WSP payment as they had no knowledge it existed[29]

The Cliff Edge NI Coalition suggested the number of claimants who are losing out was potentially very high:

> Supplementary payment is available as a mitigation to those who are reassessed as not being entitled to PIP where a claimant has lodged an appeal against that decision. Between June 2016–May 2018, 16,040 people in NI were assessed as not having entitlement to a PIP award. Over a similar period, 5,490 people received supplementary payments. A significant proportion of claimants are missing out on the transitional support offered by this welfare reform mitigation.[30]

23. We also heard about cases where claimants learned that they would be eligible for mitigation payments if their PIP award was reduced, but felt under pressure not to appeal in case the award was reduced further. John, a PIP claimant, told us:

> I brought the appeal and I was told that I could lose everything if I appealed […] so I decided not to appeal it. I found out that the Government were going to top my money up, but I was not aware whatsoever that would stop in March.[31]

24. The Permanent Secretary for the Department for Communities observed that "people continue to get their levels during the appeal process so there is an automatic incentive to appeal, but fewer people chose to appeal than we expected".[32]

Discretionary Support Scheme

25. The welfare mitigation package includes provisions for Discretionary Support Awards and payments from a Universal Credit Contingency Fund. Discretionary Support Awards are one-off payments to meet a need arising from an "extreme, exceptional or crisis situation that presents a significant risk to the health, safety or well-being of the claimant or a member of their immediate family".[33] The Universal Credit Contingency Fund provides "emergency financial support for Universal Credit claimants who remain

29 North Belfast Advice Partnership (WEL0016)
30 Cliff Edge NI Coalition (WEL0033)
31 Qq61–63
32 Q328
33 The Discretionary Support Regulations (Northern Ireland) 2016

in hardship after alternative assistance has been taken into account".[34]

26. People applying for payments from the UC Contingency Fund and the Discretionary Support Scheme must meet various criteria to be eligible. Between 2014/15 and 2017/18, the number of grants and loans awarded—including the devolved social fund expenditure from 2013 and the Discretionary Support scheme as part of the mitigation package—declined from 115,000 to 47,000, a reduction of 60 per cent. As a result, annual expenditure fell from £27 million in 2014–15 to £11 million in 2017/18. The Department for Communities told the NIAO that the reduction was because the criteria for loans and grants was more stringent than those for the Social Fund that the Discretionary Support Scheme replaced.[35] For example, the Social Fund criteria did not include an income ceiling. The eligibility criteria for receipt of a Discretionary Support Award are set out below:

Box 1: Eligibility criteria for Discretionary Support Awards

- The claimant is ordinarily resident and present in Northern Ireland
- The need cannot be met from another source
- The claimant is at least 18 years old or a minimum of 16 years old in the case of a young person without parental support
- The need for Discretionary Support occurs in Northern Ireland
- The need is satisfied in Northern Ireland
- The claimant's income, or in the case of a couple their joint income, does not exceed the income threshold currently set with reference to the national minimum wage for a person over the age of 25
- A living expenses award in respect of a period for which an award has already been made to either the claimant or their partner will not be considered except in the event of a disaster
- A claim made within 12 months of a previous claim by the same person for the same goods for which an award has already been made will not be considered except in the event of a disaster
- The claimant's Government debt level, including, where appropriate, that of their partner, does not exceed £1,000
- Discretionary Support assistance provided will normally be the lowest cost to meet the need
- The claimant has made use of any available capital before applying for Discretionary Support.

Source: Department for Communities (2019) Review of Welfare Mitigation Schemes, p25

34 Department for Communities (2019) Review of Welfare Mitigation Schemes, p37
35 NIAO, Welfare Reforms in Northern Ireland (2019), 4.27

27. In its January 2019 report, *Welfare reforms in Northern Ireland*, the Northern Ireland Audit Office questioned why the eligibility criteria for Discretionary Support Awards were so prescriptive, comparing the arrangements with those in Scotland and Wales:

> Setting specific eligibility criteria is at odds with the concept of discretionary awards and alleviating claimant vulnerability. We note that similar schemes in Scotland and Wales […] have not set such prescriptive eligibility criteria.[36]

28. We asked the NIAO about its concerns. Denver Lynn, Director at the NIAO, told us that:

> What we found slightly difficult or slightly hard to understand was why you would strengthen the eligibility criteria for that at a point in time when welfare reform was in place and the Department was then producing mitigation measures. We saw that as slightly at odds.[37]

The Discretionary Assistance Fund (DAF) in Wales and the Scottish Welfare Fund, for example, do not include an income ceiling within their eligibility criteria.[38] The Comptroller and Auditor General for Northern Ireland suggested in particular that the income ceiling for Discretionary Support Awards was one of the restrictive criteria:

> One of the criteria, for example, was an income threshold around £16,000, so that is possibly a factor.[39]

29. Department for Communities officials acknowledged that "the budget that has been set has not been spent as much or we are not spending as much of the budget as we would have done under the social fund previously".[40] David Tarr, an official at the Department, added that the Department is "carrying out a fundamental review of the entire policy" but that this would be used to inform decisions by an incoming Minister, as any changes to the Discretionary Support Awards criteria would need to be approved by the Assembly.[41]

30. To apply for non-repayable grants from the Universal Credit Contingency Fund, the Department requires that claimants take out a Universal Credit advance, which must be repaid.[42] Claimants must also not yet have received their first full month's payment of UC and not have received a Discretionary Support Fund grant for living expenses in the last 12 months. Unlike the criteria for Discretionary Support Awards, this is a policy decision by the Department which is not set down in legislation.[43] Housing Rights argued that the current criteria are "restrictive and preclude[s] some groups of claimants from this support in instances where they are at risk of hardship following the transfer to UC".[44]

36 NIAO, Welfare Reforms in Northern Ireland (2019), 4.28
37 Q183
38 https://www.mygov.scot/scottish-welfare-fund/crisis-grants/; https://gov.wales/discretionary-assistance-fund-daf/eligibility
39 Q183
40 Qq289–293
41 Qq289–293
42 Housing Rights (WEL0019)
43 Q292
44 Housing Rights (WEL0019)

Independent advisory services

31. The mitigation package includes funding for independent advisory services, worth up to £8 million until 2020. This funding has paid for programmes such as training welfare reform and Universal Credit advisers, housing rights training, welfare reform "awareness" sessions for local authorities and statutory bodies, and support officers to liaise between advice organisations and the Department for Communities.[45]

32. Management information submitted by advice organisations to the Department for Communities showed a steady increase in the volume of both advice sessions and calls to the independent helpline between 2016 and 2018, as well as an increase in the number of helpline callers being referred to the face-to-face advisory service.[46]

33. As well as funding independent advisory services through the mitigation package, the Department for Communities has its own advice service called "Make the Call", which provides advice and assistance to claimants on benefit entitlement through a telephone helpline and home visits. The advice service also sends targeted letters offering a Needs Assessment to people who may be eligible to receive benefits but are not currently receiving them.[47]

34. In its January 2019 report on welfare reform, the Northern Ireland Audit Office recommended that the Department evaluate the value for money of the independent advisory services, and consider what the right balance is between the Department's own advice service and independent services after March 2020.[48] The Comptroller and Auditor General for Northern Ireland clarified in oral evidence that the NIAO had found that independent advisory services were generally working well, and that the NIAO recommended that the evaluation should be completed simply as a matter of good practice.[49]

Underspend

35. A large amount of the funding allocated for the mitigation package has not been spent. Some £136m of the available funding was not used in 2016/17 and 2017/18, which does not include £1.4m of unused funding for independent advice services.[50]

36. Administration costs have also been underspent each year (by around £2.6m in 2016/17, and £0.6m in 2017/18). The Department for Communities has explained that the early administrative underspends were because "*the welfare reforms were not rolled out to the timetable expected, and that resulted in the staff required to administer the Welfare Supplementary Payments not being required as anticipated*".[51]

45 Department for Communities (2019) Review of Welfare Mitigation Schemes, p27
46 NIAO, Welfare Reforms in Northern Ireland (2019), 5.2
47 NIAO, Welfare Reforms in Northern Ireland (2019), 5.15
48 NIAO, Welfare Reforms in Northern Ireland (2019), 5.17
49 Q240
50 Department for Communities (2019) Review of Welfare Mitigation Schemes, p32
51 Department for Communities (2019) Review of Welfare Mitigation Schemes, p33

37. The NIAO report on *Welfare Reforms in Northern Ireland* outlined the likely reasons for the significant underspend:

a) the Cost of Work Allowance Scheme (expected to cost £37 million per year including administration costs) was not implemented;

b) start dates for reforms varied throughout 2016–17. For example, the "bedroom tax" was not introduced until February 2017, and so £13 million was unspent in 2016–17;

c) there was a delay before claimants were transferred across to new benefits and entitlements, for example, from DLA to PIP;

d) £24 million of funding for the Discretionary Support Scheme was not used; and

e) There was lower entitlement to ESA mitigation payments than predicted, because fewer claimants were claiming contributory ESA (which was eligible for mitigation payments). This meant that an additional £15 million was unspent.[52]

38. The most significant single reason for the underspend was the unspent £37 million per year in both 2017/18 and 2018/19 as a result of the non-implementation of the Cost of Work Allowance.[53] The Working Group described the Cost of Work Allowance as "supplementary payments in recognition of the expenses those in employment incur with a special weighting for lone parents taking account of the cost of childcare."[54] The Allowance was not able to be implemented because of the absence of an Executive and Assembly. The Department for Communities was also told by HMRC that any such payments would constitute taxable income, with significant implications for the net benefit to recipients.[55] The Department for Communities explained that it had:

> developed the outline of a scheme, and the necessary primary legislation to provide for these payments has been made. However, the more detailed policy is subject to Ministerial approval and will require appropriate secondary legislation. In the absence of the Assembly, the Department has [therefore] not yet been able to implement the Cost of Work Allowance scheme.[56]

Policies not covered by the mitigation package

39. Some welfare reforms that had been implemented recently in Northern Ireland were not subject to mitigation as part of the package. Written evidence from the Joseph Rowntree Foundation, Ruth Patrick (University of York) and Mark Simpson (Ulster University) argued that the mitigations that were put in place were not necessarily those which would financially affect claimants the most:

> 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

52 NIAO, Welfare Reforms in Northern Ireland (2019), 6.4
53 Department for Communities (2019) Review of Welfare Mitigation Schemes, p55
54 Report of the Welfare Reform Mitigations Working Group (2016), p14
55 Department for Communities (2019) Review of Welfare Mitigation Schemes, p13
56 Department for Communities (2019) Review of Welfare Mitigation Schemes, p35

> 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). […] 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.[57]

40. The Cliff Edge NI coalition similarly argued that:

> The largest financial losses to large numbers of individuals and households have arisen from changes to Tax Credits, Child Benefit and a reduction in annual benefit rate uplifts since 2011. These welfare reforms have not been subject to mitigation measures.[58]

41. Professor Evason argued that although the two-child benefit limit would be an "obvious" policy to mitigate in Northern Ireland, it was not included in the original mitigation package as, although the policy was announced prior to the Working Group's report, it was due to be implemented later, in April 2017.[59]

42. The choice of policies to mitigate was, however, partly restricted by the terms of reference for the Working Group, which required the proposed measures to provide financial support specifically for vulnerable claimant groups, and to "afford the greatest level of protection taking account of the degree by which the proposed changes impact on those vulnerable groups".[60]

