

Research Briefing

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# Northern Ireland: Key issues



## Summary

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## Summary

On 3 February 2022 the DUP MLA Paul Givan resigned as First Minister of Northern Ireland. This meant the Sinn Féin vice-president Michelle O'Neill also relinquished office as deputy First Minister. Brandon Lewis, the Secretary of State for Northern Ireland, resisted calls for an early Northern Ireland Assembly election, which is due to take place, as planned, on 5 May 2022.

Since the European Union referendum of June 2016 and the collapse of Northern Ireland's devolved institutions in January 2017, events in this part of the United Kingdom have assumed a higher profile in Great Britain and in the UK Parliament. Although the UK left the European Union in early 2020 and the Assembly and Executive were restored at around the same time, many issues remain outstanding.

As well as providing an historical overview of Northern Ireland following its centenary year in 2021 and describing the main features of its devolution settlement, this briefing paper looks at several of "key issues" likely to figure during campaigning for the forthcoming Assembly election.

Prominent among these are the Northern Ireland Protocol, legislation dealing with the Irish and Ulster Scots languages, the provision of abortion services and the impact of the Covid 19 pandemic upon Northern Ireland's economy and public services.

Other sections of this briefing paper also look at Northern Ireland's distinct systems of law, education and local government.

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## 1

## A short history of Northern Ireland

Sovereignty over the island of Ireland was claimed by England in the 12<sup>th</sup> century. During the 17<sup>th</sup> century, the Province of Ulster was [settled by Protestants from Scotland and England](#). From the late 13<sup>th</sup> century there existed a [Parliament of Ireland](#), although this was generally subordinate to that of England and, later, Great Britain.<sup>1</sup>

The [Union with Ireland Act 1800](#) declared that “for ever after” the Kingdoms of Great Britain and Ireland would “be united into one Kingdom, by the name of the United Kingdom of Great Britain and Ireland”. It also stated that the “subjects” of both “shall be on the same footing in respect of trade”.

## 1.1

## Home Rule

A campaign for some degree of [Home Rule for Ireland](#), essentially devolution within the United Kingdom, grew during the 19<sup>th</sup> century and won Liberal government support in 1886. [Attempts to legislate](#) for a devolved parliament that year and again in 1893, however, failed. The idea of treating parts of Ireland differently arose when Parliament considered a Third Home Rule Bill between 1912-14. This reflected the strength of feeling in the [Ulster Unionist Party](#), which had emerged in opposition to the First Home Rule Bill of 1886.

The fourth Government of Ireland Bill was introduced to Parliament during the [War of Independence](#) (1919-21), a guerrilla conflict fought between the [Irish Republican Army](#) (IRA) and British Crown forces.<sup>2</sup> The resulting [Government of Ireland Act 1920](#) made provision for devolving power to two legislatures, the Parliament of Southern Ireland (covering 26 counties) and the Parliament of Northern Ireland (covering the other six).

## 1.2

## Devolution and Dominion

Both parliaments were elected in May 1921, but only the Parliament of Northern Ireland functioned as intended.<sup>3</sup> On 6 December 1921 the Anglo-Irish Treaty was agreed between the UK and Sinn Féin. This created a new

<sup>1</sup> The new kingdom of “Great Britain” was formed in 1707 following the parliamentary union of Scotland and England

<sup>2</sup> This IRA was to split in 1922 between pro- and anti-Treaty factions

<sup>3</sup> See Commons Library Briefing Paper CBP884, [Parliament and Northern Ireland, 1921-2021](#)



“Dominion” within the British Empire called the Irish Free State. Under the Treaty, the Ulster Unionist-dominated Parliament of Northern Ireland was given the option of joining the Free State or remaining a devolved part of the UK. It chose the latter.<sup>4</sup> This was a manifestation of what would later become known as the **principle of consent**. The Free State was constituted on 6 December 1922.

On 1 April 1923 a customs “frontier” was erected along the border separating Northern Ireland from the Irish Free State. This significantly disrupted cross-border roads and railways and meant certain goods were subject to duties (payments). In February 1923 an informal agreement had been reached under which the UK and Free State would enforce the other’s immigration policies. This later became known as the [Common Travel Area](#).

The 1931 [Statute of Westminster](#) enabled each Dominion, including the Irish Free State, to enact new legislation or to change existing legislation without the consent of the UK Parliament. In 1937 the Irish Free State declared itself to be a republic called Éire. [Articles 2 and 3 of a new constitution](#) made a de jure claim to the whole “national territory” of Ireland.

Éire’s [Republic of Ireland Act 1948](#) subsequently removed the last remaining functions of the British Crown in relation to Ireland (mainly confined to diplomatic credentials and international agreements). It also declared that “the description of the State shall be the Republic of Ireland”. This came into force on 18 April 1949 and Ireland left the British Commonwealth of Nations.

In response, the UK Parliament debated and passed the [Ireland Act 1949](#). This declared that “in no event” would Northern Ireland cease to form part of the UK “without the consent of the Parliament of Northern Ireland”. This gave the 1921 **principle of consent** statutory form for the first time.

## 1.3 The Troubles and the peace process

During the period known as [The Troubles](#) (c1968-98), the border between Northern Ireland and the Republic of Ireland was securitised. This meant that those crossing by road or rail were subject to police and British Army checks in addition to customs arrangements in place since 1923. Another result of the deteriorating security situation was that the Parliament of Northern Ireland was at first prorogued (1972) and then abolished (1973).<sup>5</sup>

[A Northern Ireland “Border Poll” took place on 8 March 1973](#). This transferred the 1949 **principle of consent** from the prorogued Parliament of Northern Ireland (which always had an Ulster Unionist majority) to its people. 98.9% of those voting supported Northern Ireland remaining part of

<sup>4</sup> See Commons Library Briefing Paper CBP9260, [The Anglo-Irish Treaty, 1921](#)

<sup>5</sup> The [Northern Ireland \(Temporary Provisions\) Act 1972](#) received Royal Assent on 30 March 1972

the UK, while 1.1% wanted it “to be joined with” the Republic of Ireland. Turnout was 58.6%, but most Nationalist voters boycotted the referendum.

Attempts to restore devolved institutions – this time with a power-sharing element – failed in 1973-74 and 1982-86 and instead Northern Ireland was administered under [Direct Rule](#) from London.<sup>6</sup> In 1985, the [Anglo-Irish Agreement](#) reaffirmed the 1973 **principle of consent** and declared that “if in future” a majority of those in Northern Ireland desired a united Ireland then the UK and Irish governments would “introduce and support in the respective Parliaments legislation to give effect to that wish”.<sup>7</sup>

Security checks and installations remained on the Ireland/Northern Ireland border following the removal of customs checks on 31 December 1992.<sup>8</sup>

## 1.4

### Belfast/Good Friday Agreement

Multi-party negotiations involving the UK and Irish governments and political parties in Northern Ireland culminated with the [Belfast/Good Friday Agreement](#) on 10 April 1998.

Although the Agreement did not explicitly refer to the Ireland/Northern Ireland border, it committed the UK government to “as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat” and “the removal of security installations”. According to press reports, the [last of these were removed](#) in 2006. The Belfast/Good Friday Agreement again restated the **principle of consent**, which now included an all-Ireland dimension. Section 1(ii) stated that:

it is for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish.

The [Northern Ireland Act 1998](#), which implemented aspects of the Agreement, compelled the Secretary of State for Northern Ireland to hold a ballot on Irish unification should it “appear” likely that a majority of its electors would support it.<sup>9</sup> Were that to be confirmed in such a referendum, then the Secretary of State must “lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty’s Government in the United Kingdom and the Government of Ireland”.<sup>10</sup>

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<sup>6</sup> See Commons Library Briefing Paper CBP8638, [Northern Ireland: Direct Rule](#)

<sup>7</sup> [Anglo-Irish Agreement 1985](#)

<sup>8</sup> This was a consequence of the [Single European Act](#)

<sup>9</sup> The Northern Ireland Act 1998 also grants the Secretary of State a more general power to hold a referendum on whether Northern Ireland should form part of Ireland at any time

<sup>10</sup> See The Constitution Unit, [Working Group on Unification Referendums on the Island of Ireland: Interim Report](#), London: UCL, November 2020, for a full analysis



## 2

## The Northern Ireland Assembly

The [Northern Ireland Assembly](#) and power-sharing [Northern Ireland Executive](#) were formed in 1999. Measures agreed under the 2006 [St Andrews](#) and the 2020 [New Decade, New Approach](#) agreements subsequently altered aspects of the devolution settlement in Northern Ireland, but not those relating to the **principle of consent**.

Under the devolution settlement there are three categories of legislative powers: **reserved**, **excepted** and **transferred**. When fully functioning, the Northern Ireland Assembly can make primary and subordinate legislation on “transferred” matters; on “reserved” matters with the consent of the Secretary of State for Northern Ireland and, in limited circumstances, on “excepted” matters.<sup>11</sup>

As [Section 5](#) of the Northern Ireland Act 1998 makes clear, the power of the Assembly to make laws “does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland”. However, under the [Sewel Convention](#) the UK Parliament does “not normally” do so on transferred/devolved matters without the Assembly’s consent.

Voters in Northern Ireland elect 90 [Members of the Legislative Assembly](#) (MLAs), five in 18 multi-member constituencies.<sup>12</sup> Elections are conducted under the [Single Transferable Vote](#) (STV) system of proportional representation.

MLAs do not take an oath of allegiance to the Queen, as at Westminster and in the Scottish and Welsh Parliaments, although they are required to give an undertaking against paramilitarism. Members designate themselves “Nationalist”, “Unionist” or “other” at the first meeting of an Assembly following an election and can only change this “community” designation between elections if they have changed their party-political affiliation.<sup>13</sup>

If a vacancy arises, parties can nominate an individual to become an MLA. This process was introduced on the basis that holding a by-election could alter the party-political balance within a six- (and later five-) member

<sup>11</sup> See Commons Library Briefing Paper CBP-8439, [Devolution in Northern Ireland 1998-2020](#) for a full account of the devolution settlement in Northern Ireland

<sup>12</sup> Until (and including) the 2016 election, the Assembly consisted of 108 elected Members, six from each of Northern Ireland’s 18 Westminster constituencies

<sup>13</sup> Before 2006, MLAs could change their designation without a change of party membership, something several did so to facilitate David Trimble’s re-election as First Minister in November 2001

constituency and, therefore, also the composition of the Northern Ireland Executive (see below).<sup>14</sup>

Most Assembly decisions are taken by a simple majority vote. However, certain “key decisions”, such as the approval of a budget, must have cross-community support. This is decided either by:

- **Parallel consent**, where more than 50% of MLAs agreed to the motion, including more than 50% of designated Nationalists and more than 50% of designated Unionists; or
- **A weighted majority**, which requires the support of 60% of those voting, including 40% Unionist and 40% Nationalist support

Another important aspect of Assembly voting is called a [Petition of Concern](#). If, in accordance with [s42\(1\)](#) of the Northern Ireland Act 1998, 30 MLAs:

petition the Assembly expressing their concern about a matter which is to be voted on by the Assembly, the vote on that matter shall require cross-community support.

