Northern Ireland Assembly

Committee for Finance and Personnel

OFFICIAL REPORT
(Hansard)

Public Service Pensions Bill: DFP Briefing

9 January 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Ms Megan Fearon
Mr Paul Girvan
Mr John McCallister
Mr David McIlveen
Mr Mitchel McLaughlin
Mr Peter Weir

Witnesses:

Mr Stephen Ball	Department of Finance and Personnel
Mrs Grace Nesbitt	Department of Finance and Personnel
Mrs Blathnaid Smyth	Department of Finance and Personnel

The Chairperson: We have a number of officials from the Department: Stephen Ball and Blathnaid Smyth from Civil Service pensions, and Grace Nesbitt, who will be familiar to some of you; she is the head of corporate HR. Grace, do you want to make a few opening comments?

Mrs Grace Nesbitt (Department of Finance and Personnel): Yes. That would be helpful. This is the first opportunity that I have had to meet the Committee to discuss the proposed Public Service Pensions Bill specifically. The policy intent and the whole reform issue has come up in the margins of other sessions that I have had with the Committee, but I am conscious that there are some new members. I have, at last, the privilege of being here, so it may be helpful. I will be happy to take questions at the end.

There are three key areas that I would like to cover. The first is the context to the Bill, including a little bit of background information and why it is necessary to introduce it. The second is the core provision and the changes that the Bill will propose to introduce, who they will affect and when. The third is the challenge that we are facing in implementing the Bill to the deadline that has been set, including a little bit of information on the timetable. I think that all members will be aware of the potential financial penalty if we do not meet the timetable. Those are the areas that I propose to cover. I trust that that will be helpful.

We will look, first of all, at the context and the timeline by way of background to this whole issue. In the March 2010 Budget — three years ago now — the then Westminster Government announced the establishment of the Independent Public Service Pensions Commission, which was chaired by Lord

Hutton. He did his work with his team. The final recommendations from that independent commission were published on 10 March. They were accepted in the March 2011 Budget by what was then the new coalition Government at Westminster. I will not go into a lot of detail about why the review was undertaken, because you would not get out of this Building today; possibly not even this year. To put it really simply, at a very high level, the review was undertaken because the cost of pensions was rising and people are living longer. Something had to change. The view was that the current position was simply not tenable in the longer term. That is a very high-level summary.

What were the key findings from Lord Hutton's work? First, he said that final salary pension arrangements in the public sector were unsustainable, so there was a need for alternative models that share the cost of pension provision more equitably between public service employees and the taxpayer. The third key point was that the new models should protect the accrued pension rights of current employees. That is a very high-level summary. His report is available if you wish to read it; I can provide copies to members.

What the coalition Government then did was engage and consult with all the key unions at national level. On 4 July 2012, the coalition Government announced that, based on the outcome of various ballots of unions for the key schemes — the NHS, teachers, the principal Civil Service pension scheme, etc — they believed they had sufficient support to proceed with a Public Service Pensions Bill in Westminster to implement the recommendations of the Independent Public Service Pensions Commission.

What has our position on the matter been in Northern Ireland to date? On 8 March 2012, the Executive agreed to commit to the policy of a new career average revalued earnings scheme — which, of course, gets abbreviated, as these things always do, to CARE — with a pension age linked to state pension age. Those are really the high-level provisions of the Bill. The Executive agreed that that would be adopted for general use in public service pension schemes. On 8 March 2012, the Executive also agreed to adopt this approach consistently for each of the different public service pension schemes, in line with their equivalent scheme in Great Britain, and not to adopt a different approach for Northern Ireland. That was the stance of the Executive on 8 March.

As members will again be aware, in the intervening months, we looked at how we would actually give effect to the Executive's decision. There were a couple of options. One was to use the legislative consent motion to avail ourselves of the Westminster Bill. The other was to produce our own Bill. The latter decision was obviously made, which is why I am here. The Executive made that decision on 22 November 2012. It was formally announced in the Assembly on Monday 26 November.

I move on to my second key area of change. What is all this about? Who is going to be affected and when? Let us look at the structure that is now required. The Public Service Pensions Bill would be primary legislation, and could be described as a framework Bill. It will not contain the detail of individual scheme designs for health workers, teachers, civil servants or the various other schemes. The designs for the specific schemes will be set out in their own regulations or scheme rules. So, there is the primary legislation — the Public Service Pensions Bill — and then each scheme will be required, based on the new framework, to produce its own subordinate legislation, which will be the detail of how the change is going to happen for each individual scheme. That is an important point to note at the start. It means that each individual scheme will have flexibility to take account of the individual requirements of their different workforces.