43. **Overall, the welfare reform mitigation package in Northern Ireland has been a success. Automatic payment of Welfare Supplementary Payments has ensured that claimants receive the payments they are entitled to, although the requirement that claimants must appeal a decision to trigger some disability-related mitigation payments could be better advertised and explained to claimants. While other policies could have been addressed by the mitigation package, there will always be a trade-off between mitigating the largest overall financial losses and providing targeted support to the most vulnerable. The Working Group's original proposals struck a good balance between these objectives.**

44. ***We recommend that, if PIP mitigation payments continue, the Department for Communities clearly outlines the different triggers for mitigation payments to claimants in decision letters, to enable them to make an informed decision about their claim.***

45. **A large amount of the funding allocated for the mitigation package has not been spent. The single main reason is that the Cost of Work Allowance was never implemented. This was because there was no Executive and Assembly in place to do so. This is not, however, true of all the areas of spending. The budget for Discretionary Support Awards and the Universal Credit Contingency Fund is likely to have been underspent because of their restrictive eligibility criteria. The current criteria are out of line with practice in the other devolved administrations, and—in the case of the UC Contingency Fund—require claimants to take on debt before they can access help.**

57 Joseph Rowntree Foundation, Mark Simpson (Ulster University), Ruth Patrick (University of York) (joint submission) (WEL0022)
58 Cliff Edge NI Coalition (WEL0033)
59 Professor Eileen Evason (WEL0008)
60 Report of the Welfare Reform Mitigations Working Group (2016), Appendix 2

46. ***We recommend that the criteria for Discretionary Support Awards are made less restrictive. In particular, a specific income ceiling for Discretionary Support Awards should be removed, in line with practice in Wales and Scotland. The requirement that claimants must take out a Universal Credit advance before being eligible for grants from the Universal Credit Contingency Fund should also be removed.***

2 Effect of the mitigation package ending in 2020

47. The Regulations which provide the legal basis for Welfare Supplementary Payments make clear that the payments can only be made until 31 March 2020.[61] Amendments to the Regulations would be required to allow Welfare Supplementary Payments beyond this date—but the Department for Communities cannot pass amended regulations as they would need to be approved by the Northern Ireland Assembly.

48. The Department for Communities has indicated that Discretionary Support Awards, unlike other mitigation schemes, will not cease after March 2020.[62] Since the Universal Credit Contingency Fund is paid through the Discretionary Support Scheme, payments can also be made from the Fund after March 2020 as long as there is funding in place. The contract for independent advice services is due to end in 2020.

49. We received evidence from the Joseph Rowntree Foundation, Ruth Patrick (University of York) and Mark Simpson (Ulster University) on the likely impact of ending the mitigations in March 2020. They found that the greatest adverse effects would result from the ending of supplementary payments to mitigate the Social Sector Size Criteria ("bedroom tax"/SSSC) and the benefit cap.[63]

Ending SSSC mitigation

50. According to Department for Communities estimates, the ending of SSSC mitigation would likely affect 34,000 households, who would be worse off by an average of £12.50 per week;[64] and the ending of benefit cap mitigation would likely affect 1,500 households, who would be worse off by an average of £42 per week.[65]

51. The likely effect of ending SSSC mitigation can be estimated by looking at what has happened to claimants who have lost their eligibility for mitigation payments. By June 2017, 72 Housing Executive tenants had lost their SSSC mitigation payments through moving within the social sector and continuing to under-occupy (not via a Management Transfer), which ends eligibility for the mitigation payments. Of those who had lost their mitigation, there was an average cumulative arrears increase per household of £128.[66]

Ending benefit cap mitigation

52. Although the number of households receiving mitigation payments for the benefit cap is small, the effect of them ending could be very significant for those households currently receiving them. Kevin Higgins, Head of Policy at Advice NI, told us:

61 Welfare Reform (Northern Ireland) Order 2015 (as amended by the Welfare Reform and Work (Northern Ireland) Order 2016)
62 Department for Communities (2019) Review of Welfare Mitigation Schemes, p47
63 Joseph Rowntree Foundation, Mark Simpson (Ulster University), Ruth Patrick (University of York) (joint submission) (WEL0022)
64 Department for Communities (2019) Review of Welfare Mitigation Schemes, p36–37
65 Department for Communities (2019) Review of Welfare Mitigation Schemes, p36–37
66 Northern Ireland Housing Executive, Welfare Reform NI: A Scoping Report (2018), p45

> They are all families with children; 85% are lone parent families […] If that mitigation falls it is not the same number of people as the bedroom tax but, in terms of impact, that is going to mean a real crisis for those people.[67]

53. The Cliff Edge NI Coalition added that:

> 8% of capped households were capped by more than £100 per week. These figures make clear the detrimental impact the end of the mitigation package would have on families currently shielded from losses from the benefit cap.[68]

54. When the Work and Pensions Committee looked into the benefit cap earlier this year, it found that the cap was "plunging families into hardship":

> The Department [DWP] decides whether people are entitled to benefits, and how much it thinks they need to live on. It is therefore inevitable that the benefit cap, which takes some of that money away, leaves many families without enough money to meet even their basic needs. Parents are left making impossible choices: whether to pay their rent, feed their children or heat their homes. Many experience stress and anxiety because of mounting debt and insecurity; we even heard cases of relationships breaking down and in some cases families losing their homes. Bluntly, the Government's policy is plunging families into hardship […][69]

55. Community Advice Antrim and Newtownabbey provided case studies illustrating the effect on claimants of the mitigation payments ending, outlined in Box 2 below.

Box 2: Case studies of ending mitigation payments

We had one client who is getting a supplementary payment for bedroom tax; she is aware of the March 2020 deadline for mitigations. To prepare themselves for this ending they have been paying extra to their rent each month. This is causing severe stress and financial hardship on this person. This is the only client we have had that has done anything to prepare themselves for the mitigations ending.

A couple who live together in a 3-bedroom property are currently getting a supplementary payment for the bedroom tax for 2 extra bedrooms they have. They are both ill and are claiming employment and support allowance. When I explained to them about the bedroom room tax and that the supplementary payment was due to end in March 2020 they responded by saying 'if the amount of benefit we are currently getting is what the law says we need to live on, how can the government possibly expect us to take anything from this benefit to pay the shortfall in our rent'.

Source: Community Advice Antrim and Newtownabbey (WEL0012)

67 Q126
68 Cliff Edge NI Coalition (WEL0033)
69 Work and Pensions Committee, The benefit cap, Twenty-fourth Report of Session 2017–19, HC 1477

56. Multiple witnesses emphasised to us that it was important for SSSC and benefit cap mitigations to remain in place.[70] Professor Evason emphasised:

> What we would be particularly concerned about is that we need to continue with supplemental payments relating to the bedroom tax, and also I think the benefit cap.[71]

57. The Department for Communities' own review of the mitigation package concluded that:

> Evidence clearly shows that the impact of this policy [the SSSC/"bedroom tax"] has not abated and is unlikely to change over the next few years with the number of affected claimants remaining largely constant. It is therefore considered that there is strong evidence to consider the continuation of this policy [i.e. mitigation payments].
>
> […] Alongside Social Sector Size Criteria it has been estimated that the mitigation scheme that would benefit the greatest number of claimants, were it to continue, is for the Benefit Cap.[72]

Disability related payments

58. Welfare Supplementary Payments other than those to mitigate the SSSC and benefit cap all relate to the migration of claimants from Disability Living Allowance (DLA) to Personal Independence Payment (PIP). The Department states that "it is expected that the vast majority of Disability Living Allowance reassessment cases will be determined by March 2019, with any outstanding cases cleared by August 2019", and that apart from claimants who lodge late disputes and have their reasons for delay accepted or are granted leave to appeal to the Social Security Commission, all remaining disability-related Welfare Supplementary Payments would have started by September 2019. The Department concluded that the number of claimants affected by the ending of mitigation schemes at 31 March 2020 "will be extremely small".[73]

59. One group who will be affected, however, are what the Department for Communities calls "rising 16s", children under 16 years old currently receiving Disability Living Allowance (DLA) who will have to apply for Personal Independence Payment (PIP) when they are 16. The Department estimate that, excluding administrative costs, that mitigating the potential loss of Disability Living Allowance on the same basis as the current mitigation package would cost £3.8 million.[74] The Northern Ireland Commissioner for Children and Young People told us in written evidence that they could not see a rationale for excluding

70 British Association of Social Workers Northern Ireland (WEL0003); Mr Eddie Smith (WEL0004); Advice NI (WEL0007); Connswater Homes (WEL0011); Community Advice Antrim and Newtownabbey (WEL0012); Christians Against Poverty (CAP) (WEL0015); North Belfast Advice Partnership (WEL0016); Sinn Féin (WEL0017); Employers For Childcare (WEL0018); Housing Rights (WEL0019); Northern Ireland Federation of Housing Associations (WEL0020); NIICY (WEL0021); The Royal British Legion (WEL0025); Women's Resource and Development Agency (WEL0026); SDLP (WEL0031); People Before Profit (WEL0032); Cliff Edge NI Coalition (WEL0033); Northern Ireland Human Rights Commission (WEL0034); Green Party Northern Ireland (WEL0035); Law Centre (NI) (WEL0036); Church Leaders' (Ireland) Group (WEL0040)

71 Q125

72 Department for Communities (2019) Review of Welfare Mitigation Schemes, pp50–51

73 Department for Communities (2019) Review of Welfare Mitigation Schemes, p37

74 Department for Communities (2019) Review of Welfare Mitigation Schemes, p45

young people from the PIP mitigations.[75]

60. For payments to mitigate the time-limiting of contributory Employment Support Allowance (ESA) the Department estimate that only a very small number of claimants would be affected:

> only claimants who have been in receipt of Employment and Support Allowance prior to November 2016 and are then moved from the Support Group to the Work-related Activity Group could still be affected by this welfare change.[76]

61. Even though the numbers of new claimants who would be eligible for the disability-related mitigations is small, claimants who are currently receiving mitigation payments for reduced entitlement to disability benefits would still see their payments cease in March 2020 if the mitigation package were not renewed. John, who receives PIP mitigation, told us that he could lose around £500 per month were the payments to end:

> I will be £500 worse off. I do not know how that will affect me and my wife. […] I am just dreading next March when that stops. I try not to think about it, but it's hard. I can't not think about it. I have to think about it. Basically what I am doing now is just saving up money that I have now for when that money stops. It is just things I am going to have to cut down on.[77]

62. Professor Evason explained that although many of the mitigations would have come to a natural end, there will be some remaining disability-related cases because of "rising 16s":

> A lot of things have washed away but we have tail-enders as well, for example, on PIP. We have young people on disability living allowance who are coming up to the PIP assessment and will not get any support, so there are various things like that, but we are not asking for a lot and it will not cost a great deal.[78]

Claimant awareness

63. Multiple witnesses told us about their concern that the majority of claimants currently receiving Welfare Supplementary Payments are not aware that their payments would stop at the end of March 2020.[79] For example, Housing Rights told us that:

> Despite the financial consequences of loss of mitigations and the proactive work done by many social landlords around welfare reform, many claimants are unaware that they are receiving a mitigation payment. This will compound the impact of the mitigation cliff edge.[80]