The Assembly meets at the [Parliament Buildings](#) in Belfast, the former home of the Parliament of Northern Ireland known as “Stormont”.

## Executive Committee

The [Northern Ireland Executive Committee](#) (or simply Executive) comprises the First Minister, deputy First Minister and eight departmental ministers, all of whom are required to take a [Pledge of Office](#).

Together, these ministers exercise executive authority on behalf of the Northern Ireland Assembly, taking decisions on matters which, under the terms of the [Ministerial Code](#), they are required to refer to the Executive. This includes significant or controversial issues and matters which cut across the responsibility of two or more ministers. The Executive also agrees proposals put forward by ministers for new legislation in the form of “Executive Bills”, draws up a programme for government and an agreed budget – all subject to approval by the Assembly.

Executive ministers are nominated by the political parties in the Northern Ireland Assembly. The number nominated by each party is determined under the [d’Hondt formula](#) by its share of seats in the Assembly.<sup>15</sup> The only exception is the Minister for Justice, which after the devolution of policing

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<sup>14</sup> The statutory basis for substitution was Section 6 of the [Northern Ireland Assembly \(Elections\) Order 2001](#). This was later altered by Section 6B of the [Northern Ireland Assembly \(Elections\) \(Amendment\) Order 2009](#), which allowed political parties to nominate MLAs.

<sup>15</sup> The d’Hondt method is also used to determine membership of the Scottish and Welsh Parliaments

and justice in 2010 has been appointed following a cross-community vote in the Assembly.<sup>16</sup>

An unusual feature of the devolution settlement in Northern Ireland is that statutory powers are vested in individually constituted Executive Departments led by their own permanent secretary (the separate Northern Ireland Civil Service also has a permanent secretary). Each minister therefore possesses executive authority effectively independent of their colleagues, although they must operate within the terms of the Ministerial Code when it comes to their obligations to the Executive.

Initially, the First and deputy First Minister (who jointly head the [Executive Office](#)) were elected by the Assembly, but under the 2006 St Andrews Agreement and subsequent legislation, they are now nominated, respectively, by the largest party within the largest political designation and the largest party within the second-largest political designation. If one resigns, the other automatically ceases to hold office and both vacant offices must be filled within 24 weeks.

## Assembly elections

Assembly elections are held every five years although an “extraordinary” election can be held if the Assembly resolves to dissolve itself with the support of not less than two-thirds of MLAs, or if a First and deputy First Minister fail to be nominated following four six-week periods.

Polling day for the next Assembly elections is expected to be Thursday 5 May 2022. Those eligible to vote are those who have registered and are 18 years or older (on polling day). People resident in Northern Ireland who are UK, Irish, EU or Commonwealth citizens are able to register.<sup>17</sup>

Voter identification (ID) is compulsory in Northern Ireland. Electors voting in person at polling stations are required to show photographic ID. The approved forms of ID are [listed on the website](#) of the Electoral Office of Northern Ireland. Voters wishing to vote by post or proxy [must apply specifying](#) the reason why they cannot vote in person. Postal voting on demand is not available in Northern Ireland.

Ballots are counted manually in Northern Ireland. Traditionally this has meant two days of counting have been required for all MLAs to be elected. In 2017 the count was completed in a single day for the first time.

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<sup>16</sup> The first Minister for Justice was Alliance MLA David Ford, who was succeeded by Independent MLA Claire Sugden in May 2016. Naomi Long, another Alliance MLA, became Minister for Justice in January 2020.

<sup>17</sup> Measures in the [Elections Bill 2021-22](#), which is currently going through the UK Parliament and will alter voting and candidacy rights of EU citizens, will not take effect before May 2022

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## 3

# Political parties in Northern Ireland

At the 2017 Northern Ireland Assembly elections, eight parties and one independent candidate won seats. Fourteen parties put forward candidates.<sup>18</sup> Those (in alphabetical order) with current MLAs are:

## The Alliance Party

The Alliance Party, founded in 1970, does not designate as Unionist or Nationalist but identifies as a cross-community party. [Its website says it believes in a shared society](#), free from intimidation, discrimination and fear, where everyone is safe, can play their part and is treated fairly and with respect.

## Democratic Unionist Party (DUP)

The Democratic Unionist Party, or the DUP, was the largest party in the 2017-22 Assembly with 28 MLAs. It was formed in 1971. The DUP designates as Unionist and its vision is to maintain and enhance Northern Ireland's constitutional position within the United Kingdom. [Its website says it wants peace and stability](#) to "build a prosperity that flows to each district, community and family". The party leader is currently Sir Jeffrey Donaldson, who sits as an MP for the Lagan Valley constituency in the UK Parliament.

## Green Party of Northern Ireland

The [Green Party of Northern Ireland](#) won two seats at the 2017 Assembly election. The party does not designate as Unionist or Nationalist. It is formally a regional branch of the Green Party of Ireland/An Comhaontas Glas and is part of a network of Green parties in Europe which stand for sustainable development and human rights. The current leader in Northern Ireland is Claire Bailey.

## People before Profit Alliance

The [People before Profit Alliance](#) is a socialist party formed in October 2005. It won one seat at the 2017 Assembly elections. It does not designate as Unionist or Nationalist. It operates across the island of Ireland and has seats in the Dáil (the lower house of the Irish parliament).

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<sup>18</sup> See Commons Library Briefing Paper CBP7920, [Northern Ireland Assembly Elections: 2017](#)

## Sinn Féin

Sinn Féin was formed in 1905. It won 27 seats in 2017 making it the second-largest party in the Assembly. It designates as Nationalist. Its website says [its core political objective is a united Ireland](#): “A new and united Ireland must be a place for all, a united Ireland that is home if you are Irish, British, both or neither.” The party president is Mary Lou McDonald, who is a member of the Irish Dáil, while the vice-president is Michelle O’Neill, who is an MLA.

## Social Democratic and Labour Party (SDLP)

The Social Democratic and Labour Party, or SDLP, was formed in 1970. It was the third largest party at the 2017 elections with 12 MLAs. It designates as Nationalist. According to its website, [its vision “is a reconciled people living in a united, just and prosperous new Ireland”](#). The current SDLP leader is Colum Eastwood, who sits as the MP for Foyle in the UK Parliament.

## Traditional Unionist Voice (TUV)

Traditional Unionist Voice designates as Unionist. It won one seat at the 2017 Assembly elections. The party was formed in 2007 and opposes the Belfast/Good Friday Agreement, arguing it was designed to “ease Northern Ireland out of the United Kingdom”. Its website also says it [“repudiates the absurdity of mandatory coalition”](#). The current leader of the TUV is Jim Allister, an MLA.

## Ulster Unionist Party (UUP)

The Ulster Unionist Party, or UUP, was formed in 1905. At the 2017 elections it won 10 seats in the Northern Ireland Assembly. It designates as Unionist and believes in Northern Ireland playing a key part in [“a strong, prosperous, inter-connected United Kingdom”](#). The current leader is Doug Beattie, an MLA.

## 4 Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022

The [New Decade, New Approach](#) agreement, which restored Northern Ireland's devolved institutions in January 2020, included proposed changes to the operation of the Northern Ireland Assembly and Executive.<sup>19</sup> Some of these were given legislative effect by the UK [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#), which received Royal Assent on 9 February 2022.

See **Section 8.3** for forthcoming legislation on legacy issues and **Section 10.1** for that on cultural issues.

### Obligation to call an election

By law, the Secretary of State for Northern Ireland was required to propose a date for an Assembly election if Executive ministers had not been appointed **within 14 days** of an Assembly election, or if the posts of First and/or deputy First Minister had become vacant and remained **unfilled after seven days**.

The 2022 Act has replaced those time limits with up to **four six-week periods** for appointing Executive ministers. It also allows ministers to remain in office following an election for up to 24 weeks, and for up to 48 weeks if the First and/or deputy First Minister stop holding office (through, for example, resignation).

### Petition of Concern

The Petition of Concern mechanism was also altered by the 2022 Act. Although 30 MLAs can still force a matter being considered by the Assembly to require cross-community support, the Act has added a new 14-day "consideration" period before a valid petition can be confirmed. The Act also requires petitioners to come from more than one Northern Ireland political party; prohibits the Assembly's Speaker or their deputies from signing a petition; and prevents its use on anything related to the conduct of an MLA or on the second stage of a Bill.

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<sup>19</sup> See Commons Library Insight, "[Northern Ireland Assembly: 'New Decade, New Approach'](#)" for a summary of the agreement



## Code of Conduct

Finally, the 2022 Act made changes to the Northern Ireland Ministerial Code of Conduct. These included provisions around the treatment of the Northern Ireland Civil Service, public appointments and the use of official resources and information management.<sup>20</sup>

### 4.1

## Resignation of the First Minister

On 3 February 2022 [Paul Givan resigned](#) as First Minister of Northern Ireland, effective from midnight. This meant deputy First Minister Michelle O'Neill also relinquished her post. The Northern Ireland Executive was no longer able to meet as it is chaired jointly by the First and deputy First Ministers. Other Executive ministers remained in post, although they could not take any new decisions.

Mr Givan cited ongoing disagreements regarding the [Ireland/Northern Ireland Protocol](#) for his decision to stand down (see **Section 5** below).

Under the law as it then stood, the Secretary of State for Northern Ireland was required to name a date for an election if the offices had not been filled before 12.01am on Friday 11 February. However, the [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#) received Royal Assent on 9 February. This meant the Secretary of State was no longer under an immediate obligation to call an election.

Speaking at a press conference on 3 February, Sinn Féin president Mary Lou McDonald nevertheless called for an early Assembly election:

We cannot stagger on in the months ahead without a functioning executive and Sinn Féin will not facilitate this. In the absence of a functioning executive, an early election must be called and the people must have their say.<sup>21</sup>

In a statement, the Secretary of State for Northern Ireland, Brandon Lewis, said the DUP's decision was "extremely disappointing" and urged it to "reinstate the First Minister immediately to ensure the necessary delivery of public services for the citizens of Northern Ireland".<sup>22</sup>

But in an interview with the BBC, Mr Lewis ruled out an early Assembly election. He said "it is right" that the date remains 5 May 2022.<sup>23</sup>

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<sup>20</sup> See Commons Library Briefing Paper CBP9213, [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Bill 2021-22](#) for full details

<sup>21</sup> BBC News online, ["DUP: NI First Minister Paul Givan announces resignation"](#), 3 February 2022

<sup>22</sup> Northern Ireland Office, ["Statement by the Secretary of State for Northern Ireland on the resignation of the First Minister"](#), 3 February 2022

<sup>23</sup> BBC News online, ["NI political crisis: Early Stormont election ruled out by NI secretary"](#), 8 February 2022

## 5

## The Northern Ireland Protocol

Perhaps the most important issue in the forthcoming Northern Ireland Assembly election is the [Revised Protocol on Ireland/Northern Ireland](#) (the “Northern Ireland Protocol”). Agreed between the UK and European Union (EU) in October 2019, this avoided a “hard” border between Ireland and Northern Ireland by providing for an effective trade boundary in the Irish Sea. This became known as the “Irish Sea border”, although this terminology was rejected by the UK Government.