75 NIICY (WEL0021)
76 Department for Communities (2019) Review of Welfare Mitigation Schemes, p36–37
77 Q82
78 Q125
79 Advice NI (WEL0007); Community Advice Antrim and Newtownabbey (WEL0012); Women's Regional Consortium (WEL0013); Housing Rights (WEL0019); Joseph Rowntree Foundation, Mark Simpson (Ulster University), Ruth Patrick (University of York) (joint submission) (WEL0022); Cliff Edge NI Coalition (WEL0033); Law Centre (NI) (WEL0036); Church Leaders' (Ireland) Group (WEL0040)
80 Housing Rights (WEL0019)

Community Advice Antrim and Newtownabbey similarly said:

> After speaking with clients, [we] have realised some are not even aware they are getting a supplementary payment and certainly not aware they are due to end.[81]

64. A survey by the Department for Communities found that 78% of respondents were not aware of the Welfare Supplementary Payments Scheme—and 69% of SSSC mitigation recipients were not aware that the payments were due to end.[82]

Conclusion

65. **The ending of the mitigation payments in March 2020—in particular, the ending of Social Sector Size Criteria and benefit cap mitigations—would mean that tens of thousands of households in Northern Ireland would see their incomes suddenly fall, some by hundreds of pounds per month. The impact on households would be exacerbated by the fact that many people simply would not be expecting the payments to end. Support organisations in Northern Ireland have rightly described this prospect as a "cliff edge". None of the special circumstances that justified the mitigation package have changed in the last four years.**

66. ***We recommend that the mitigation package is extended after March 2020, for a further four years. This should include the SSSC ("bedroom tax") and benefit cap mitigations, disability-related mitigations already in payment, and DLA to PIP transition mitigation for 16 year-olds. We also recommend that the Department for Communities consider rolling over the contract for independent advisory services after 2020.***

81 Community Advice Antrim and Newtownabbey (WEL0012)
82 Department for Communities (2019) Welfare Reform (NI) Claimant Baseline Surveys

3 Options for continuing the mitigation package

67. The mitigation package legislation clearly states that Welfare Supplementary Payments will end on 31 March 2020. Amendments to the legislation would be required to allow Welfare Supplementary Payments beyond this date—but without a Northern Ireland Assembly, the Department for Communities would not be able to pass amended regulations as they would need to be approved by the Assembly.[83] The Fresh Start Agreement included a commitment that the allocation of funding for the mitigation package would be reviewed in 2018/19, which would have been the point at which a decision could have been taken by the Executive to continue the package. In the absence of the Executive the Department for Communities undertook a review of the Scheme.

68. The Department for Communities concluded in its review of the mitigations scheme that "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."[84]

Using Discretionary Housing Payments

69. The Department for Communities has proposed that, in the continued absence of an Executive and in the absence of legislation by Parliament, that Discretionary Housing Payments (DHPs) could be used to continue to pay benefit cap and SSSC mitigations.

70. Using DHPs to mitigate the benefit cap is allowed for in the DHP legislation, since it allows the payments to be made to claimants who are affected by the benefit cap who are not otherwise eligible for a Welfare Supplementary Payment. The Northern Ireland Discretionary Housing Payment budget is currently £5 million per year to 2024–25. The Department noted that the budget underspend for Discretionary Housing Payments in 2017/18 (£3.6 million) could cover the estimated cost of continued mitigation against the benefit cap.[85] The Department for Communities estimates that the future cost of SSSC and benefit cap mitigations would cost £22.1 million and £3.33 million per year respectively.[86]

71. When it comes to the Social Sector Size Criteria ("bedroom tax"), the Department explain in its review of the mitigation schemes that "while the legislation would need to be amended in order to permit Discretionary Housing Payments to be used for mitigation for the Social Sector Size Criteria", this would not be difficult since it would not need to be approved by the Assembly.[87] In this case Westminster would, however, still need to legislate to provide funding for the payments.

72. Scotland has used DHPs to mitigate the "bedroom tax" since 2013/14. Whilst the legislation requires that they remain discretionary in legal terms (so that claimants are not automatically entitled to them), the Scottish Government has allocated additional

83 Department for Communities (2019) Review of Welfare Mitigation Schemes, p44
84 Department for Communities (2019) Review of Welfare Mitigation Schemes, p45
85 Department for Communities (2019) Review of Welfare Mitigation Schemes, p47
86 Q304
87 Department for Communities (2019) Review of Welfare Mitigation Schemes, p40

funding for DHPs to local authorities so that in practice any households affected by the SSSC should receive a Discretionary Housing Payment to cover the shortfall if they apply for one.[88]

73. The main drawback of using Discretionary Housing Payments to replace the mitigation payments is that they cannot be applied automatically, as the existing payments currently are.[89] The Department for Communities concluded in its review of the mitigation schemes that "it would not be possible to guarantee that all claimants affected by the Social Sector Size Criteria would receive a Discretionary Housing Payment equivalent to any loss of benefit".[90]

74. We asked the Department for Communities how practical it would be to use DHPs to make mitigation payments. The Permanent Secretary, Tracy Meharg, said:

> In theory we could but operationally it is very challenging. Every time we look at these we have to look through the four lenses of budget, operational challenges, legislative challenges and policy challenges. In theory we could, but those other things would have to be overcome, and then we would need a runway. We would have to think about what we are doing as we are funnelling 33,000 applications in this big funnel into a single vehicle, which is discretionary, which is operationally very challenging.[91]

75. In follow-up written evidence, the Department explained that there would be additional staffing and administration costs, partly because manual processes would be needed to pay Universal Credit claimants:

> There would be clear resource implications for the Housing Executive in terms of staffing and possibly from a technology infrastructure perspective, that would require additional funding. While the Housing Benefit system currently operated by the Housing Executive has the facility to automate Social Sector Size Criteria and Benefit Cap mitigation payments for those claimants on Housing Benefit, this would not currently be the case for Universal Credit claimants which would require an element of manual intervention.[92]

The Department also suggested that, even with prior preparation and automation of the process, it was concerned that making mitigation payments through DHPs may not be practically feasible because of the likely increase in demand in a short period of time:

> The Housing Executive could begin to collect data on potential Discretionary Housing Payment applications due to the Social Sector Size Criteria in advance of 31 March 2020, and would aim to maximise the use of automation in the overall operational process. However, even with the provision of increased funding there would, of course, be reservations around the operational impact of having adequate resources in place that

88 NIAO, Welfare Reforms in Northern Ireland (2019), 1.12; https://www.gov.scot/policies/social-security/support-with-housing-costs/#discretionary-housing-payment
89 Q243
90 Department for Communities (2019) Review of Welfare Mitigation Schemes, p46
91 Q304
92 Department for Communities (WEL0041)

> would be capable of seamlessly delivering Discretionary Housing Payments for such an increased demand in the projected timescale.[93]

76. **Paying "bedroom tax" and benefit cap mitigations through Discretionary Housing Payments would be operationally extremely challenging. This is not surprising, given that around 35,000 claimants might be expected to apply for DHPs in a short period of time, through a system not designed to handle this volume of claims. The fact that such payments would be discretionary, rather than automatic, risks some claimants slipping through the net. Using DHPs is, however, the only plausible and legal means of continuing the two main mitigations without legislation from Westminster—and clearly preferable to the mitigation payments stopping altogether. Even so, the serious risks to claimants and the amount of money that would have to be spent on making changes to the DHP systems that could otherwise to be used to help claimants, should make clear to the UK Government that it has a responsibility to avoid this option having to be used.**

77. ***We recommend that, in the continuing absence of an Executive and only in the event of the necessary legislation failing to be put in place, the Department for Communities continue to pay "bedroom tax" and benefit cap mitigations through Discretionary Housing Payments. The Department for Communities should also, in response to this report, set out its plans for how it would make claimants aware of the need to apply for payments in the event that mitigation payments were made through DHPs.***

Legislation by the UK Parliament

78. Legislation passed by the UK Parliament would be the most effective way of continuing the relevant parts of the mitigation package in the absence of an Assembly and Executive, and would avoid the need to use Discretionary Housing Payments to replace the payments.

79. From a legal perspective, legislation would only need to be in place by the end of March 2020. If the mitigation package were not to continue, the Permanent Secretary of the Department for Communities told us that the Department would need to begin contacting claimants in Autumn 2019.[94] The Department would therefore need to be assured before then that legislative cover would be in place by March 2020, in order for it not to begin the work of contacting claimants and preparing other options, such as using Discretionary Housing Payments to continue the mitigation payments.[95]

The Government's position

80. The Northern Ireland Office has refused to say whether the UK Government would bring forward legislation to continue welfare mitigation in Northern Ireland, and has argued that its priority is reinstating an Executive. In oral evidence taken before the Northern Ireland Affairs Committee in March 2019, the then Secretary of State for Northern Ireland refused to commit to passing legislation to extend the mitigation package after it is due to end:

93 Department for Communities (WEL0041)
94 Q249
95 Q318

> It would not be right to start putting numbers or dates on that [extending the mitigation package]. All I will say is that I am aware of the situation and we want to re-form the Executive. All of these conversations are about how to mitigate something that is less than ideal. Let us try to focus on re-forming the Executive and then we do not have to have these mitigating conversations.[96]

Legislating in devolved areas

81. Under the legislation governing UK devolution, the administrations have areas for which they are constitutionally and routinely responsible. However, Parliament retains the power to legislate in those devolved areas. To respect the autonomy of the devolved institutions, there is a constitutional convention that the UK Parliament will not normally legislate on devolved matters without the prior agreement of the devolved legislatures in whose 'constitutional space' they are legislating.[97] This is effectively a 'self-denying ordinance', known as the "Sewel Convention". It has the status of a constitutional convention and is not legally enforceable in the courts.

82. When the UK Parliament does wish to legislate on a devolved matter, the UK Government would usually seek what is known as "legislative consent". This involves a devolved legislature agreeing to a bill by passing a "legislative consent motion".[98] The Sewel Convention was clearly framed on the assumption that the devolved institutions would continue to operate. In the absence of an Assembly and Executive, however, the Sewel Convention cannot operate normally as there is no devolved legislature to provide consent.

83. The UK Government has already legislated in areas that would otherwise fall within the scope of the Sewel Convention in passing successive Northern Ireland Budget Acts, and providing legislation to continue Renewal Heat Incentive Scheme payments via the Northern Ireland (Regional Rates and Energy) (No 2) Act. This allowed payments to be made to Renewable Heat Incentive Scheme participants beyond what would have otherwise been a cut-off at the end of March 2019. The UK Government has also committed to pass legislation to implement payments to victims of historical institutional abuse if there is no NI Executive in place.

84. Continuing the mitigation package is an area around which there is a substantial degree of political consensus. A number of Northern Ireland political parties—the Green Party in Northern Ireland, People Before Profit, Sinn Fein, and the SDLP—submitted written evidence to our inquiry. All expressed a desire for the mitigation package to be extended beyond 2020.[99]

85. **We accept that legislation to extend the mitigation package falls within devolved legislative competence. However, the circumstances surrounding the package ending are clearly exceptional: a potential drastic impact on vulnerable people and no Assembly to extend the legislation. Whilst restoring the NI Executive is rightly a priority for the Secretary of State, this does not preclude taking action when circumstances require it.**

96 Oral evidence taken before the Northern Ireland Affairs Committee on 27 March 2019 (HC 498), Q590
97 House of Commons Library, Brexit: Devolution and legislative consent (Briefing Paper 08274)
98 House of Commons Library, Brexit: Devolution and legislative consent (Briefing Paper 08274)
99 Green Party Northern Ireland (WEL0035); People Before Profit (WEL0032); Sinn Féin (WEL0017); SDLP (WEL0031)

There are clear precedents for the UK Government legislating to continue payments, and political consensus that the main parts of the mitigation package should continue. There is therefore no good reason why the UK Government cannot bring forward legislation to extend the mitigation package.