This proposal did not alter the Common Travel Area or Northern Ireland’s constitutional status as part of the United Kingdom, but it did possess considerable symbolic and economic significance. As Anton Spisak of the Tony Blair Institute for Global Change observed:

Proponents of the Protocol say that this is the only alternative to erecting the border on the island of Ireland and, if implemented, it will give Northern Irish firms unique access to both British and European markets, attracting inward investment into a region whose economy has long suffered from underinvestment. Others, especially in the unionist community, see it as an impediment to the territorial integrity of the UK and, even, a threat to their identity.<sup>24</sup>

## 5.1

### The Protocol in practice

The UK left the EU on 31 January 2020 and the Northern Ireland Protocol came into force on 1 January 2021. The full details of how the Protocol would operate were only decided by the EU-UK Joint Committee, set up under the [UK-EU Withdrawal Agreement, in December 2020](#).<sup>25</sup>

This gave little time for businesses in Northern Ireland (NI) and GB (Great Britain) to prepare. The EU and UK agreed therefore, to simplify some procedures for a short period and temporarily suspend the full application of EU law to NI that mandated checks and controls in several parts of the Protocol. These became known as “grace periods”.<sup>26</sup>

<sup>24</sup> Anton Spisak, “After Brexit: Northern Ireland and the Future of the Protocol”, Tony Blair Institute for Global Change, 12 March 2021

<sup>25</sup> Commons Library Briefing Paper CBP9102, [Joint Committee decisions on the Northern Ireland Protocol](#)

<sup>26</sup> Commons Library Briefing Paper CBP9333, [Northern Ireland Protocol: Implementation, grace periods and EU-UK discussions \(2021\)](#)

Despite these grace periods, problems with moving goods between GB and NI have emerged, and [businesses are concerned](#) that these issues will get worse when the grace periods end.<sup>27</sup> In response, in February 2021 the UK asked the EU for flexibility in several other areas, such as steel quotas, the movement of livestock, and of pets.<sup>28</sup>

The UK unilaterally extended the three-month agri-food grace period in March 2021.<sup>29</sup> In response the EU [started an enforcement mechanism](#), raising tensions between the two sides.<sup>30</sup> In June 2021, the UK then asked the EU to extend the six-month grace period for fresh meats,<sup>31</sup> which the EU has granted for a further three months, alongside announcing several proposals for new Protocol flexibilities.<sup>32</sup>

The EU's [proposed solutions](#) included flexibilities for the movement of guide dogs, the movement of livestock from GB to NI, and a requirement for UK drivers to show motor insurance green cards. The EU also agreed to change the application of EU law to ensure that medicines from GB can move into NI without constraints that might affect supplies in the region.<sup>33</sup>

On 21 July 2021, the UK Government published a Command Paper, [Northern Ireland Protocol: the way forward](#). The paper in part reiterated the Government's calls for the EU to show more "flexibility" and "creativity" and made several proposals, including asking for the jurisdiction of the Court of Justice of the EU (CJEU) over the Protocol to be removed.<sup>34</sup>

The EU rejected renegotiating the Protocol,<sup>35</sup> but said it was ready to continue to seek creative solutions "within the framework of the Protocol".<sup>36</sup> On 27 July 2021 the EU said that it would [halt legal proceedings against the UK](#) for breaching the Protocol.<sup>37</sup>

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<sup>27</sup> See Northern Ireland Affairs Committee, [Oral evidence: Brexit and the Northern Ireland protocol](#), HC 157, 15 July 2021

<sup>28</sup> Cabinet Office, [Letter from the Chancellor of the Duchy of Lancaster to the Vice President of the European Commission: 2 February 2021](#), 3 February 2021

<sup>29</sup> BBC News online, ["Brexit: EU says UK grace period extension breaches international law"](#), 3 February 2021

<sup>30</sup> European Commission, [Press Release: Withdrawal Agreement: Commission sends letter of formal notice to the United Kingdom for breach of its obligations under the Protocol on Ireland and Northern Ireland](#), 15 March 2021

<sup>31</sup> BBC News online, ["Brexit: UK asks EU to extend grace period for chilled meat exports"](#), 17 June 2021

<sup>32</sup> European Commission, [Press Release: EU-UK relations: solutions found to help implementation of the Protocol on Ireland and Northern Ireland](#), 30 June 2021

<sup>33</sup> Ibid

<sup>34</sup> Cabinet Office & Northern Ireland Office, [Northern Ireland Protocol: The way forward](#), 21 July 2021. See "Introduction" by Lord Frost and Brandon Lewis.

<sup>35</sup> European Commission, "Statement by Vice-President Maroš Šefčovič following today's announcement by the UK government regarding the Protocol on Ireland / Northern Ireland", 21 July 2021

<sup>36</sup> Ibid

<sup>37</sup> Euronews, ["EU halts legal action against UK over Northern Ireland Protocol breaches"](#), 27 July 2021

DUP leader Sir Jeffrey Donaldson MP welcomed the paper as a “[step in the right direction](#)”, but said permanent solutions were needed.<sup>38</sup> Sinn Féin rejected the paper, calling for the UK Government to implement the Protocol it negotiated and agreed to, saying it must not be allowed to “[renege on international law](#)”.<sup>39</sup> The Ulster Unionist Party welcomed the Command Paper as “[providing a potential pathway](#)” to sorting out the Protocol,<sup>40</sup> the SDLP and Alliance criticised the UK Government’s approach, calling on them to engage with the EU.<sup>41</sup>

On 13 October 2021 the EU published a detailed response to the UK’s Command Paper. It rejected any change to the CJEU’s role in policing the Protocol but proposed reductions in SPS and Customs checks.<sup>42</sup>

In December 2021, following Lord Frost’s resignation, it was announced that the Foreign Secretary, Liz Truss, would take over his responsibilities as Co-Chair of the EU-UK Joint Committee and as “lead negotiator with the EU on the Northern Ireland Protocol”.<sup>43</sup> Ms Truss met with her EU counterpart Maroš Šefčovič [for two rounds of talks](#), and [another in February](#). The next meeting of the Joint Committee is scheduled for 21 February.<sup>44</sup>

## 5.2

## Article 16

Article 16 is an emergency mechanism in the Protocol which either the UK or the EU can use to introduce temporary safeguard measures to protect its economy and society.<sup>45</sup> This is only if the application of the Protocol leads to “serious economic, societal or environmental difficulties that are liable to persist”, or to “diversion of trade”.<sup>46</sup>

It is sometimes said that Article 16 can be used to “suspend” parts of the Protocol. This is not directly stated in Article 16 and is not the purpose of the safeguard mechanism.

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<sup>38</sup> News Letter, “[IN FULL: DUP leader Sir Jeffrey Donaldson’s keynote speech on the NI Protocol](#)”, 9 September 2021

<sup>39</sup> Irish Times, “[London protocol move a ‘significant step in right direction’ – Jeffrey Donaldson](#)”, 21 July 2021

<sup>40</sup> Ulster Unionist Party, “[Statement from UUP Leader Doug Beattie, MC, MLA](#)”, 9 September 2021

<sup>41</sup> Irish Times, “[London protocol move a ‘significant step in right direction’ – Jeffrey Donaldson](#)”

<sup>42</sup> European Commission, “[Protocol on Ireland/Northern Ireland: Commission proposes bespoke arrangements to benefit Northern Ireland](#)”, 13 October 2021

<sup>43</sup> Sky News, “[Foreign Secretary Liz Truss to take over Brexit brief after Lord Frost’s resignation](#)”, Sky News, 20 December 2021

<sup>44</sup> BBC News, “[Brexit: UK and EU to continue ‘intensive’ NI protocol talks](#)”, 11 February 2022

<sup>45</sup> See Commons Library Briefing Paper CBP9330, [Northern Ireland Protocol: Article 16](#)

<sup>46</sup> Article 16, Northern Ireland Protocol, [Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#)

Northern Ireland's Unionist parties, who want the Protocol to be removed or significantly changed, have called to trigger Article 16 [since early 2021](#).<sup>47</sup> These calls were intensified in January 2021, when the [EU briefly suggested it might trigger Article 16](#) to restrict exports of Covid-19 vaccines from the bloc.<sup>48</sup> In its July 2021 Command Paper, the UK Government said it believed the threshold for using Article 16 had been met, citing "significant disruption" to trade flows between Great Britain and Northern Ireland; "perceptions of separation and threat to identity within the unionist community"; "political and community instability"; and "instances of disorder".<sup>49</sup>

The outcome of ongoing EU-UK Protocol negotiations will heavily influence whether the UK decides to trigger Article 16 and the EU's reaction.<sup>50</sup> DUP leader Sir Jeffrey Donaldson told the BBC that it would be "difficult" for his party to form a new Northern Ireland Executive after the Assembly election if issues concerning the Protocol had not been addressed.<sup>51</sup>

## 5.3 Legal challenges to the Protocol

A group of Unionist politicians, including Jim Allister (leader of Traditional Unionist Voice), Arlene Foster (MLA and the then First Minister and leader of the DUP) and Lord Trimble (former UUP First Minister), sought to challenge the domestic validity of the Protocol.

They argued that it is incompatible with Northern Ireland's pre-Brexit constitutional arrangements. Specifically, they say, it is inconsistent with either or both the Acts of Union 1800 and/or the Northern Ireland Act 1998. At the heart of their argument is a claim that the older legislation should take precedence over the EU (Withdrawal) Act 2018 and the EU (Withdrawal Agreement) Act 2020 and anything done under any powers contained in either of those Acts.

On 30 June 2021 the Northern Ireland High Court dismissed these arguments, stating that the **principle of consent**:

gave the people of Northern Ireland the right to determine whether to remain part of the United Kingdom or to become part of a united Ireland. It neither regulated any other change in the constitutional status of Northern Ireland

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<sup>47</sup> BBC News online, "[Arlene Foster urges PM to replace 'unworkable' NI Brexit deal](#)", 30 January 2021

<sup>48</sup> Commons Library Insight, "[Northern Ireland Protocol: Article 16 and EU vaccine export controls](#)", 2 February 2021

<sup>49</sup> Cabinet Office & Northern Ireland Office, [Northern Ireland Protocol: The way forward](#), 21 July 2021, paras 28-34

<sup>50</sup> European Commission, "[Press release: Protocol on Ireland/Northern Ireland: Commission proposes bespoke arrangements to benefit Northern Ireland](#)", 13 October 2021

<sup>51</sup> BBC News online, "[Jeffrey Donaldson: 'I would like NI protocol issues resolved before election'](#)", 4 February 2022

nor required the consent of a majority of the people of Northern Ireland to the withdrawal of the United Kingdom from the European Union.

In January 2021, Edwin Poots, the (DUP) Minister of Agriculture, indicated his intention to direct civil servants not to enforce sanitary and phytosanitary checks at Northern Ireland ports in Belfast and Larne. He submitted a paper to the Executive for approval, [in the expectation that it would not be adopted](#).

Ceasing checks appears to be in contravention of both the UK's international obligations under the Protocol and the UK's domestic implementing legislation, the EU (Withdrawal Agreement) Act 2020. Poots stated in early February that he had received independent legal advice on the matter, indicating that checks would require the prior approval of the Northern Ireland Executive. In the absence of that approval, he said, he could direct, as Agriculture Minister, that they be discontinued.

Although Poots' intention was that checks would cease from 3 February 2022, [his direction to civil servants has not \(yet\) come into effect](#). Its legality has been challenged by way of a judicial review through the Northern Ireland courts. In the High Court in Belfast, Justice Colton [suspended the direction pending the outcome of those legal proceedings](#). The effect of this is that the sanitary and phytosanitary checks will continue for the time being.<sup>52</sup>

## 5.4 The democratic consent mechanism

**Article 18** of the Northern Ireland Protocol set out the process by which the Northern Ireland Assembly's 90 members can provide "consent" for Northern Ireland to continue to abide by Articles 5 to 10 of the Protocol. The first vote will take place towards the end of 2024.

This [democratic consent mechanism](#) does not require a fully functioning Northern Ireland Executive and Assembly. If a motion is not jointly proposed by the First Minister and deputy First Minister (i.e. if a power-sharing Executive does not exist), then a motion can be tabled by any MLA. Failing that, then the default would be for Articles 5 to 10 of the Protocol to continue to apply in Northern Ireland after 2024.<sup>53</sup>

Consent only requires a majority in the Northern Ireland Assembly. Under the relevant Regulations, there is no Petition of Concern mechanism or requirement for cross-community consent.<sup>54</sup>

<sup>52</sup> BBC News online, "[Brexit: Sea border checks order suspended by High Court](#)", 4 February 2022

<sup>53</sup> See [The Protocol on Ireland/Northern Ireland \(Democratic Consent Process\) \(EU Exit\) Regulations 2020](#)

<sup>54</sup> Ibid



## 6

## Economy and public spending

Public spending in Northern Ireland on a per-person basis is usually higher than anywhere else in the UK. In every year between 2016/17 and 2019/20, public spending per person in Northern Ireland was higher than in any other nation or region of the UK, and this only changed in 2020/21 because of higher-than-normal spending in London caused by the Covid-19 pandemic.<sup>55</sup>

## 6.1

## Economy

The total value of economic output (GDP) in Northern Ireland was £49 billion in 2019, 2.2% of the UK total (based on the most recent figures available). Adjusted for population, GDP per head of £25,656 was well below the UK average of £32,876. Among the UK nations and regions this was 10th highest out of 12, only above Wales and the North East of England.<sup>56</sup>

In the decade prior to the 2008-09 global financial crisis, GDP per head growth outperformed the UK average, but since then growth in Northern Ireland has generally been weaker, including in 2018 and 2019.<sup>57</sup>

## Sectors

The public sector makes up a relatively large share of Northern Ireland's employment. 25.9% of all jobs in Northern Ireland were in the public sector in September 2021. This is the highest among UK nations and regions and compares with a UK average of 17.5%.<sup>58</sup>

A relatively low share of economic output comes from the "professional and technical" and the "IT and communications" sectors: 8% in Northern Ireland compared with 15% on average in the UK. The manufacturing, construction and "wholesale and retail trade" sectors all have larger shares of total output in Northern Ireland compared with the UK overall.<sup>59</sup>

<sup>55</sup> HM Treasury, [Country and regional analysis: 2021](#), 24 November 2021

<sup>56</sup> 2019 is latest year data is available; ONS, [Regional GDP 1998-2019](#), May 2021

<sup>57</sup> See figure 1, ONS, [Regional GDP 1998-2019](#), May 2021

<sup>58</sup> ONS dataset, [Public sector employment](#), 14 December 2021 update, table 6

<sup>59</sup> Calculation for 2019 based on Gross Value Added data: ONS, [Regional GDP 1998-2019](#), May 2021

## Labour market

Although high by historical standards, the proportion of the population in employment in Northern Ireland is below the UK average. This is largely due to higher levels of “economic inactivity” – people who are not in work and not looking for work.<sup>60</sup>

The average wage of a full-time employee in Northern Ireland was £575 per week in 2021, below the UK average of £611. However, the 6% increase in average wages in inflation-adjusted terms from 2008-2021 was the highest of all the UK nations and regions. It should be noted that this is still a relatively weak figure.<sup>61</sup>

## Trade

Of total business sales to markets outside Northern Ireland, 51% went to the rest of the UK and 49% went outside the UK in 2020. Sales to Great Britain were 2.5 times higher than exports to the Republic of Ireland. In 2019, a larger share went to Great Britain, at 66% of total business sales that left Northern Ireland.<sup>62</sup>

## Further information

- NISRA, monthly update and [dashboard](#) and [economic overview](#)
- Department for the Economy, [economic briefing](#)
- Library statistical briefing, [Regional and national economic indicators](#)

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<sup>60</sup> ONS data via Nomisweb’s profile of [Norther Ireland’s labour market](#)

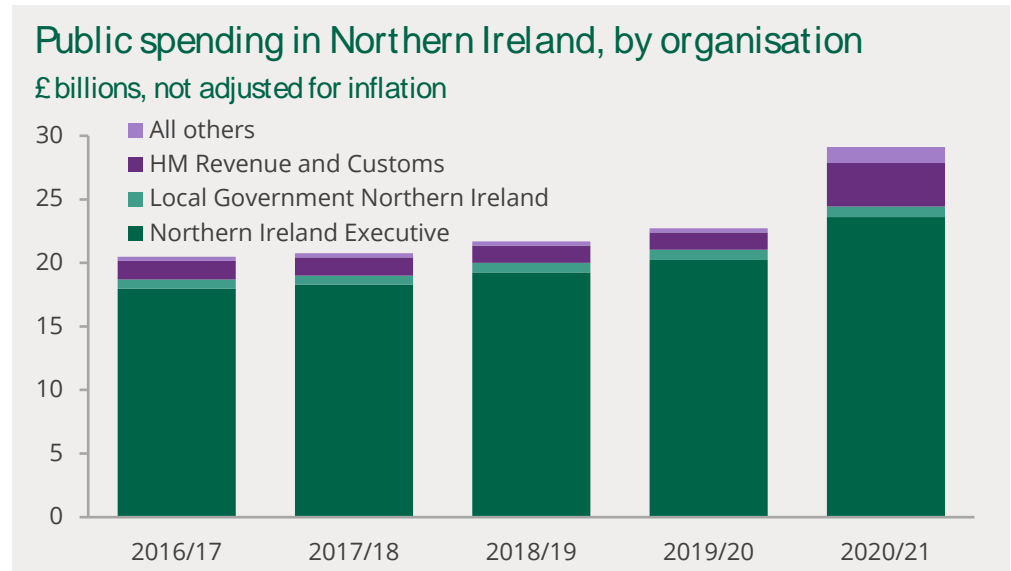
<sup>61</sup> Commons Library, [Average earnings by age and region](#), based on ONS [ASHE data](#)

<sup>62</sup> NISRA, [Northern Ireland Broad Economy Sales and Exports Statistics 2020](#), December 2021

## 6.2

## Public spending by organisation

As the chart below illustrates, most public spending in Northern Ireland goes via the Northern Ireland Executive (see **Section 6.5**).



Note: Includes only identifiable spending (i.e. spending that can be associated with specific countries or regions).

Source: HM Treasury, [Country and regional analysis: 2021](#), 24 November 2021

Between 2016/17 and 2019/20, the Executive accounted for a steady 88-89% of all public spending in Northern Ireland. This proportion fell to 81% in 2020/21, largely because of increased spending by UK Government departments on Covid-19 support schemes (such as the Coronavirus Job Retention Scheme and Self-Employment Income Support Scheme, both run by HMRC, and the Bounce Back Loan Scheme run by the UK Department for Business, Energy and Industrial Strategy).

In the years before the pandemic, the main areas of spending that were not funded via the Northern Ireland Executive included funding of local authorities in Northern Ireland (£823 million in 2019/20) and various schemes directly administered by HMRC (such as child benefit and tax credits). No other programmes from outside the Executive spent more than £50 million per year in Northern Ireland.

## 6.3

## Spending by sector

The high levels of public spending in Northern Ireland are partly because of its particular needs and partly because of policy decisions taken by the Northern Ireland Executive. The effect of these factors can be clearly seen if we look at the spending sectors where Northern Ireland is particularly

different to the UK average. Spending in Northern Ireland is higher than the UK average in 34 of these sectors and lower in only 19.<sup>63</sup>

There are four areas in which public spending in Northern Ireland is particularly high:<sup>64</sup>

- **Social security:** Spending in Northern Ireland is higher than the UK average on sickness and disability (£1,601 per person, £742 above the UK average), old age (£2,070 per person, £193 above the UK average), and family and children (£515 per person, £129 above the UK average).
- **Agriculture, forestry and fishing:** Northern Ireland's economy is more agricultural than elsewhere in the UK, and this is reflected in the spending figures. Public spending on agriculture, forestry and fishing averaged £291 per person, much higher than the UK average of £85. Much of this difference is accounted for by market support under the EU's Common Agricultural Policy, currently being replaced by measures under the [Agriculture Act 2020](#).
- **Police services:** Because of the security situation in Northern Ireland, spending on policing is also particularly high, at £433 per person (£184 higher than the UK average of £249).
- **Water:** Water supply is public in Northern Ireland and Scotland, unlike in the rest of the UK where it is private. This explains why public spending on water supply is £150 per person in Northern Ireland but averages only £12 per person across the UK.

There are fewer sectors where spending in Northern Ireland is lower than in the rest of the UK, but three of them stand out:

- **Transport:** Public spending on transport in Northern Ireland is much lower overall than in the UK as a whole (£357 per person, well below the UK average of £524 per person). However, this overall figure masks differences in spending on various kinds of transport. Spending on local roads is about £102 per person higher in Northern Ireland than in the UK as a whole, but this is more than offset by spending on national roads (£13 per person, much lower than the UK average of £75) and particularly by spending on railways (£69 per person, well below the national average of £289).
- **Secondary education:** Spending on secondary education in Northern Ireland averages about £590 per person, £65 lower than the UK average of £655 per person.
- **Housing:** On average, housing spending in Northern Ireland comes to about £277 per person per year, £55 below the UK average of £332.

<sup>63</sup> In addition to these, Northern Ireland spending is zero for six sectors, generally those which cannot be allocated to specific parts of the UK, such as foreign economic aid

<sup>64</sup> Spending figures throughout this section are the annual average spending per person per year between 2016/17 and 2020/21. Based on data from HM Treasury, [Country and regional analysis: 2021](#), 24 November 2021.

## 6.4

## Impact of the Covid-19 pandemic

As in the rest of the country, the Covid-19 pandemic had a major negative impact on the Northern Ireland economy. A regular indicator of its economic performance showed output declined by 18% during the initial phase of the pandemic in the first half of 2020.<sup>65</sup> A strong recovery soon followed but new waves of cases and associated restrictions has led to further disruption.