86. **The Department for Communities has said that it would need to start contacting claimants in Autumn 2019 if the mitigation package was not to continue. The UK Government must therefore act quickly to end the uncertainty—for the Department for Communities, but most of all for claimants in Northern Ireland.**

87. ***We recommend that the Secretary of State for Northern Ireland make a statement to Parliament as soon as possible making clear the UK Government's intention to pass legislation to extend the mitigation package, and bring forward such legislation to come into effect before the end of March 2020. The UK Government should provide funding for the mitigation package—including the Discretionary Support Scheme, the Universal Credit Contingency Fund, and funding for independent advisory services—in a Northern Ireland Budget Act.***

4 Universal Credit in Northern Ireland

88. Universal Credit (UC) is the Government's flagship welfare policy, which merges six separate benefits into one, paid as a single, monthly payment in arrears. Rollout of Universal Credit to new claimants and those on legacy benefits (the benefits UC replaces) with a relevant change of circumstances took place, as with the rest of the UK, on an area-by-area basis between 27 September 2017 and 5 December 2018.

89. Universal Credit claimants in Northern Ireland have additional "flexibilities" that are not available to UC claimants in the rest of the UK. These are that:

a) Universal Credit is normally paid once a fortnight in Northern Ireland, compared to once a month in England and Wales;

b) housing costs for people on Universal Credit in Northern Ireland are normally paid directly to the landlord, whereas in England and Wales people normally receive their full Universal Credit payment and must arrange to pay their own rent; and

c) joint claimants can request that payment is split between the two members of the couple, whereas in the rest of the UK, couples can only have their UC payment be split between them in exceptional circumstances, when recommended by Work Coaches.

The five week wait

90. Multiple witnesses told us that the "five week wait"—the minimum delay between having a Universal Credit application accepted and receiving the first payment—was a major flaw with the design of Universal Credit. Alan, a Universal Credit claimant, told us that Universal Credit should not require claimants to take on debt in the form of advance payments:

> The thing about the loans, I think that is a big flaw in Universal Credit. Why should you have to wait five weeks to go on a benefit? That is going to put you in debt. I am paying £47 a month because of getting the advance payments. I don't understand: why can't you just go from one benefit to the other? Why is there a five-week period?[100]

91. Community Advice Antrim and Newtownabbey provided the following case study of the effect of the five week wait on claimants:

92. The five week wait has also been linked to an increase in tenants arrears in Northern Ireland:

> The five week wait before claimants receive their first UC payment has already caused a significant rise in arrears, despite (as of May 2019) only 13% of the total population in NI due to migrate to UC having done so already. These arrears have been well documented in the SRS [Social Rented

100 Q51

> Sector]; in 2018/19 the average arrears for NIHE tenants on UC were £700.05, compared to an average of £191.82 for Housing Benefit claimants.[101]

Box 3: Case study: effect of the five week wait

> [A] client who is a single parent with one child, a housing association tenant and getting housing benefit … was paying the shortfall on their rent by direct debit; they were also paying extra as they were in rent arrears. She claimed Universal Credit and was advised she would have to wait 5 weeks for her first payment. She could not afford the shortfall, repayment for arrears as well as living expenses. The client rang the housing association to explain she would be cancelling the direct debit until her first payment of UC went in. She was advised by the housing association that if she cancelled the direct debit they would start legal proceedings. The client has had no other option but to keep the direct debit and pay what she can of her rent. She said she had to "choose between shelter or food and heating". She was then relying on family members for support to feed herself and her child.

Source: Community Advice Antrim and Newtownabbey (WEL0012)

93. Professor Eileen Evason argued that if the Department can pay an advance, there is no reason why this could not be a first payment:

> […] it never crossed my mind that people would be waiting, five, six, seven, eight or nine weeks for the first payment. Certainly, I think the point was very well made earlier on. If they can make an advance I cannot understand why that cannot be converted into a first payment.[102]

94. The waiting period for Universal Credit is a problem which affects the whole of the UK, not just Northern Ireland. This is an area the Work and Pensions Committee has previously reported on earlier this year, in its report, *Universal Credit: natural migration*. The Committee concluded that the five-week wait was "one of UC's fundamental design flaws" and recommended that:

> the Department should look at practical options to eliminate the five-week wait. This could, for example, involve the Department making advance payments to claimants non-repayable. It could adjust for any differences in the estimate on which a claimant's advance is calculated and the calculation of their final award through additions or deductions to the claimant's future UC payments.[103]

The Committee also recommended that, whilst the five week wait remains, that the Government bring forward the "run-ons" of legacy benefits (two weeks' additional payment of the benefits UC replaces when a claimant is moving to Universal Credit) to Autumn 2019.[104]

101 Housing Rights (WEL0019)
102 Q115
103 Work and Pensions Committee, *Universal Credit: natural migration*, Twenty-seventh Report of Session 2017–19 (HC 1884), para 55
104 Work and Pensions Committee, *Universal Credit: natural migration*, Twenty-seventh Report of Session 2017–19 (HC 1884), para 56

95. We therefore welcome the commitment from the Secretary of State for Work and Pensions to look at ways of reducing the five week wait, by drawing on evidence from the operation of run-ons of legacy benefits and the managed migration pilot. In oral evidence on Wednesday 24 July, the Secretary of State told the Work and Pensions Committee:

> The Department and I are keen to see the evidence of what works from the changes that previous Secretaries of State have made. But I am mindful that there are lots of other proposals, some of which have come from yourselves and some of which have come from think-tanks, about how to get money into people's hands earlier, and I would be surprised if a new Prime Minister did not want to take a look at those.[105]

96. **Despite the Government reducing the overall waiting period for Universal Credit from six weeks to five, the waiting period is still too long, creating financial difficulties for claimants and encouraging them to take on debt. This is not a problem specific to Northern Ireland: it is a flaw with the design of Universal Credit. It is welcome that the Secretary of State for Work and Pensions recognises these problems and wants to ensure that claimants receive their first payment as soon as possible. The Work and Pensions Committee will be monitoring how the Department delivers on this commitment.**

Universal Credit flexibilities: fortnightly payments

97. Universal Credit claimants in Northern Ireland receive their payments fortnightly by default, rather than monthly (as is the case in England and Wales), although claimants can still opt to receive monthly payments. The Permanent Secretary for the Department for Communities, in correspondence with the Chair of the Work and Pensions Committee, stated that the "overwhelming majority" of claimants in Northern Ireland receive fortnightly payments.[106] Fortnightly payment is triggered by default whenever a UC claim is made with a Northern Ireland postcode.[107]

98. Despite the fact that UC is paid fortnightly, claimants in Northern Ireland still receive a monthly statement, which the Department says can "lead to confusion among claimants". The Department for Communities has said that the Department for Work and Pensions has plans to address this problem,[108] but confirmed subsequently that this would simply involve monthly statements explaining that payment was made fortnightly.[109]

99. Professor Evason told us that "the situation would be much worse" without fortnightly payments.[110] Kevin Higgins, Head of Policy at Advice NI, agreed, but added that fortnightly payments combined with the five week wait mean that claimants have to wait longer to get their full UC entitlement after the assessment period:

105 Oral evidence taken before the Work and Pensions Committee on Wednesday 24 July 2019, Q147 (Amber Rudd)
106 Letter from Permanent Secretary, Department for Communities NI, to Chair of the Work and Pensions Committee, 11 February 2019
107 Letter from Permanent Secretary, Department for Communities NI, to Chair of the Work and Pensions Committee, 11 February 2019
108 Letter from Permanent Secretary, Department for Communities NI, to Chair of the Work and Pensions Committee, 11 February 2019
109 Letter from Director, Social Security Policy and Legislation, Department for Communities NI, to the Work and Pensions Committee, 13 August 2019
110 Q158

> The one flaw I would say with fortnightly payments is you still have to wait until the end of the first assessment period. Then you get half of what you are due, and you get the remaining half halfway into your second assessment period. It is that flaw that you wait and wait and wait, and you have saved and borrowed and all the rest of it and you get only half of what maybe you were expecting.[111]

100. We heard from Sabrina, a Universal Credit claimant who told us that receiving fortnightly payments made it easier for her to budget:

> **Chair:** Sabrina, do you value receiving your UC every fortnight rather than getting it once a month? Because that is different in Northern Ireland to the mainland.
>
> **Sabrina:** If you are good at budgeting, a fortnight is handier.
>
> **Chair:** You think that is much easier for you to manage than if you only got it once a month?
>
> **Sabrina:** Yes, it is.[112]

101. Written evidence from the Joseph Rowntree Foundation, Ruth Patrick (University of York) and Mark Simpson (Ulster University) argued that the Government's rationale for a single monthly payment under Universal Credit was flawed, since it may not reflect the pattern of earned income for low income households:

> 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 manage their own income across a whole month, in common with most employees. However, it is far from clear that monthly payment is the norm for low paid workers.[113]

The Department's own figures show that 50% of all households earning below £10,000 are paid on a cycle other than monthly.[114] Data from the Annual Survey of Hours and Earnings shows that, across the labour market as a whole, a quarter of jobs do not have a monthly pay period—with 13% of jobs having a weekly pay period.[115]

102. The Secretary of State for Work and Pensions has already piloted more frequent payment of Universal Credit and is evaluating the results.[116] However, Northern Ireland already offers a practical example of higher payment frequency from which the Department for Work and Pensions can learn.

103. **Fortnightly payment of Universal Credit in Northern Ireland has worked well, making it easier for low-income households to budget. However, claimants receiving**

111 Q158
112 Qq35–36
113 Joseph Rowntree Foundation, Mark Simpson (Ulster University), Ruth Patrick (University of York) (joint submission) (WEL0022)
114 National Audit Office (2017) Rolling out Universal Credit, p70
115 Office for National Statistics (2017) Annual Survey of Hours and Earnings (ASHE) – Proportion of all employee jobs with weekly, fortnightly, four-weekly and monthly pay periods, UK
116 Hansard HC Deb 22 July 2019, Col 1147

fortnightly payments continue to receive monthly statements, which inevitably causes confusion and potential anxiety. We welcome that DWP and the Department for Communities recognise this problem. We doubt, however, that the Department for Communities' proposal to include on monthly statements an explanation that payments will be made fortnightly will prove adequate. Fortnightly statements would be considerably clearer for claimants. ***We recommend that Universal Credit claimants in Northern Ireland receiving fortnightly payments also receive fortnightly statements.***

104. **The advantages of fortnightly payment of Universal Credit in Northern Ireland would apply equally to claimants in England and Wales. Since the fortnightly payment pattern is applied automatically in Northern Ireland by the Universal Credit IT system, we can see no reason why DWP cannot replicate it in other areas of the UK.**

105. ***We recommend that the Department for Work and Pensions give claimants in England and Wales the option to receive fortnightly payments of Universal Credit, with fortnightly statements.***

Universal Credit flexibilities: direct payment to landlords

106. In Northern Ireland, the housing costs element of Universal Credit is paid directly to landlords by default. Direct payment to landlords can only be made by request in the rest of the UK.