Indicators point to the economy having grown strongly in 2021, with some experimental data suggesting Northern Ireland had the quickest recovery from the pandemic of all UK nations and regions, as of the third quarter of 2021.<sup>66</sup>

Public spending rose across the UK in 2020/21 as a result of measures taken to combat the pandemic. The Library's briefing on [Public spending during the Covid-19 pandemic](#) looks at the total amounts spent and the way in which spending changed overall.

Many of the areas where spending in Northern Ireland increased more than in the UK as a whole were those where this spending was already fairly high.<sup>67</sup> The most striking example is spending on "family and children", which increased from an average of £437 per person per year to £822 per person in 2020/21. This £384 increase was far higher than the UK average increase of £19.

Education spending was also boosted more in Northern Ireland than in the UK as a whole. For example, spending on pre-primary and primary education rose in Northern Ireland from an average of £438 per person per year to £500 per person in 2020/21. Although spending also increased in the UK as a whole, the much smaller increase of just £6 per person meant that spending on this sector ended up higher in Northern Ireland than in the UK.

Some spending sectors had smaller increases. Spending on "general economic, commercial and labour affairs" increased by £1,981 per person in the UK as a whole in 2020/21, but by only £1,606 per person in Northern Ireland, probably reflecting lower costs of business support schemes.

## 6.5

## Where does the Executive get its revenue?

Here we look at how the Northern Ireland Executive funds the public spending it delivers. Most of its revenue comes from grants provided by the

<sup>65</sup> Q2 2020 compared with Q4 2019; NISRA, [NICEI publication and tables Q3 2021](#), 13 January 2022

<sup>66</sup> Financial Times, [Northern Ireland economy has outperformed rest of UK, ONS figures show](#), 29 November 2021; based on ONS, [Model-based early estimates of regional GVA](#), 29 November 2021

<sup>67</sup> In this analysis, we have taken average spending per person on each sector in the years from 2016/17 to 2019/20, and compared it to spending on the same sectors in 2020/21

UK Government, but the Executive also has some limited powers to raise its own receipts and borrow.

The Northern Ireland Fiscal Council has published [a comprehensive guide to Northern Ireland's public finances](#), which provides more detail on the topics set out below and a lot more besides.<sup>68</sup>

## Grants from UK Government

The majority of the Executive's revenues are from UK Government grants. The Executive receives a "block grant" which is for spending on "transferred" (devolved) policy areas. The UK Government also transfers money to the Executive for more volatile or demand led spending. Such spending is referred to as Annually Managed Expenditure (AME). The majority is spent on the state pension and social security.<sup>69</sup>

Broadly speaking, most of the block grant is provided for the day-to-day costs of public services and administration, including wages, purchases of goods and services and grants to local authorities and other bodies.<sup>70</sup> The next largest element of the block grant is provided for capital spending, which covers spending on longer-term investment in areas such as buildings and roads.<sup>71</sup>

Annual changes in the block grant are determined by the Barnett formula. When the UK Government increases (or reduces) spending on services delivered only in England,<sup>72</sup> the Barnett formula ensures that the devolved administrations receive the same amount in pounds per person. The Library briefing [The Barnett formula](#) explains how the formula works in more detail. The Northern Ireland Fiscal Council's [guide to Northern Ireland's public finances](#) discusses and analyses the formula with a particular focus on Northern Ireland.

The Executive also receives "non-Barnett additions" to its block grant. These are usually earmarked for specific purposes. For example, along with the other devolved administrations, the Executive has received non-Barnett additions for the UK Government's contributions to City and Growth Deals. For the Executive, non-Barnett additions have also accompanied recent political agreements, such as New Decade New Approach, the Fresh Start Agreement and the Confidence and Supply Agreement between the Conservative Party and the DUP in 2017.<sup>73</sup>

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<sup>68</sup> Northern Ireland Fiscal Council, [The public finances in Northern Ireland: a comprehensive guide](#), November 2021,

<sup>69</sup> Northern Ireland Fiscal Council, chart 4.7

<sup>70</sup> This type of spending is classified in the jargon as resource departmental expenditure limits (RDEL)

<sup>71</sup> Northern Ireland Fiscal Council, pp 45-47

<sup>72</sup> Or only in England and Wales, or in England, Wales and Scotland

<sup>73</sup> Northern Ireland Fiscal Council, pp50-53



## Borrowing

The Executive has some borrowing powers, the most significant of which is for capital spending.<sup>74</sup> The Northern Ireland Executive can borrow for capital purposes up to a cumulative maximum of £3 billion and for resource up to a maximum outstanding amount of £250 million. The resource borrowing is for short-term cash management purposes. Borrowing is accessed through the UK Government (from the National Loans Fund).

## Other income

Regional rates on domestic and non-domestic property are the Executive's only significant direct source of tax revenue (see **Section 6.7**).<sup>75</sup>

Before Brexit the Executive received roughly £400 million a year in funding from the EU, including Common Agricultural Policy payments for farmers. The UK Government has replaced elements of the EU funding. For instance, non-Barnett additions have been made to replace EU support for farming and fishing.

Income from fees and charges are the Executive's largest source of non-grant income. These are largely netted off spending. The largest items are non-domestic water charges and Health Trust receipts.<sup>76</sup>

# 6.6 Fiscal devolution

The [Independent Fiscal Commission for Northern Ireland](#) is currently exploring the case for Northern Ireland gaining additional powers over taxation and considers over 20 different UK taxes, listing those considered good candidates for devolution in Northern Ireland. It has already published an [Interim Report](#) and aims to publish a Final Report later in 2022.

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<sup>74</sup> HM Treasury, [Statement of funding policy](#), November 2020

<sup>75</sup> Northern Ireland Fiscal Council, p9

<sup>76</sup> Northern Ireland Fiscal Council, pp103-10

## 6.7

## Local government in Northern Ireland

Northern Ireland's 11 local authorities – elected, like the Assembly, by STV – have fewer responsibilities than their equivalents in Great Britain.<sup>77</sup> [A list of their functions](#) can be found at the NIDirect website.<sup>78</sup>

The councils receive most of their funding from local sources. In 2019-20, 68% of their funding came from domestic and non-domestic rates, 24% from fees and charges, and 8% from grants from the Northern Ireland Executive.<sup>79</sup> Like local authorities in Great Britain, Northern Ireland local authorities operate capital funding programmes, spending a total of £143.3 million on these in 2019-20;<sup>80</sup> and they are permitted to borrow funds, holding a total of £580.4 million in 2019-20.<sup>81</sup>

Northern Ireland continues to operate a domestic rating system. Council Tax, the equivalent property tax in Great Britain, has never operated in Northern Ireland. Rate multipliers or “poundages” are set by local authorities for both domestic and non-domestic properties, and these are multiplied by the property's value. This is akin to the system that operated in Great Britain up to 1990. The Northern Ireland Executive levies a “regional rate” alongside local rates.<sup>82</sup> Both regional and district rates are collected by the Rate Collection Agency. Property valuations for rating purposes are carried out by the Valuation and Lands Agency (VLA).

Domestic properties are valued on the basis of the capital (i.e. sale) value of a property. The maximum capital rateable value of a domestic property in Northern Ireland is £400,000.<sup>83</sup> This is based on the capital value of a domestic property on 1 April 2005. Non-domestic properties are valued on the basis of the annual rental value of a commercial property (as with business rates in Great Britain). The most recent revaluation of non-domestic properties took effect on 1 April 2020, based on rental values on 1 April 2018.

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<sup>77</sup> See the [Local Government Act \(Northern Ireland\) 2014](#). The most recent local elections were held in May 2019.

<sup>78</sup> Functions that are exercised by local authorities in Great Britain but not in Northern Ireland include education; housing; roads; social services; transport; street lighting; and libraries. These functions are the responsibility of the Northern Ireland Executive and its executive agencies. Fire and rescue, and policing, are also handled on a pan-Northern Ireland basis.

<sup>79</sup> Northern Ireland Audit Office, [Local Government Auditor's Report 2019-20](#), 2021, p15

<sup>80</sup> Ibid, p19

<sup>81</sup> Ibid, p21

<sup>82</sup> The DPFNI website [includes district domestic and non-domestic rate levels](#) for the 2021-22 financial year. For 2021-22, the regional domestic rate is 45.74p, and the regional non-domestic rate is 27.9p.

<sup>83</sup> See [Rates \(Maximum Capital Value\) \(Amendment\) Regulations \(Northern Ireland\) 2009](#)

## 7

## Health

The Northern Ireland Executive, through its [Department of Health](#), is responsible for the design and delivery of health and social care in Northern Ireland. It is a transferred/devolved matter.

The health service in Northern Ireland is referred to as Health and Social Care (or HSC). Like the NHS, it is free at the point of delivery but in Northern Ireland it also provides social care services like home care services, family and children's services, day care services and social work services.

Services are commissioned by the Health and Social Care Board and provided by five Health and Social Care Trusts – Belfast (the largest of the five trusts), South Eastern, Southern, Northern, and Western. The Northern Ireland Ambulance Service is designated as a sixth region-wide trust. A separate Public Health Agency has responsibility for improving health and wellbeing and health protection.

Further information on the structure of the Health Service in Northern Ireland can be found on [HSC website](#). The RAISE briefing, [The unhealthy state of hospital waiting lists](#), outlines the impact of Covid-19 on existing waiting times for planned treatment in Northern Ireland.

## 7.1

## Covid-19 pandemic

The Department of Health has published its [Covid-19 action plans, frameworks, and strategies](#), including an updated Covid-19 Response Strategy (April 2021). [Reports](#) published by the Northern Ireland Audit Office include timelines of Executive and Departmental announcements with respect to Covid-19.<sup>84</sup> At the time of writing, Northern Ireland has recorded 608,485 cases, 3,184 deaths,<sup>85</sup> and 3.7 million vaccinations.<sup>86</sup>

## Coronavirus legislation

[The UK Coronavirus Act 2020](#) amended the [Public Health Act \(Northern Ireland\) 1967](#), which enabled the Department of Health to introduce regulations on the incidence or spread of infectious disease. In March 2020,

<sup>84</sup> Northern Ireland Audit Office, [Overview of the Northern Ireland Executive's response to the Covid-19 pandemic](#), 2 September 2020, Appendix 1 and [Overview of the Northern Ireland Executive's Response to the COVID-19 Pandemic - Second Report](#), 8 June 2021, Appendix 11

<sup>85</sup> Department of Health, [Covid-19 statistics Northern Ireland](#)

<sup>86</sup> Health and Social Care in Northern Ireland, [Vaccinations dashboard](#), last updated 21 February 2022

the Department of Health introduced the [Health Protection \(Coronavirus, Restrictions\) Regulations \(Northern Ireland\) 2020](#). Similar regulations were introduced in England, Wales and Scotland.