107. The evidence we heard suggests that direct payment to landlords generally works well for claimants in Northern Ireland. It has, however, not been without problems. While direct payment to social landlords is automated, payments to landlords in the private rented sector have to be processed manually.[117] The Permanent Secretary at the Department for Communities told the Chair of the Work and Pensions Committee in correspondence that this is a "particularly labour intensive area which given its manual nature, can be more prone to error. Accordingly, additional staff resources are being deployed on processing and checking this flexibility, pending the automation of this process".[118]

108. We asked the Northern Ireland Audit Office whether this extent of manual processing represented value for money. Denver Lynn, Director at the NIAO, suggested that this was primarily a policy decision:

> The Department is best placed to answer this question, but in my understanding, one of the benefits of the late implementation of policy is that you can learn from elsewhere. One of the aspects that was learnt by the Department for Communities was the increase in debt that claimants would fall into when monies were being paid to them to pay to their landlord. That was the reason for the intervention on that particular point, that the default position, certainly in the social housing sector, was that monies would be paid direct to the landlord. That would take the individual out of that and they would not fall into arrears because of that same point.[119]

117 Letter from Permanent Secretary, Department for Communities NI, to Chair of the Work and Pensions Committee, 11 February 2019
118 Letter from Permanent Secretary, Department for Communities NI, to Chair of the Work and Pensions Committee, 11 February 2019
119 Q197

The NIAO did, however, acknowledge that there were additional costs incurred by introducing manual flexibilities into a system designed primarily to pay claimants rather than landlords.[120]

109. The Department for Communities told us that they expected the planned automations of UC flexibilities in Northern Ireland—including batch payment to social landlords and automated payment to private rented sector landlords—to be implemented within the next 18 months:

> We have a number of IT asks of the Department for Work and Pensions around our flexibilities and it has been gradually working with us on delivery on those. We are confident now that over the next probably 18 months we will have all of our IT requirements delivered.[121]

Tenant arrears

110. We also heard concerns about the build-up of residual arrears, where housing benefit or the housing element of Universal Credit does not cover the full cost of an individual's rent, and technical arrears, which occur because the payment schedules and payments due do not match.[122]

111. David Sales, Director of the Universal Credit Programme at the Department for Communities told us that the Department is working with landlords to try to address the build-up of tenant arrears. The Department is telling landlords manually when a claimant might build up residual arrears so that they can intervene at an early stage:

> What we are trying to do is get a better information flow … We are trying to work with social rented landlords to tell them the amount of money that they are getting in respect of a particular claimant as early in that journey as possible so that they have the potential to intervene. They would understand that there may be residual arrears starting to build from month 1 […][123]

The Department is also telling landlords about their payment schedules to ensure that they do not pursue a claimant for technical arrears:

> Rather than pursue a claimant for technical arrears, they understand that there is a payment coming from the Department, it is just with the payment cycle. There is work that we are doing clerically now. There is also work that we are doing with the Department for Work and Pensions to automate that process so that the system would do that automatically.[124]

112. We heard that direct payment to landlords can also mean that if claimants move house during their Universal Credit assessment period (the successive month-long periods where income and circumstances are taken into account to calculate the next UC payment in arrears), their new landlord will receive the Housing Element for the full assessment

120 Qq200–201

121 Q278

122 Housing Rights (WEL0019), Connswater Homes (WEL0011), North Belfast Advice Partnership (WEL0016); Q117, Qq264–265

123 Q269

124 Q269

period.[125] The Department for Communities said this was "probably what we would call an unintended consequence of one of the Northern Ireland flexibilities".[126] It is, however, unclear why this happens if the Department receives the necessary information from claimants about their change in landlord. Anne McCleary, Director of Social Security Policy and Legislation at the Department for Communities said that they are working with tenants and landlords to address this problem:

> We are looking at that… We are looking at it to work with the landlords and with the tenants to see what we can do.[127]

113. **We welcome the commitment of the Department for Communities to address the problem of residual and technical rent arrears that build up as a result of migration to Universal Credit and the payment flexibilities in Northern Ireland.** ***We recommend that the Department for Communities set out in detail, in response to this report, the work it is currently doing to address the build-up of tenant arrears, and its plans for any future work in this area.***

114. **The delay in automating the UC flexibilities in Northern Ireland—such as direct payments to private landlords and batch payments to social landlords—has required labour intensive processes that inevitably result in higher levels of error. The Department for Communities expect the automations to be completed within 18 months. It is important that there is no further delay.** ***We recommend that the Department for Work and Pensions work with the Department for Communities to ensure that the planned automations of UC flexibilities in Northern Ireland are in place within 18 months.***

Universal Credit flexibilities: split payments

115. In Northern Ireland, a couple making a joint Universal Credit claim can have the payment 'split' between them on request. In the rest of the UK, couples can request that their UC payment be split between them as an Alternative Payment Arrangement (APA), but this can only be recommended by Work Coaches in exceptional circumstances.

How have split payments been implemented?

116. Universal Credit payments are only split if claimants request this. Split payments were originally planned to be offered with no default option, meaning that the lead claimant would have to choose at the point of application whether they wanted it paid into a single account, a joint account, or split between two accounts.[128]

117. The Women's Resource and Development Agency told us that the "no default" position was not possible because of the online application process for UC:

> The key barrier to being able to fully implement the commitment to a 'no default' approach for all claimants is the IT system as it currently only has the capability to enter one bank account when a claimant is filling in the online application.[129]

125 Housing Rights (WEL0019)
126 Q270
127 Q272
128 Women's Regional Consortium (WEL0013)
129 Women's Resource and Development Agency (WEL0026)

Why is take-up so low?

118. Take-up of UC split payments in Northern Ireland has been extremely low, with only two Universal Credit claims (and therefore four individuals) making use of them.[130] We asked the Department for Communities why they thought this was. The Permanent Secretary offered a number of possible explanations, including that the majority of claimants are single—with only 12% of claimants in families—and that the Department may not have advertised this option widely or clearly enough to claimants.[131]

119. The Director of the Universal Credit Programme at the Department for Communities, David Sales, suggested that wider take-up of split payments would make a limited difference in practice or result in female partners in couples receiving smaller payments:

> Having seen that there was only four out of probably 62,000 [claimants receiving split payments] in our work with organisations in Northern Ireland, we did a sample of some of our claimants to try to understand what was going on. We sampled 100 of the 12% and what we discovered was that for 73% of that 100 the payment was going to the female in that instance, so a split payment would actually disadvantage the female. It is a very complex area and a very sensitive area.[132]

He conceded, however, that if claimants "could specify from the outset anonymously that they want a split payment"—the "no default" model—that would "enable the greatest amount of choice to claimants".[133]

120. The current DWP systems used to pay Universal Credit cannot make split payments automatically. A manual process is therefore used in Northern Ireland, although the Department for Communities told us that "further automation of these processes is scheduled within DWP plans to improve system functionality".[134] The Cliff Edge NI Coalition suggested that the manual processing of UC flexibilities in Northern Ireland makes the process less clear for claimants, which may also account for the low take-up.[135]

121. The Women's Resource and Development Agency told us in written evidence that low take-up may be because split payments are not routinely offered to claimants:

> WRDA believes that DfC [the Department for Communities] have not made any effort to publicise this policy to claimants. […] We remain concerned that claimants might be receiving conflicting advice from JBO [Jobs and Benefit Office] staff or simply not presented with the full range of payment options at the time of setting up a claim. [136]

122. Professor Evason offered an alternative explanation; namely, that under the current arrangements, those who would want split payments would be in the hardest position to claim them:

130 Joseph Rowntree Foundation, Mark Simpson (Ulster University), Ruth Patrick (University of York) (joint submission) (WEL0022)
131 Qq321–324
132 Q324
133 Q324
134 Department for Communities (WEL0037)
135 Cliff Edge NI Coalition (WEL0033)
136 Women's Resource and Development Agency (WEL0026)

> Nobody suggests that people do not know about them. It is that the person who is likely to need them would be the woman who has an alcoholic husband, the woman who is being subjected to domestic violence, the woman who is really in a very parlous position. She is not going to go down to the local office or whatever and say, "I want half the money" or more.[137]

123. The Work and Pensions Committee recommended in its report on *Universal Credit and domestic abuse* that DWP support the Scottish Government to pilot split payments in Scotland, and use the evaluation to see if there is a case for introducing split payments by default in the rest of the UK.[138] The Department for Work and Pensions and the Scottish Government have recently agreed on a potential method of splitting Universal Credit payments, in line with the Scottish Government's original proposals, and are now beginning to work on policy design and implementation.[139]

124. The Work and Pensions Committee also recommended that "where claimants have dependent children, the entire UC payment should be made to the main carer by default."[140] In a speech in January 2019, the Secretary of State for Work and Pensions subsequently committed to ensuring that UC payments to households with children go to the main carer:

> […] I am committed to ensuring that household payments go directly to the main carer—which is usually, but not always, the woman. For those couples currently claiming UC, around 60% of payments already go to the woman's bank account. However, I am looking at what more we can do to enable the main carer to receive the UC payment, and we will begin to make those changes later this year.[141]

In an answer to a written question by Baroness Lister, the Department confirmed, however, that it would only "encourage" UC payments going to the main carer in joint claims.[142]

125. In its July 2019 report, *Welfare safety net*, the Work and Pensions Committee concluded that the Government's commitment only to "encourage" the payment going to the main carer "means it is unlikely to have the wholesale impact the Secretary of State intends", adding that "couples where abuse or coercive control is a problem are unlikely to respond to 'encouragement'". The Committee urged the Government to pay UC to the main carer by default.[143]

126. **The experience of Northern Ireland shows that offering split payments of Universal Credit on request is not enough to encourage and enable uptake by those who most need it. The Scottish Government's planned implementation of UC split payments is an opportunity for the Department for Work and Pensions and the Department for Communities to learn what approach would work best.**

137 Q159
138 Work and Pensions Committee, Universal Credit and domestic abuse, Seventeenth Report of Session 2017–19 (HC 1166)
139 Letter from Cabinet Secretary for Social Security and Older People, Scottish Government, to Chair of the Work and Pensions Committee, 12 June 2019
140 Work and Pensions Committee, Universal Credit and domestic abuse, Seventeenth Report of Session 2017–19 (HC 1166)
141 Speech by Rt Hon Amber Rudd MP, Secretary of State for Work and Pensions, 11 January 2019
142 HL13397
143 Work and Pensions Committee, *Welfare safety net*, Twenty-eighth Report of Session 2017–19 (HC 1359), para 63

127. ***We recommend that the Department for Work and Pensions and the Department for Communities evaluate the implementation of split payments in Scotland to assess what model would work best in the rest of the UK, including Northern Ireland. In the meantime, the Department for Communities should work with claimant support organisations to advertise the option to receive split payments more widely.***

128. ***We recommend that, in response to this report, the Department for Work and Pensions set out what further work they have done to ensure that Universal Credit payments go to the main carer in households with children.***

5 The two-child limit in Northern Ireland

129. The two-child limit is the Government's policy that families are not able to claim child benefits for any third or subsequent child born on or after 6 April 2017.