These Regulations made provision for the closure of premises and businesses and introduced restrictions on movement and gatherings. The Regulations have since been revoked and replaced by the [Health Protection \(Coronavirus, Restrictions\) Regulations \(Northern Ireland\) 2021](#) (as amended). The Department of Health website includes a [list of amendments and a document](#) consolidating these.

In February 2022, following a review of the restrictions in place under the regulations, Health Minister Robin Swann [said the Northern Ireland Executive would remove remaining Covid-19 restrictions](#), effective from 15 February. This included requirements to wear face coverings in public places, for business owners to implement measures to limit transmission of the virus, the use of Covid certification in nightclubs and large unseated indoor events, and limits on numbers meeting indoors in private homes.

Mr Swann said that these measures should no longer be set out in regulations, but rather placed in guidance. He emphasised that the decision “does not mean that Covid-19 has gone away”, and encouraged people to “continue to observe the sensible measures we have all learnt to protect ourselves and others”.

Mr Swann also said he intended to extend the powers that the Coronavirus Act 2020 had granted to the Department by another six months in order to ensure that the Executive retained the ability to make restrictions again, in case of urgent need or a new variant.<sup>87</sup>

## Building Forward: Consolidated Covid-19 Recovery Plan

In August 2021, the Executive [published Building Forward: Consolidated Covid-19 Recovery Plan](#) which aims to support Northern Ireland’s economic, health and societal recovery in the short term. The Plan details 83 interventions which will be carried out over a 24-month period. These are centred on four themes: sustainable economic development, “green” growth and sustainability, tackling inequalities and population health.

## Northern Ireland Audit Office reports

The Northern Ireland Audit Office (NIAO) has published two reports on the Executive’s response to the pandemic. The [first report](#), published in September 2020, summarised the initial action taken by the Executive in response to the pandemic and provided an initial cost estimate of Northern

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<sup>87</sup> Department of Health, [Written Ministerial statement on health protection regulations](#), 14 February 2022

Ireland Department response initiatives. Only activities estimated to cost £1 million or more were included in the NIAO's analysis.<sup>88</sup>

The [second report](#) was published in June 2021.<sup>89</sup> It provided an update on the first report, and discussed the initiatives and policies implemented by the Executive in response to the pandemic. The report also estimated cost of NI's Covid response, as of March 2021, to be £6.2 billion. The report said the NIAO planned to issue a further update in 2021, but this does not appear to have been published.

## Rebuilding Strategic Framework

The [Rebuilding Strategic Framework](#) (published June 2020) provided an analysis of the adverse impact of Covid-19 on health and social care services and outlines the Executive's approach to restoring services as quickly as possible. The Framework considers innovative approaches to services delivered which were developed in response to the pandemic.

As part of this, Northern Ireland's Health and Social Care Trusts published service delivery plans for winter 2021 setting out measures to create further acute bed capacity. These include details on acute bed modelling, improved discharge processes and reducing the delivery of elective care.

## 7.2

## Abortion

Abortion is a medical intervention through which a pregnancy is ended. Changes to the law on abortion in Northern Ireland were introduced in October 2019 by the UK Government through Section 9 of the [Northern Ireland \(Executive Formation etc\) Act 2019](#).<sup>90</sup> This resulted in the following changes to abortion law in Northern Ireland:

- sections 58 and 59 of the [Offences Against the Person Act 1861](#) (attempts to procure abortion) were immediately repealed;
- a moratorium on abortion-related criminal prosecutions began;
- a duty was placed on the UK Government to introduce, by regulation, a new legal framework for abortion in Northern Ireland which ensured that [“recommendations in paragraphs 85 and 86 of the CEDAW report are implemented in respect of Northern Ireland”](#) by 31 March 2020.<sup>91</sup>

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<sup>88</sup> Northern Ireland Audit Office, [Overview of the Northern Ireland Executive's response to the Covid-19 pandemic](#), 2 September 2020

<sup>89</sup> Northern Ireland Audit Office, [Overview of the Northern Ireland Executive's Response to the COVID-19 Pandemic - Second Report](#), 8 June 2021

<sup>90</sup> The 2019 Act stipulated that Section 9 would only come into effect if the Northern Ireland Executive was not restored by 21 October 2019. It was not.

<sup>91</sup> [Convention on the Elimination of all forms of Discrimination Against Women report](#)

A new legal framework for abortion services in Northern Ireland was introduced by the UK Government on 25 March 2020 following a [6-week consultation](#). [The Abortion \(Northern Ireland\) Regulations 2020](#) allowed access to abortions up to 12 weeks' gestation (11 weeks + 6 days), without conditionality, to be certified by one medical professional that the pregnancy has not exceeded its 12<sup>th</sup> week. Abortions beyond 12 weeks' gestation are lawful in specified instances, including when severe fetal impairment and fatal fetal abnormalities are detected.<sup>92</sup>

Concerns have been repeatedly raised in Westminster, and beyond, that full commissioning of abortion services in Northern Ireland has not taken place. A judicial review on the matter was brought by the [Northern Ireland Human Rights Commission \(NIHRC\)](#) and heard at Belfast High Court in May 2021. Handing down the court's decision in October 2021, Mr Justice Colton said that the Secretary of State for Northern Ireland had failed to comply with his duties, under section 9 of the Northern Ireland (Executive Formation etc) Act 2019, to "expeditiously" provide women with access to high quality abortion and post abortion care in all public health facilities in Northern Ireland.<sup>93</sup>

In March 2021, the UK Government laid the [Abortion \(Northern Ireland\) Regulations 2021](#) to address the gaps in commissioning abortion services in Northern Ireland. This was followed, in July 2021, by a direction, issued by the Secretary of State for Northern Ireland, to the Northern Ireland Department of Health, the Minister of Health, the Health and Social Care Board, and to the First and deputy First Ministers, to "commission and make abortion services available in Northern Ireland as soon as possible, and no later than 31 March 2022".<sup>94</sup>

The 2021 Regulations and Directions are subject to a judicial review, brought by the Society for the Protection of Unborn Children (SPUC).<sup>95</sup> The case was heard at Belfast High Court in early October 2021 and on 8 February 2022 Mr Justice Colton found both the 2021 Regulations and the 2021 Directions to be lawful and dismissed the challenge brought by the SPUC.<sup>96</sup>

Separately, a "non-executive bill" has also been introduced in the Northern Ireland Assembly on abortion in instances of severe fetal impairment. The [Severe Fetal Impairment Abortion \(Amendment\) Bill](#) was introduced on 16 February 2021 and, at the time of writing, had completed its Consideration Stage. It seeks to remove the grounds for an abortion in cases of severe fetal impairment by amending the Abortion (Northern Ireland) (No. 2) Regulations 2020.

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<sup>92</sup> The Regulations were subsequently re-made as the [Abortion \(Northern Ireland\) \(No. 2\) Regulations 2020](#) on 12 May 2020, correcting drafting errors identified by the Joint Committee on Statutory Instruments.

<sup>93</sup> [\[2021\] NIQB 91](#) at para 34

<sup>94</sup> Abortion Services Directions 2021, [Statement UIN HCWS238](#), 22 July 2021

<sup>95</sup> A summary of the case is set out in an NIHRC briefing on the [SPUC Legal challenge to Abortion Services in NI](#), 19 August 2021

<sup>96</sup> Judiciary NI, [Summary of Judgment - In re SPUC Pro-Life Ltd \(Abortion\)](#), 8 February 2022



Another non-executive bill, the [Abortion Services \(Safe Access Zones\) Bill](#), was introduced to the Assembly on 13 September 2021 and had completed its Committee Stage at the time of writing. The Bill would require the “Department of Health to create ‘safe access zones’ outside premises which provide lawful abortions or related information, advice or counselling”.<sup>97</sup>

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<sup>97</sup> For further information see Northern Ireland Assembly Research and Information Service Bill Paper, [Abortion Services \(Safe Access Zones\) Bill](#), 19 October 2021

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## 8

# Northern Ireland's legal system

Like Scotland, Northern Ireland has a separate legal system from the rest of the UK. This reflects the historical context in which Ireland entered a union with Great Britain in 1801 and Irish independence in 1922.

The consequence of this is that Northern Ireland has its own courts system, organised along similar (though not identical) lines to that of England and Wales. Northern Ireland also has its own branches of the legal profession, including its own judiciary, barristers and solicitors. Judges are selected for appointment by the distinct [Northern Ireland Judicial Appointments Commission](#).

The final court of appeal for both criminal and civil cases in Northern Ireland is the United Kingdom Supreme Court (UKSC).<sup>98</sup> As with Scotland and Wales, the UKSC has a special role for Northern Ireland in adjudicating on “devolution issues” via a statutory reference procedure under [Schedule 10 of the Northern Ireland Act 1998](#).

Northern Ireland's separate legal system also means that the common law of Northern Ireland exists as a separate body of legal rules and precedents. There are also distinct sources of statute law that are specific to Northern Ireland, including unrepealed Acts of the pre-1801 Irish Parliament; unrepealed Acts of the Parliament of Northern Ireland (1921-1972); and Orders in Council made by UK Ministers during periods of Direct Rule since 1972.

## 8.1

# Changing Northern Ireland's criminal law

Whether the criminal law in Northern Ireland can be changed by the Assembly, or only by the UK Parliament, depends on whether the legislation involved concerns a transferred, reserved or excluded matter. Originally, the Northern Ireland Act 1998 treated the whole of the criminal law as a reserved matter, including the creation of offences and penalties, but this was relaxed as part of the transfer of police and justice powers to the Assembly and the Department of Justice in April 2010. This involved not just the transfer of competence over the criminal law, but also over the courts,

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<sup>98</sup> Note that in Scotland, no appeal on criminal matters is possible beyond the High Court of Justiciary in Edinburgh

prisons, prosecution and policing systems in Northern Ireland, subject to certain restrictions.

This means that the criminal law generally is transferred and within the competence of the Assembly, except where otherwise provided. However, as is also the case under the devolution settlements in Scotland and Wales, the Assembly lacks the competence to modify the criminal law on controlled substances, because the subject matter of the Misuse of Drugs Act 1971 is reserved.<sup>99</sup> The Assembly similarly cannot modify the law on firearms (which is also reserved) or the law of treason (which is an excepted matter).

## 8.2 Policing in Northern Ireland

Following the signing of the Belfast/Good Friday Agreement in 1998, an independent commission on policing was set up for Northern Ireland. The commission considered how to implement the Agreement's commitment for a "fresh start" in Northern Ireland with regards to policing.

The commission published its report, *A New Beginning: Policing in Northern Ireland*, in September of 1999. The UK Government accepted all the recommendations and the [Police \(Northern Ireland\) Act 2000](#) provided the legislation which was needed to implement the reforms. The Act established the [Police Service of Northern Ireland](#) (PSNI, which replaced the Royal Ulster Constabulary, or RUC), the [Northern Ireland Policing Board](#) to oversee it and the [Police Ombudsman for Northern Ireland](#) to investigate complaints.

In a [report published on 8 February 2022](#) the Police Ombudsman identified significant investigative and intelligence failures and "[collusive behaviours](#)" by the RUC in relation to a series of murders and attempted murders by loyalist organisations in south Belfast in the 1990s. The PSNI responded to the report with a [public statement](#).