130. Families in Northern Ireland are likely to be disproportionately affected by the two-child limit. Some 21.4% of families in Northern Ireland have three or more children, compared to 14.7% of families in the UK as a whole.[144] The two-child limit is expected to increase absolute poverty between 2015/16 and 2021/22 by one percentage point in Northern Ireland, compared with 0.4 percentage points in South East England and 0.5 percentage points in Scotland.[145]

131. The impact of the two-child limit means that a family with three or more children will be worse off by an average of £2,780 per child per year for their third (or additional) child than they would otherwise be if the limit were not in place.[146] The Cliff Edge NI Coalition argued that the two-child limit "will deepen the impact of poverty in NI. Already 24% of children in NI are living in poverty and the problem is forecast to increase."[147]

132. The two-child limit can have a significant effect on poverty despite affecting a relatively small number of claimants. The Institute for Fiscal Studies explained that this is because affected families can lose a large amount of income; that larger families are already more likely to be in poverty or near poverty; and that since the two-child limit by definition affects families with more children, if one household moves into poverty, then it means a substantial extra number of people in poverty. [148]

133. The Women's Resource and Development Agency observed that families in Northern Ireland do not have access to the Government's childcare offer in England and Wales, making it more difficult to offset the two-child limit through work:

> It is particularly frustrating that a number of women who have been able to get back into training and employment through the support of a women's centre are now telling us they will have to drop out of work because of the cost of childcare. With no childcare strategy in Northern Ireland and no access to the free childcare hours for 2- and 3-year-olds that families in GB can access, it makes the two-child cap extremely hard to deal with.
>
> As one mum told us: 'My child tax credit for my first two was the only reason I was able to go out to work part time. But now that I get nothing for my third child, my childcare bill just for him would completely wipe out my wages so what's the point in going to work?'[149]

144 Women's Resource and Development Agency (WEL0026)
145 Institute for Fiscal Studies, Living standards, poverty and inequality in the UK: 2017–18 to 2021–22 (2017), p28
146 Northern Ireland Commissioner for Children and Young People (NICCY) Submission to Special Rapporteur on Extreme Poverty and Human Rights prior to visit to the United Kingdom of Great Britain and Northern Ireland in November 2018
147 Cliff Edge NI Coalition (WEL0033)
148 Institute for Fiscal Studies, Living standards, poverty and inequality in the UK: 2017–18 to 2021–22 (2017), p26
149 Women's Resource and Development Agency (WEL0026)

Is the two-child limit discriminatory?

134. We heard evidence that the two-child limit may discriminate against families with particular cultural backgrounds or religious views. The British Pregnancy Advisory Service (BPAS) told us that:

> The policy will […] disproportionately affect families from certain cultural or religious backgrounds where there is a trend for bigger families or a moral opposition/conscientious objection to contraception, emergency contraception, or abortion.[150]

135. In Northern Ireland, Catholic families are particularly likely to be affected in this way. Kelly Andrews, Chief Executive of Belfast and Lisburn Women's Aid, told us:

> From the Northern Ireland 2011 census, it said that—well, we have bigger families—proportionally the Catholic community would have larger families. I think it said 2.7 for the Catholic community and 2.4 for the Protestant community. On average, across all society in Northern Ireland, there are larger families but then, within that, there is a further breakdown that within the Catholic community there appears to be larger families again. That is a particular cultural-religious thing within Northern Ireland. It is a fact of the society here.[151]

136. A joint report by the Church of England, the Child Poverty Action Group, Women's Aid, Turn2us and the Refugee Council found that not only are larger families are more prevalent in faith communities, but that the decisions that those families make about having children are also likely to be motivated by their religious convictions and practices:

> The two-child limit is having a significant negative impact on faith communities where larger families are more prevalent. Amongst the general population, 31 per cent of children live in households with more than two children. Within some faith communities, the proportion is significantly higher. […]
>
> Within these communities, raising children is closely bound to their faith and culture. When introducing the two-child limit, the government envisaged that it would influence the choices that families make about the number of children they have, and lead to more 'responsible' decision making. However, where reproductive choices and family planning are motivated by deep faith and devout practice, financial considerations about child-related benefits are likely to play a limited role.[152]

The two-child limit and abortion in Northern Ireland

137. Multiple witnesses observed that the two-child limit policy also interacts with the legal position on abortion in Northern Ireland. For example, the Cliff Edge NI Coalition explained:

150 British Pregnancy Advisory Service (WEL0038)
151 Q170
152 All Kids Count: The impact of the two-child limit after two years (June 2019)

> NI's abortion law framework means that abortion is not available in most circumstances in NI and accordingly, women in NI are likely to be impacted by this policy to a greater extent that women in GB.[153]

138. The Government has argued that the two-child limit policy is designed to influence families' decision-making. The fact that many pregnancies are unplanned suggests that a number of families are not making an active decision to have an additional child. In Northern Ireland, there is further complexity because of the religious and cultural context and the legal status of abortion in Northern Ireland, notwithstanding recent Westminster legislation on this issue. As a joint report by the Church of England, the Child Poverty Action Group, Women's Aid, Turn2us and the Refugee Council explained:

> A significant number of the women we interviewed had also had an unplanned pregnancy, making knowledge of the policy irrelevant even had they known about it, as there was no 'decision' to become pregnant. The only way to exercise choice would have been to have a termination, which some of the women simply would not contemplate for moral or emotional reasons and which those in Northern Ireland would have been unable to access even if they had wanted to.[154]

The report quoted Samantha, a single parent from Northern Ireland, who said:

> I would never have an abortion, but even if I was to look for one, I couldn't afford it, I couldn't afford to fly to England to pay for it.[155]

139. The British Pregnancy Advisory Service has recently said that it is aware of cases in the UK where the two-child limit "has been a factor in a woman's decision to end a third, unplanned pregnancy".[156] It therefore appears—regardless of the legal situation in Northern Ireland—that Government policy may be putting women in a situation where they decide to terminate a pregnancy because of a lack of financial support.

The non-consensual exemption in Northern Ireland

140. The two-child limit includes an exemption for those whose third or subsequent child is conceived as a result of non-consensual sex (the "rape clause").

141. Section 5(1) of the Criminal Law Act (Northern Ireland) 1967 places, in the case of serious offences, a duty on third parties to "inform the police of any information that is likely to secure, or to be of material assistance in securing the apprehension, prosecution or conviction of someone for that offence".[157] In theory, this may mean that any woman who applies for the non-consensual exemption should expect to have the case reported to the police by Jobs and Benefit Office staff.

142. The Department for Communities told us that the legal duty would not apply to Jobs and Benefits Office staff since "an approved professional will not have to determine whether the incident actually occurred, rather the focus will be on whether the claimant's

153 Cliff Edge NI Coalition (WEL0033)
154 All Kids Count: The impact of the two-child limit after two years (June 2019), p33
155 All Kids Count: The impact of the two-child limit after two years (June 2019), p33
156 The Times, Abortion at record high with increase in older woman and benefits cap effect, 14 June 2019
157 Criminal Law Act (Northern Ireland) 1967, section 5(1)

circumstances are consistent with the veracity of the claim."[158] The Attorney General for Northern Ireland has also published guidance which states, in line with the Department's position, that the vast majority of cases in which disclosures are not drawn to the attention of the police, no breach of legal duty will have taken place; and that even if an individual did breach a legal duty by failing to report a case of rape when processing a non-consensual exemption, there is unlikely to be a public interest in prosecution.[159]

143. These subtle distinctions and qualified assurances are unlikely to provide enough reassurance both to affected women and to professionals. Multiple witnesses told us that the reporting requirements discouraged women from applying for the non-consensual exemption, and placed professionals a in a difficult position. Kelly Andrews, Chief Executive of Belfast and Lisburn Women's Aid, told us:

> professionals are called into question to support that because of the legislation that we have in Northern Ireland. Under section 5 of the Criminal Law Act you could be prosecuted for not disclosing a crime, so we would like to see that negated.[160]

The Women's Resource and Development Agency said:

> despite these messages coming from those at the law and policy level, on the ground we believe that there are still barriers for women who are entitled to claim support on the grounds of this exemption. For example, the wording on the application form is not acceptable as it merely provides a legal disclaimer but offers no reassurance that a prosecution is unlikely.[161]

144. The most recent figures published on the application of the two-child limit show that the non-consensual exception accounts for a lower proportion of exceptions in Northern Ireland compared to England, Wales and Scotland.[162]

145. **Despite the guidance from the Attorney General and the Department for Communities, the reporting requirements in section 5(1) of the Criminal Law (NI) Act remain an obvious barrier to women applying for the non-consensual exception in Northern Ireland, and place professionals in an unacceptably risky position. While the two-child limit continues to apply in Northern Ireland, this anomaly must be addressed urgently.**

146. ***We recommend that, in the continued absence of an Assembly and Executive, the Secretary of State for Northern Ireland bring forward proposals to address the anomaly of section 5(1) of the Criminal Law (NI) Act applying to women seeking the non-consensual exemption, and to professionals processing it. This should be a priority for any incoming Northern Ireland Executive.***

147. **The evidence we heard leaves us deeply concerned about the financial impact of the two-child limit on families in Northern Ireland, who are disproportionately affected**

158 Department for Communities (WEL0037)
159 Department for Communities (WEL0037)
160 Q107
161 Women's Resource and Development Agency (WEL0026)
162 Department for Work and Pensions Child Tax Credit and Universal Credit claimants: statistics related to the policy to provide support for a maximum of 2 children, April 2019, Table 6. Northern Ireland statistics are for Child Tax Credit only, and so do not include Universal Credit claimants.

by the limit compared to families in other areas of the UK. It has also highlighted how the limit may discriminate against particular communities, especially Catholic communities. ***We therefore call on the Government to halt the implementation of the two-child limit in Northern Ireland and to reimburse any families who have been affected thus far, pending a full investigation into its financial impact on families with children and the potential discrimination against those with larger families and poorer communities. Historically in Northern Ireland, there have always been larger families than in the rest of the UK. Any benefit restriction on the number of children discriminates particularly adversely against families in Northern Ireland.***

6 Monitoring welfare policy in Northern Ireland

148. The Northern Ireland Audit Office plays an important role in scrutinising whether spending by NI departments and agencies has used their resources effectively and efficiently, and to make recommendations for how to improve performance in achieving value for money and implementing policy.

149. The Northern Ireland Audit Office told us that their work programme was usually based on the objectives for the Northern Ireland Executive, and then refined with input from the Northern Ireland Assembly:

> How we put our programme together, we start off with a programme for Government and we have a balanced programme across Government objectives. […]
>
> If we had an Assembly, the views of Assembly members would feed into that process and feed into the process of prioritisation.[163]

150. An explicit indicator in the draft Programme for Government 2016–2021 was to "reduce poverty", measured primarily by the percentage of the population in relative and absolute poverty before housing costs.[164] One of the Outcomes in the draft Programme for Government was to "enjoy long, healthy, active lives" which included a commitment to address "issues related to deprivation and poverty that are linked to poor health outcomes."[165]

151. We asked the Northern Ireland Audit Office about their role in looking at poverty in Northern Ireland. The NIAO told us that measuring poverty would be the responsibility of the Northern Ireland Statistical Research Agency,[166] but the Comptroller and Auditor General for Northern Ireland also acknowledged that poverty in Northern Ireland represented a "policy gap" that the NIAO could look at:

> I suppose the starting point is from the programme of Government objectives, so if there is an area where there is a policy gap, we can have a role in drawing that out where maybe there is not sufficient policy formulation. There is nothing stopping us getting into that territory. […]
>
> [Poverty] is a gap, yes, because there has been a lot of public debate about the absence of a poverty strategy, but our normal starting point is that we take a Government strategy and see how it has been implemented.[167]

152. **The Northern Ireland Audit Office has an important role to play in reporting on the implementation of Executive objectives. In the absence of an Assembly, this scrutiny is more important than ever. Addressing poverty and deprivation is a clear and explicit objective from the 2016 draft Programme for Government. The implementation of measures to achieve this deserves urgent scrutiny by the NIAO.**

163 Qq234–238
164 Northern Ireland Executive, Draft Programme for Government Framework 2016–2021, pp75–77
165 Northern Ireland Executive, Draft Programme for Government Framework 2016–2021, p23
166 Q232
167 Qq325–326

153. ***We recommend that the Northern Ireland Audit Office urgently prioritise work on the effectiveness of measures to reduce poverty in Northern Ireland, and whether there is a "policy gap" in addressing poverty in NI. As part of this, it should report on the broader context, including the main drivers of poverty in NI.***

Conclusions and recommendations

The mitigation package

1. The mitigation package in Northern Ireland reflects the fact that special circumstances can justify different treatment. The clearest example is the impact of the Social Sector Size Criteria ("bedroom tax"). In Northern Ireland, less than a fifth of social housing has only one bedroom but nearly half the people who need social housing are single tenants. Without mitigation in place, claimants in Northern Ireland would be penalised for the lack of suitable social housing stock, which evidently lies outside their control. The mitigation package is not, however, a long-term solution to underlying problems within the social security system. Whilst special circumstances can justify different treatment, by the same token claimants in similar circumstances in different parts of the UK should ultimately level up to similar levels of entitlement. (Paragraph 16)

2. Overall, the welfare reform mitigation package in Northern Ireland has been a success. Automatic payment of Welfare Supplementary Payments has ensured that claimants receive the payments they are entitled to, although the requirement that claimants must appeal a decision to trigger some disability-related mitigation payments could be better advertised and explained to claimants. While other policies could have been addressed by the mitigation package, there will always be a trade-off between mitigating the largest overall financial losses and providing targeted support to the most vulnerable. The Working Group's original proposals struck a good balance between these objectives. (Paragraph 43)

3. *We recommend that, if PIP mitigation payments continue, the Department for Communities clearly outlines the different triggers for mitigation payments to claimants in decision letters, to enable them to make an informed decision about their claim.* (Paragraph 44)

4. A large amount of the funding allocated for the mitigation package has not been spent. The single main reason is that the Cost of Work Allowance was never implemented. This was because there was no Executive and Assembly in place to do so. This is not, however, true of all the areas of spending. The budget for Discretionary Support Awards and the Universal Credit Contingency Fund is likely to have been underspent because of their restrictive eligibility criteria. The current criteria are out of line with practice in the other devolved administrations, and—in the case of the UC Contingency Fund—require claimants to take on debt before they can access help. (Paragraph 45)

5. *We recommend that the criteria for Discretionary Support Awards are made less restrictive. In particular, a specific income ceiling for Discretionary Support Awards should be removed, in line with practice in Wales and Scotland. The requirement that claimants must take out a Universal Credit advance before being eligible for grants from the Universal Credit Contingency Fund should also be removed.* (Paragraph 46)

Effect of the mitigation package ending in 2020

6. The ending of the mitigation payments in March 2020—in particular, the ending of Social Sector Size Criteria and benefit cap mitigations—would mean that tens of thousands of households in Northern Ireland would see their incomes suddenly fall, some by hundreds of pounds per month. The impact on households would be exacerbated by the fact that many people simply would not be expecting the payments to end. Support organisations in Northern Ireland have rightly described this prospect as a "cliff edge". None of the special circumstances that justified the mitigation package have changed in the last four years. (Paragraph 65)

7. *We recommend that the mitigation package is extended after March 2020, for a further four years. This should include the SSSC ("bedroom tax") and benefit cap mitigations, disability-related mitigations already in payment, and DLA to PIP transition mitigation for 16 year-olds. We also recommend that the Department for Communities consider rolling over the contract for independent advisory services after 2020.* (Paragraph 66)

Options for continuing the mitigation package

8. Paying "bedroom tax" and benefit cap mitigations through Discretionary Housing Payments would be operationally extremely challenging. This is not surprising, given that around 35,000 claimants might be expected to apply for DHPs in a short period of time, through a system not designed to handle this volume of claims. The fact that such payments would be discretionary, rather than automatic, risks some claimants slipping through the net. Using DHPs is, however, the only plausible and legal means of continuing the two main mitigations without legislation from Westminster—and clearly preferable to the mitigation payments stopping altogether. Even so, the serious risks to claimants and the amount of money that would have to be spent on making changes to the DHP systems that could otherwise to be used to help claimants, should make clear to the UK Government that it has a responsibility to avoid this option having to be used. (Paragraph 76)

9. *We recommend that, in the continuing absence of an Executive and only in the event of the necessary legislation failing to be put in place, the Department for Communities continue to pay "bedroom tax" and benefit cap mitigations through Discretionary Housing Payments. The Department for Communities should also, in response to this report, set out its plans for how it would make claimants aware of the need to apply for payments in the event that mitigation payments were made through DHPs.* (Paragraph 77)

10. We accept that legislation to extend the mitigation package falls within devolved legislative competence. However, the circumstances surrounding the package ending are clearly exceptional: a potential drastic impact on vulnerable people and no Assembly to extend the legislation. Whilst restoring the NI Executive is rightly a priority for the Secretary of State, this does not preclude taking action when circumstances require it. There are clear precedents for the UK Government legislating to continue payments, and political consensus that the main parts of

the mitigation package should continue. There is therefore no good reason why the UK Government cannot bring forward legislation to extend the mitigation package. (Paragraph 85)

11. The Department for Communities has said that it would need to start contacting claimants in Autumn 2019 if the mitigation package was not to continue. The UK Government must therefore act quickly to end the uncertainty—for the Department for Communities, but most of all for claimants in Northern Ireland. (Paragraph 86)

12. *We recommend that the Secretary of State for Northern Ireland make a statement to Parliament as soon as possible making clear the UK Government's intention to pass legislation to extend the mitigation package, and bring forward such legislation to come into effect before the end of March 2020. The UK Government should provide funding for the mitigation package—including the Discretionary Support Scheme, the Universal Credit Contingency Fund, and funding for independent advisory services—in a Northern Ireland Budget Act.* (Paragraph 87)

Universal Credit in Northern Ireland

13. Despite the Government reducing the overall waiting period for Universal Credit from six weeks to five, the waiting period is still too long, creating financial difficulties for claimants and encouraging them to take on debt. This is not a problem specific to Northern Ireland: it is a flaw with the design of Universal Credit. It is welcome that the Secretary of State for Work and Pensions recognises these problems and wants to ensure that claimants receive their first payment as soon as possible. The Work and Pensions Committee will be monitoring how the Department delivers on this commitment. (Paragraph 96)

14. Fortnightly payment of Universal Credit in Northern Ireland has worked well, making it easier for low-income households to budget. However, claimants receiving fortnightly payments continue to receive monthly statements, which inevitably causes confusion and potential anxiety. We welcome that DWP and the Department for Communities recognise this problem. We doubt, however, that the Department for Communities' proposal to include on monthly statements an explanation that payments will be made fortnightly will prove adequate. Fortnightly statements would be considerably clearer for claimants. *We recommend that Universal Credit claimants in Northern Ireland receiving fortnightly payments also receive fortnightly statements.* (Paragraph 103)

15. Fortnightly payment of Universal Credit in Northern Ireland has worked well, making it easier for low-income households to budget. However, claimants receiving fortnightly payments continue to receive monthly statements, which inevitably causes confusion and potential anxiety. We welcome that DWP and the Department for Communities recognise this problem. We doubt, however, that the Department for Communities' proposal to include on monthly statements an explanation that payments will be made fortnightly will prove adequate. Fortnightly statements would be considerably clearer for claimants. *We recommend that Universal Credit claimants in Northern Ireland receiving fortnightly payments also receive fortnightly statements.* (Paragraph 103)

16. The advantages of fortnightly payment of Universal Credit in Northern Ireland would apply equally to claimants in England and Wales. Since the fortnightly payment pattern is applied automatically in Northern Ireland by the Universal Credit IT system, we can see no reason why DWP cannot replicate it in other areas of the UK. (Paragraph 104)

17. *We recommend that the Department for Work and Pensions give claimants in England and Wales the option to receive fortnightly payments of Universal Credit, with fortnightly statements.* (Paragraph 105)

18. We welcome the commitment of the Department for Communities to address the problem of residual and technical rent arrears that build up as a result of migration to Universal Credit and the payment flexibilities in Northern Ireland. We recommend that the Department for Communities set out in detail, in response to this report, the work it is currently doing to address the build-up of tenant arrears, and its plans for any future work in this area. (Paragraph 113)

19. We welcome the commitment of the Department for Communities to address the problem of residual and technical rent arrears that build up as a result of migration to Universal Credit and the payment flexibilities in Northern Ireland. *We recommend that the Department for Communities set out in detail, in response to this report, the work it is currently doing to address the build-up of tenant arrears, and its plans for any future work in this area.* (Paragraph 113)

20. The delay in automating the UC flexibilities in Northern Ireland—such as direct payments to private landlords and batch payments to social landlords—has required labour intensive processes that inevitably result in higher levels of error. The Department for Communities expect the automations to be completed within 18 months. It is important that there is no further delay. *We recommend that the Department for Work and Pensions work with the Department for Communities to ensure that the planned automations of UC flexibilities in Northern Ireland are in place within 18 months.* (Paragraph 114)

21. *The delay in automating the UC flexibilities in Northern Ireland—such as direct payments to private landlords and batch payments to social landlords—has required labour intensive processes that inevitably result in higher levels of error. The Department for Communities expect the automations to be completed within 18 months. It is important that there is no further delay. We recommend that the Department for Work and Pensions work with the Department for Communities to ensure that the planned automations of UC flexibilities in Northern Ireland are in place within 18 months.* (Paragraph 114)

22. The experience of Northern Ireland shows that offering split payments of Universal Credit on request is not enough to encourage and enable uptake by those who most need it. The Scottish Government's planned implementation of UC split payments is an opportunity for the Department for Work and Pensions and the Department for Communities to learn what approach would work best. (Paragraph 126)

23. *We recommend that the Department for Work and Pensions and the Department for Communities evaluate the implementation of split payments in Scotland to assess*

what model would work best in the rest of the UK, including Northern Ireland. In the meantime, the Department for Communities should work with claimant support organisations to advertise the option to receive split payments more widely. (Paragraph 127)

24. *We recommend that, in response to this report, the Department for Work and Pensions set out what further work they have done to ensure that Universal Credit payments go to the main carer in households with children.* (Paragraph 128)