## 8.3 Legacy issues in Northern Ireland

Addressing legacy issues related to the Troubles was a key part of the [Stormont House Agreement](#) reached in December 2014.<sup>100</sup> However, achieving a consensus on the way forward has proven difficult. In July 2021 the UK Government presented [a new set of proposals](#) to Parliament which set aside previous proposals. The new measures included:

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<sup>99</sup> In theory, the Assembly could consider a Bill to change the classification of drugs in Northern Ireland, but such a bill could not become law without the consent of the Secretary of State for Northern Ireland.

<sup>100</sup> See Commons Library Briefing Paper CBP8352, [Investigation of Former Armed Forces Personnel Who Served in Northern Ireland](#)

- An independent information recovery body focused on the provision of information about Troubles-related deaths and injuries.<sup>101</sup> Any investigation would be “for the purpose of genuine and robust information recovery, rather than to create a file for prosecution”.<sup>102</sup>
- A statute of limitations that would apply equally to all parties linked to all Troubles-related incidents. This would bring an immediate end to all criminal investigations into Troubles-related offences and remove the prospect of future prosecutions.
- An oral history initiative will be established, via new physical and online resources and through empowerment of the museums sector in Northern Ireland, to further mutual understanding and reconciliation.
- All current and future Troubles-related civil cases and inquests will end.

In presenting these new proposals, the UK Government said it was:

increasingly of the view, after long and careful reflection, that any process that focuses on the lengthy pursuit of retributive justice will severely hold back the successful delivery of a way forward focused on information recovery, mediation and reconciliation that could provide a sense of restorative justice for many more families than is currently achieved through the criminal justice system.<sup>103</sup>

The proposals are now subject to an ongoing process of talks with the political parties in Northern Ireland, the Irish Government and representatives across Northern Ireland society, including families and victims’ groups. The Government initially indicated that legislation would be introduced in autumn 2021, but that bill is still awaited.<sup>104</sup>

The proposals have been met with criticism and anger from Northern Ireland’s political parties, the Irish Government, the families of victims of the Troubles on all sides, and campaign and human rights groups. Questions have also been raised over the compatibility of the proposals with the European Convention on Human Rights.<sup>105</sup>

On 20 July 2021 the [Northern Ireland Assembly was recalled](#) to discuss the Government’s proposals. A non-binding motion denouncing the plans to introduce a statute of limitations was passed, without any dissenting voices.<sup>106</sup>

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<sup>101</sup> HM Government, [Addressing the legacy of Northern Ireland’s past](#), CP498, July 2021, para 11. The body has been likened to the [Truth and Reconciliation Commission](#) that was established in South Africa in 1995.

<sup>102</sup> *ibid*

<sup>103</sup> HM Government, [Addressing the legacy of Northern Ireland’s past](#), foreword

<sup>104</sup> [HC Deb 26 Jan 2022 Vol 707 c984](#)

<sup>105</sup> See [HC Deb 14 July 2021 Vol 699 cc392-98](#) and Irish Post, “[The Troubles: Micheál Martin calls Britain’s planned ‘amnesty’ for soldiers and paramilitaries ‘wrong for many, many reasons’](#)”, 15 July 2021

<sup>106</sup> The Journal, “[Stormont politicians reject UK Government plans for Troubles amnesty](#)”, 20 July 2021

## 9 Education

Northern Ireland has a complex educational structure with a range of bodies involved in its management and administration.<sup>107</sup> The Library briefing [The school system in Northern Ireland](#) provides wider information.

### 9.1 Independent Review of Education

The New Decade, New Approach agreement committed the Northern Ireland Executive to an [external, independent review of education provision](#). This commenced in October 2021 and will consider a range of issues, including:

- the education journey and outcomes of children and young people;
- the support for schools and settings, funding and governance;
- the system level design, delivery and administration; and
- a vision of how education should be delivered in the 21<sup>st</sup> century.<sup>108</sup>

[An Expert Panel has been appointed](#) to undertake the review.<sup>109</sup> An interim report is due in October 2022 and a final report by April 2023.

### 9.2 Other issues: school policy

In addition to the review of education, a range of education policy developments and planned legislation are currently under discussion. The New Decade, New Approach agreement required the establishment of an expert panel on the links between educational underachievement and socio-economic background. [A Fair Start](#), the Final Report and Action Plan of the appointed panel, was published in May 2021.

The Minister of Education has introduced a Bill to amend the law on the school starting age so that, where entrance to school is deferred, children born between 1 April and 1 July do not reach compulsory school age until 1 September after their fifth birthday. If the [School Age Bill](#) was passed, there would be no legal requirement for parents to provide full-time education prior to a child starting school, should they choose to defer entry to Year 1.

<sup>107</sup> Caroline Perry, [Education System in Northern Ireland](#), Northern Ireland Assembly, 2016

<sup>108</sup> Department of Education, [Independent Review of Education](#)

<sup>109</sup> Department of Education, [Panel to undertake Independent review of education announced](#), 27 September 2021

[The Integrated Education Bill](#) is a non-Executive Bill, introduced to the Assembly in June 2021, to – among other changes – place a duty on the Department of Education and other education bodies to promote, not merely encourage and facilitate, the development of integrated education.<sup>110</sup> However, the Bill [has been amended](#) during its passage to require the support, rather than promotion, of integrated education.

There has been recent discussion of whether the current **Relationship and Sex Education** requirements on schools are sufficient. The [Department of Education requires all grant-aided schools to develop their own policy on how they will address RSE within the curriculum](#). The [report of an expert advisory panel on a gender equality strategy](#), appointed by the Department for Communities (DfC), has made recommendations for improvements.<sup>111</sup> The Children’s Commissioner for Northern Ireland has also [expressed concerns](#) about the existing policy.<sup>112</sup>

## 9.3 Higher and Further Education

Further education in Northern Ireland includes essential skills courses and vocational and academic programmes from [level 2 to degree level](#) for post-16 learners. Courses are delivered by [six regional colleges operating across 40 campuses as well as the College of Agriculture, Food and Rural Enterprise](#).

The Department for the Economy (DfE) is responsible for the [policy, strategic development, and financing of the further education sector](#). In January 2016, the DfE published a strategy for the future direction of FE titled [Further Education Means Success](#).<sup>113</sup> In May 2021, the DfE announced a new skills strategy, [Skills for a 10X Economy](#), which it hoped would help to deliver an economy “that is 10x stronger, 10x more prosperous, 10x more resilient.”<sup>114</sup>

Higher education is delivered through two universities ([Queen’s University Belfast](#) and [Ulster University](#)), two university colleges ([St Mary’s University College Belfast](#) and [Stranmillis University College](#)), the Open University, and Northern Ireland’s FE colleges.

Unlike other parts of the UK, Northern Ireland has no higher education funding council. Instead, the DfE acts as [Government department, funding council, and regulator of higher education](#).

<sup>110</sup> The [Explanatory and Financial Memorandum](#) provides an overview of the Bill’s aims

<sup>111</sup> [Gender Equality Strategy Expert Advisory Panel Report](#), December 2020, p169

<sup>112</sup> Northern Ireland Assembly Official Report, [Minutes of Evidence, Committee for Education, Period Products \(Free Provision\) Bill](#), 26 January 2022

<sup>113</sup> Department for the Economy, [Further Education Means Success: The Northern Ireland Strategy for Further Education](#), January 2016

<sup>114</sup> DfE, [Skills Strategy for Northern Ireland: Skills for a 10X Economy summary](#), May 2021, p4

Since 2018, the University and College Union (UCU) has coordinated a series of strikes across UK universities over pensions, pay, and work conditions.<sup>115</sup> Staff at Queen's University and Ulster University both voted to join strike action for ten days in February and March.<sup>116</sup> More information is available in the Library briefing [University strikes FAQs](#).

## Funding

The tuition fees for an undergraduate student resident in Northern Ireland and studying in the country are considerably lower (£4,530 for 2021/22) than if they studied in England (£9,250), Scotland (£9,250), or Wales (£9,000). This incentivises local students to remain in NI to study, and hopefully stay after graduation and contribute to society. The relatively low tuition fee, however, combined with the Maximum aggregate Student Numbers (MaSN) cap, has led to an oversupply of Northern Ireland resident students wishing to study in the country.<sup>117</sup>

Northern Ireland's [draft budget for 2022-25 \(PDF\)](#) proposed an annual 2% cut for the DfE's budget.<sup>118</sup> The DfE has also warned that if funding it had previously received from the EU is not replaced in full, its [current level of service provision will suffer](#).<sup>119</sup>

## Access to Erasmus+

The UK's decision to leave the EU in 2016 did not necessarily mean it had to leave the Erasmus+ education exchange programme. On 24 December 2020, however, the Prime Minister, Boris Johnson, announced the Erasmus+ programme would be replaced by the [Turing Scheme](#).

Under an arrangement being worked out with the Irish Government, students in Northern Ireland will continue to have access to the Erasmus+ programme.<sup>120</sup> The Irish Government have said they will introduce a scheme allowing Northern Irish participants to [temporarily register with an Irish Higher Education Institution](#) in order to undertake an Erasmus+ placement.<sup>121</sup> More information is available in the Library briefing [The Turing scheme](#).

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<sup>115</sup> An overview of the university pension scheme and its recent issues is provided by the Commons Library Briefing Paper CBP8156, [Universities Superannuation Scheme](#)

<sup>116</sup> BBC News online, ["University strikes: Queen's and Ulster University face further action"](#), 28 January 2022

<sup>117</sup> Higher Education Policy Institute, [The cap that doesn't fit: Student numbers in Northern Ireland](#), 18 February 2019

<sup>118</sup> Department of Finance, Draft Budget 2022-25, p66

<sup>119</sup> BBC News online, ["Brexit: Loss of EU funding 'could seriously affect NI economy'"](#), 12 January 2022

<sup>120</sup> BBC News online, ["Erasmus: NI students with British passports can access funding"](#), 26 December 2020

<sup>121</sup> Irish Government Department of Further and Higher Education, Research, Innovation and Science, [Further and Higher Education and Brexit](#), 30 December 2021



## 10

## Cultural issues

## 10.1

## Irish language/Ulster Scots

Legislation to protect and promote the Irish language in Northern Ireland has been a long-standing feature of power-sharing negotiations in Northern Ireland and remains a key political issue.

The [2006 St Andrews Agreement](#) included a commitment to Irish and Ulster Scots language legislation, and [a draft strategy was published in February 2015](#). This was not adopted by the then Northern Ireland Executive and the late Martin McGuinness cited this as one of the reasons for his resignation as deputy First Minister of Northern Ireland in January 2017.

Sinn Féin supports the restoration of Irish as the spoken language of most people in the island of Ireland. It argues for the right to use Irish in courts, the Assembly and by other public bodies including the police; the appointment of an Irish language commissioner; the establishment of designated [Gaelteacht](#) areas in Northern Ireland (where Gaelic is the main language); the right for education through the Irish language; and bi-lingual signage on roads and public buildings.<sup>122</sup> The SDLP also advocates greater use of the Irish language in Northern Ireland.

In an April 2017 article, the writer and journalist Eamonn Mallie analysed the views of Democratic Unionists regarding these aims:

Attitudes in the DUP break down into two broad divisions – firstly that section which detests the Irish language, the GAA [Gaelic Athletic Association] and anything else Irish. The second group includes those who are less strident in their opposition to the language as a language but take the view that Irish has been in their parlance ‘weaponised’ by Sinn Féin and to entreat with it would be, to be contaminated.<sup>123</sup>

In August 2017 Arlene Foster, the then First Minister, [called for “a new cultural deal”](#) which included an [Ulster Scots](#) commissioner as well as one for the Irish language, but Sinn Féin maintained its support for a standalone

<sup>122</sup> The Journal, [“Explainer: What is the Irish Language Act and why is it causing political deadlock in Northern Ireland?”](#), 14 February 2018. The SDLP also supported an Irish language Act, while the Alliance argued for legislation covering various languages used in Northern Ireland, including sign language

<sup>123</sup> Irish Times, [“The DUP and the Irish Language Act”](#), 1 April 2017

Bill.<sup>124</sup> A further round of talks on restoring the devolved institutions collapsed in February 2018 on this basis.<sup>125</sup>

A section on “Rights, language and identity” formed part of the January 2020 [New Decade, New Approach](#) agreement. This committed the Northern Ireland Executive to sponsoring and overseeing “a new framework both recognising and celebrating Northern Ireland’s diversity of identities and culture, and accommodating cultural difference”.<sup>126</sup>

This was to comprise:

- The establishment of a statutory Office of Identity and Cultural Expression, with its director appointed by the First and deputy First Minister acting jointly;
- Legislation to create a Commissioner for the Irish language;
- Repeal of the [Administration of Justice \(Language\) Act \(Ireland\) 1737](#);<sup>127</sup>
- Legislation to create another Commissioner “to enhance and develop the language, arts and literature associated with the Ulster Scots / Ulster British tradition in Northern Ireland”;<sup>128</sup>
- The establishment of a central Translation Hub to provide services for the Executive, local government and other public bodies;
- A change to [Assembly Standing Orders](#) to allow business to be conducted through Irish or Ulster Scots.<sup>129</sup>

Paragraph 5.23 stated that the draft Bills were to be officially published on the day of the formation of the Executive and presented to the Assembly for consideration within 3 months of the restoration of the institutions. The [three draft Bills were published](#) but this deadline for consideration was not met.

The Department for Communities established the [Translation Hub](#) on 19 April 2021. On 15 June 2021, [MLAs passed a motion supporting plans for simultaneous translation services](#) in Irish and Ulster-Scots in the Northern Ireland Assembly.

In August 2021 the Minister for Communities, Deirdre Hargey, appointed two expert advisory panels to provide recommendations for the Executive’s draft Irish Language Strategy and draft Ulster Scots Language, Heritage and Culture Strategy.<sup>130</sup> The [Assembly’s Committee for Communities was told](#)

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<sup>124</sup> The Journal, [“Sinn Féin rejects Arlene Foster’s Irish language proposal”](#), 31 August 2017

<sup>125</sup> The Journal, [“Explainer: What is the Irish Language Act and why is it causing political deadlock in Northern Ireland?”](#)

<sup>126</sup> Para 26

<sup>127</sup> This banned the use of the Irish language in courts of law

<sup>128</sup> Both language commissioners were to be appointed by the First and deputy First Ministers acting jointly

<sup>129</sup> Full details were set out in Annex E of the agreement

<sup>130</sup> Neither draft strategy had been put out to consultation within six months of the New Decade, New Approach agreement

[that these would be provided](#) by the expert advisory panels in December 2021, with possible publication in early 2022.<sup>131</sup>

When [Arlene Foster resigned as First Minister of Northern Ireland](#) in June 2021, Irish language legislation formed part of the talks between Sinn Féin and the DUP. Sinn Féin said it would not support a new DUP First Minister unless Irish language legislation was introduced by the next Assembly election in May 2022. The new DUP leader, Edwin Poots, said he would support legislation [but not necessarily before the next Assembly election](#).

Sinn Féin subsequently asked Brandon Lewis, the Secretary of State for Northern Ireland, to introduce legislation at Westminster, saying it was the “only way forward to finally resolve” the dispute. The DUP MP Sammy Wilson said the UK Government “must not interfere in devolved issues at the behest of Sinn Féin”.<sup>132</sup>

Speaking in the House of Commons on 21 June 2021, Brandon Lewis, the Secretary of State for Northern Ireland, said that:

If the Executive has not progressed the legislation for the identity, language and culture package in the New Decade, New Approach agreement by the end of September [2021], the UK Government will take the legislation through the UK Parliament. The New Decade, New Approach agreement was endorsed by the UK Parliament, and we will introduce the legislation that delivers on these commitments in October 2021, if necessary. This will provide for the creation of an Office for Identity and Cultural Expression, an Ulster Scots Commissioner, and an Irish language Commissioner.<sup>133</sup>

No legislation was introduced by the UK Government during October 2021. Speaking to the Northern Ireland Affairs Select Committee on 8 February 2022, Northern Ireland Office Minister Conor Burns said it was “very firmly the Government’s intention that we bring the legislation forward before the [Assembly] elections” in May 2022.<sup>134</sup>

Although language and cultural matters are devolved issues under the Northern Ireland Act 1998, under that same Act, the UK Parliament remains legislatively supreme and can legislate, should it wish to do so, in respect of any Northern Ireland matter. For example, Westminster legislated on abortion and same-sex marriage during 2019, despite these being devolved matters. Devolved institutions in Northern Ireland were not fully functioning at that time.

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<sup>131</sup> In April 2021 the Irish language group Conradh na Gaeilge (CnaG) said it [planned legally to challenge the Executive’s failure to publish an Irish language strategy](#)

<sup>132</sup> BBC News online, [“Irish language talks back on at Stormont”](#), 17 June 2021

<sup>133</sup> [HC Deb 21 June 2021 \[Northern Ireland: New Decade, New Approach Agreement\]](#)

<sup>134</sup> Northern Ireland Affairs Committee, [Oral evidence: New Decade, New Approach: two years on, HC 1070](#), 8 February 2022

## 10.2

## Flags in Northern Ireland

The flying of flags in Northern Ireland has been a highly contentious issue. Northern Ireland is the only part of the United Kingdom where there is legislation which governs flying of flags on official buildings.

The [St Patrick's Cross](#) consists of a red cross on a white background. It was superimposed upon the flags of St George and St Andrew to create the Union Flag in 1801. After the Irish Free State (later the Republic of Ireland) seceded from the UK in 1922, the Union Flag remained in use in Northern Ireland, which had a devolved legislature between 1921 and 1972.

The [Flags and Emblems \(Display\) Act \(Northern Ireland\) 1954](#), which made it a criminal offence to interfere with the display of the Union flag, was repealed in 1987. Current arrangements for the flying of the Union flag from government buildings in Northern Ireland were set out by the [Flags Regulations \(Northern Ireland\) 2000](#), as amended by the [Flags Regulations \(Northern Ireland\) \(Amendment\) 2002](#). These Orders allow the Secretary of State to make regulations on the flying of flags on government buildings in Northern Ireland after consulting the Northern Ireland Assembly.<sup>135</sup>

The 2014 [Stormont House Agreement](#) included a commitment to establish a [Commission on Flags, Identity, Culture and Tradition](#) to explore these issues. It submitted its [final report](#) to the Executive in July 2020, which was published on 1 December 2021. The Commission suggested developing a new “Civic Flag” to resolve diametrically opposed public views on the flying of flags on public buildings. The Commission was unable to reach agreement on changes to legislation on flying flags from street furniture but did suggest a Code of Practice for respectful flag display to mark historical, cultural or sporting events. The Executive has yet to publish a response.

The New Decade, New Approach agreement included a commitment to bring the list of designated flag-flying days a Northern Ireland government buildings and court houses into line with those in the rest of the UK. These are set by the UK [Department of Digital, Culture, Media & Sport](#) (DCMS).

The regulations do not apply to local authority buildings. Since 1906 the Union flag had flown every day over Belfast City Hall. This was challenged by a complaint under the Council's Equality Scheme in 2002-03. On 3 December 2012, Belfast City Council voted to fly the Union flag at City Hall only on designated days, as defined by DCMS. The decision led to [protests and demonstrations by Loyalists during 2013](#), although these eventually diminished.

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<sup>135</sup> These do not apply to the Northern Ireland Assembly buildings, although the Assembly Commission chooses to follow the UK regulations

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# 11 Northern Ireland population statistics

## 11.1 Residents

Northern Ireland's population is estimated to be 1,895,500 (at mid-2020). This is 3% of the UK population and an increase of 12% since 2001.

Northern Ireland's population is younger than Great Britain's: 26% in Northern Ireland are aged under 20. In GB the equivalent figure is 23%; 17% of Northern Ireland's population are aged 65+, compared to 19% in GB.<sup>136</sup>

Belfast Local Government District has 343,000 residents, 18% of Northern Ireland's population. Armagh City, Banbridge and Craigavon's population is 217,000 (11%), this is the only other District with more than 200,000 residents.<sup>137</sup>

## 11.2 Births

The latest figures show Northern Ireland has a higher birth rate than the rest of the UK. In 2020, the General Fertility Rate (live births per 1,000 women aged 15-44) in Northern Ireland was 58.5, higher than the rate in England (57.7), Wales (50.7) and Scotland (45.5).

## 11.3 Deaths

Northern Ireland has relatively high rates of infant mortality. In 2020, deaths under 1 year in Northern Ireland were 4.5 per 1,000 live births. The rates were lower in England (3.8), Wales (4.2) and Scotland (3.1).

Life expectancy in Northern Ireland is similar to that for the UK as a whole. Both the male and female life expectancies at birth are higher than for Wales and Scotland and lower than for England.

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<sup>136</sup> ONS, [Estimates for the Population of the UK](#)

<sup>137</sup> NISRA, [2020 Mid Year Population Estimates for Northern Ireland](#)

Life expectancy at birth (years)		
2018-20	Male	Female
Northern Ireland	78.7	82.4
England	79.3	83.1
Wales	78.3	82.1
Scotland	76.8	81.0
<b>UK</b>	<b>79.0</b>	<b>82.9</b>

Source: ONS [National life tables](#)

## 11.4

## Migration

In general, the number of people migrating into and out of Northern Ireland has resulted in a net inflow in recent years. In the five years ending 2018-19, there was an annual inflow of people of 23,725 to Northern Ireland from Great Britain and other countries. Over the same period the average number leaving was 21,000. In 2019-20, the pandemic and the UK leaving the EU impacted on these flows and more people left Northern Ireland to both GB and other countries than arrived. In 2019-20 net migration was -3,300 as a result of 24,500 people leaving and 21,200 arriving.<sup>138</sup>

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<sup>138</sup> NISRA, [Long term international migration](#)

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