The two-child limit in Northern Ireland

25. The British Pregnancy Advisory Service has recently said that it is aware of cases in the UK where the two-child limit "has been a factor in a woman's decision to end a third, unplanned pregnancy". It therefore appears—regardless of the legal situation in Northern Ireland—that Government policy may be putting women in a situation where they decide to terminate a pregnancy because of a lack of financial support. (Paragraph 139)

26. Despite the guidance from the Attorney General and the Department for Communities, the reporting requirements in section 5(1) of the Criminal Law (NI) Act remain an obvious barrier to women applying for the non-consensual exception in Northern Ireland, and place professionals in an unacceptably risky position. While the two-child limit continues to apply in Northern Ireland, this anomaly must be addressed urgently. (Paragraph 145)

27. *We recommend that, in the continued absence of an Assembly and Executive, the Secretary of State for Northern Ireland bring forward proposals to address the anomaly of section 5(1) of the Criminal Law (NI) Act applying to women seeking the non-consensual exemption, and to professionals processing it. This should be a priority for any incoming Northern Ireland Executive.* (Paragraph 146)

28. The evidence we heard leaves us deeply concerned about the financial impact of the two-child limit on families in Northern Ireland, who are disproportionately affected by the limit compared to families in other areas of the UK. It has also highlighted how the limit may discriminate against particular communities, especially Catholic communities. *We therefore call on the Government to halt the implementation of the two-child limit in Northern Ireland and to reimburse any families who have been affected thus far, pending a full investigation into its financial impact on families with children and the potential discrimination against those with larger families and poorer communities. Historically in Northern Ireland, there have always been larger families than in the rest of the UK. Any benefit restriction on the number of children discriminates particularly adversely against families in Northern Ireland.* (Paragraph 147)

Monitoring welfare policy in Northern Ireland

29. The Northern Ireland Audit Office has an important role to play in reporting on the implementation of Executive objectives. In the absence of an Assembly, this scrutiny is more important than ever. Addressing poverty and deprivation is a

clear and explicit objective from the 2016 draft Programme for Government. The implementation of measures to achieve this deserves urgent scrutiny by the NIAO. (Paragraph 152)

30. *We recommend that the Northern Ireland Audit Office urgently prioritise work on the effectiveness of measures to reduce poverty in Northern Ireland, and whether there is a "policy gap" in addressing poverty in NI. As part of this, it should report on the broader context, including the main drivers of poverty in NI.* (Paragraph 153)

Formal minutes

Thursday 5 September 2019

Work and Pensions Committee

Members present:

Nigel Mills, in the Chair

Rt Hon Frank Field
Ruth George
Steve McCabe
Chris Stephens

Draft report (*Welfare policy in Northern Ireland*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 153 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Thirty-first Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned to a day and time to be fixed by the Chair

Thursday 5 September 2019

Northern Ireland Affairs Committee

Members present:

Nigel Mills, in the Chair

John Grogan
Lady Hermon
Ian Paisley
Jim Shannon

Draft report (*Welfare policy in Northern Ireland*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 153 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Tenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 11 September at 9.15am.

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Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Monday 10 June 2019

John, Personal Independence Payment (PIP) Claimant, **Alan**, **Sabrina**, Universal Credit claimants, and **George**, Housing Benefit and PIP claimant Q1–100

Kelly Andrews, Chief Executive, Belfast and Lisburn Women's Aid, **Professor Eileen Evason**, Chair, Welfare Reform Mitigations Working Group, **Kevin Higgins**, Head of Policy, Advice NI, and **Kate McCauley**, Policy and Practice Manager, Housing Rights Q101–176

Monday 1 July 2019

Kieran Donnelly, Comptroller and Auditor General, **Denver Lynn**, Director, and **Anu Kane**, Audit Manager, Northern Ireland Audit Office Q177–242

Tracy Meharg, Permanent Secretary, **Anne McCleary**, Director, Social Security Policy and Legislation Division, **David Sales**, Universal Credit Programme Director, and **David Tarr**, Department for Communities NI Q243–332

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

WEL numbers are generated by the evidence processing system and so may not be complete.

1 Advice NI (WEL0001)

2 Advice NI (WEL0007)

3 Alliance for Choice (WEL0014)

4 British Association of Social Workers Northern Ireland (WEL0003)

5 British Pregnancy Advisory Service (WEL0038)

6 Christians Against Poverty (CAP) (WEL0015)

7 Church Leaders' (Ireland) Group (WEL0040)

8 Cliff Edge NI Coalition (WEL0033)

9 Community Advice Antrim and Newtownabbey (WEL0012)

10 Connswater Homes (WEL0011)

11 Department for Communities (WEL0037)

12 Department for Communities (WEL0041)

13 Employers For Childcare (WEL0018)

14 Equality Commission (WEL0009)

15 Evason, Professor Eileen (WEL0008)

16 Green Party Northern Ireland (WEL0035)

17 Housing Rights (WEL0019)

18 Institute of Revenues, Rating and Valuation (WEL0027)

19 Joseph Rowntree Foundation, Mark Simpson (Ulster University), Ruth Patrick (University of York) (joint submission) (WEL0022)

20 Law Centre (NI) (WEL0036)

21 Marie Curie Northern Ireland (WEL0006)

22 Name Witheld (WEL0005)

23 Name Withheld (WEL0029)

24 Name Withheld (WEL0030)

25 National Energy Action (Northern Ireland) (WEL0010)

26 NIICY (WEL0021)

27 North Belfast Advice Partnership (WEL0016)

28 Northern Ireland Federation of Housing Associations (WEL0020)

29 Northern Ireland Human Rights Commission (WEL0034)

30 Northern Ireland Human Rights Commission (WEL0039)

31 The Office of the Attorney General for Northern Ireland (WEL0023)

32 People Before Profit (WEL0032)

33 Presbyterian Church in Ireland (WEL0024)

34 The Royal British Legion (WEL0025)

35 SDLP (WEL0031)

36 Sinn Féin (WEL0017)

37 Smith, Mr Eddie (WEL0004)

38 Women's Regional Consortium (WEL0013)

39 Women's Resource and Development Agency (WEL0026)

List of Reports from the Work and Pensions Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2017–19

First Report	Universal Credit: the six week wait	HC 336
Second Report	A framework for modern employment	HC 352
Third Report	Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill	HC 404
Fourth Report	PIP and ESA assessments: claimant experiences	HC 355
Fifth Report	Universal Credit Project Assessment Reviews	HC 740
Sixth Report	British Steel Pension Scheme	HC 828
Seventh Report	PIP and ESA assessments	HC 829
Eighth Report	European Social Fund	HC 848
Ninth Report	Pensions freedoms	HC 917
Tenth Report	Assistive technology	HC 673
Eleventh Report	Universal Credit: supporting self-employment	HC 997
Twelfth Report	Carillion	HC 769
Fourteenth Report	Appointment of Professor Sir Ian Diamond as Chair of the Social Security Advisory Committee	HC 971
Fifteenth Report	The Motability Scheme	HC 847
Sixteenth Report	Collective defined contribution pensions	HC 580
Seventeenth Report	Universal Credit and Domestic abuse	HC 1166
Eighteenth Report	Universal Support	HC 1667
Nineteenth Report	Benefit Sanctions	HC 955
Twentieth Report	Universal Credit: managed migration	HC 1762
Twenty First Report	Universal Credit: support for disabled people	HC 1770
Twenty-Second Report	Universal Credit: Childcare	HC 1771
Twenty-Third Report	Two-child limit	HC 1540
Twenty-Fourth Report	The benefit cap	HC 1477
Twenty-Fifth Report	Universal Credit: childcare: Government Response to the Committee's Twenty-Second Report	HC 2078
Twenty-Sixth Report	Universal Credit: tests for managed migration	HC 2091
Twenty-Seventh Report	Universal Credit: natural migration	HC 1884
Twenty-Eighth Report	Welfare safety net	HC 1539

Twenty-Ninth Report	Pension costs and transparency	HC 1476
Thirtieth Report	Overpayments of Carer's Allowance	HC 1772
First Special Report	Child Maintenance Service: Government's Response to the Committee's Fourteenth Report of Session 2016–17	HC 354
Second Special Report	Self-employment and the gig economy: Government Response to the Committee's Thirteenth Report of Session 2016–17	HC 644
Third Special Report	Disability employment gap: Government Response to the Committee's Seventh Report of Session 2016–17	HC 652
Fourth Special Report	Victims of modern slavery: Government Response to the Committee's Twelfth Report of Session 2016–17	HC 672
Fifth Special Report	Employment Opportunities for Young People: Government response to the Committee's Ninth Report of Session 2016–17	HC 872
Sixth Special Report	Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill: Government Response to the Committee's Third Report	HC 858
Seventh Special Report	A framework for modern employment: Government response to the Second Report of the Work and Pensions Committee and First Report of the Business, Energy and Industrial Strategy Committee	HC 966
Eighth Special Report	PIP and ESA assessments: Government Response to the Committee's Seventh Report	HC 986
Ninth Special Report	British Steel Pension Scheme: The Pensions Regulator Response to the Committee's Sixth Report	HC 987
Tenth Special Report	Pension freedoms: Government response to the Committee's Ninth Report	HC 1231
Eleventh Special Report	Carillion: Responses from Interested Parties to the Committee's Twelfth Report	HC 1392
Twelfth Special Report	Universal Credit: supporting self employment: Government Response to the Committee's Eleventh Report	HC 1420
Thirteenth Special Report	Employment Support for Carers: Government Response to the Committee's Thirteenth Report	HC 1463
Fourteenth Special Report	Carillion: Government Response to the Committee's Twelfth Report	HC 1456
Fifteenth Special Report	Assistive technology: Government Response to the Committee's Tenth Report	HC 1538
Sixteenth Special Report	Universal credit and domestic abuse: Government response to the Committee's Seventeenth Report	HC 1611
Seventeenth Special Report	Universal Support: Government Response to the Committee's Eighteenth Report of Session 2017–19	HC 1862
Eighteenth Special Report	Universal Credit: managed migration: Government Response to the Committee's Twentieth Report of Session 2017–19	HC 1901

Nineteenth Special Report	Benefit sanctions: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 1949
Twentieth Special Report	Universal Credit: support for disabled people: Government Response to the Committee's Twenty-First Report of Session 2017–19	HC 1998
Twenty-First Special Report	Two-child limit: Government Response to the Committee's Twenty-Third Report	HC 2174
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List of Reports from the Northern Ireland Affairs Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

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Fourth Report	Brexit and Northern Ireland: fisheries	HC 878 (HC 1812)
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Sixth Report	The Northern Ireland backstop and the border: interim report	HC 1850
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Fifth Special Report	Devolution and democracy in Northern Ireland – dealing with the deficit: Government Response to the Committee's Third Report	HC 1589
Sixth Special Report	Brexit and Northern Ireland: fisheries: Government Response to the Committee's Fourth Report	HC 1812

Seventh Special Report	Brexit and Agriculture in Northern Ireland: Government Response to the Committee's Fifth Report	HC 1847
Eighth Special Report	HM Government support for UK victims of IRA attacks that used Gaddafi-supplied Semtex and weapons: follow-up: Government Response to the Committee's Seventh Report	HC 2352
Ninth Special Report	Changes to the Northern Ireland Renewable Heat Incentive scheme payments: Government Response to the Committee's Eighth Report	HC 2646