What will it actually do? What are the changes? I have already highlighted the key change, and I have set that out in more detail in the written submission I have provided to members. For ease of reference, the key thing is the move from final salary schemes to CARE — I am not going to ask you to remember what it stands for; career average revalued earnings — a direct link to equalised schemes and the linking of normal pension age with state pension age. The exceptions to that are the Police Service and the Fire and Rescue Service. Subject to regular review, the normal pension age of 60 will still exist for the police and the Fire and Rescue Service. There will be transitional protection measures for scheme members who are within 10 years of their normal pension age on 1 April 2012. If you recall, I said at the outset that that was one of the key issues Lord Hutton said he wanted to see addressed. That means that any final salary linked to any final salary pension accrued prior to the date on which the new schemes will commence will be honoured. There will also be a scheme cost cap, including employer limits. That again picks up one of the points Lord Hutton made about balancing out who pays in a fairer way, which is how he described it, between the employee and the employer. There will be an extension of scheme access arrangements. Finally, parts will pick up on looking at the whole governance of public service pension schemes, which again was a level of detail that Lord Hutton touched on. So, there will be revised measures for the management, regulation and administration of schemes.

Who is going to be affected by all this? What is it going to mean? Hands up; I will be affected, and my colleagues will be, for starters. I will declare that now. However, I am here speaking to you as an official, not as a member of the scheme. The proposed Bill will implement the measures for the following public service employees: civil servants, devolved judiciary workers, local government workers, health service workers, teachers, Fire and Rescue Service workers, and members of the police force. It is important to note that the policy intention behind the reforms is to apply it to the whole of the public sector. It will, for example, include areas like the North/South pension scheme.

When is all this going to happen? The key date for implementation set by the coalition Government is April 2015. As Committee members will probably be aware, the main exception to that is the local government pension scheme. It is being handled differently because it is a different type of scheme. The date for that is April 2014.

The final area that I want to update colleagues on is the challenge. You will have received a copy of the revised timetable to introduce this, and we will continue to update the Committee on those dates. The key challenge is the timing. The key date for all this to be done is April 2015. We need to have the primary legislation in place, and then each scheme has to look at its secondary legislation. We will also have to change our systems in time for April 2015. The consequence of not doing that has been made very clear by the Treasury. You have the figures in your paper; it is estimated that it would cost over £260 million for each year of delay. We suspect that those costs will rise if there are years of delay.

What have we already done to progress this work? The Office of the Legislative Counsel (OLC) has agreed to work on the Bill and to begin to draft it in tandem with the Westminster Bill. The Minister of Finance and Personnel has agreed that, within the Department of Finance and Personnel (DFP), this area of work will be given priority in the legislative programme. OLC has recently advised me that it has been able to secure an additional legal resource to work specifically on this matter, which is certainly very welcome. We have also set up a group of key officials from across all the schemes to begin to work specifically on the Bill. They are due to meet later this month.

Each of the public sector schemes in Northern Ireland has already informed their respective unions of the proposed change. As I said at the start, the unions here are aware of it. Most of them are linked to the national unions in some shape or form and, in that sense, have a presence and are aware that a national consultation has been carried out. This is no surprise to anybody, and it is certainly no surprise to the unions; they are aware of it. I mentioned the pension forum for the Civil Service unions. I can assure you that they are well aware of this matter and are updated on it on a monthly basis. It is a regular item on our agenda.

As I said, the Bill will affect not just the Civil Service; it will apply right across the public sector. DFP will co-ordinate the legislation and the consultation, and I recently wrote to the Northern Ireland Committee, Irish Congress of Trade Unions (NICICTU) and invited it to facilitate and help in the process. We also plan to launch a consultation on the issue later this month.

I welcome the opportunity to meet the Committee. I am happy to engage in a very timely way with the Committee on the policy, the consultation and the various scrutiny stages of the Bill and to provide it with an update when required. If you have looked at the timetable, you will have seen that we have very tight deadlines. There is no doubt about that. It will be challenging; I am not ducking that at all. I welcome the Committee's comment that it will work constructively to meet the deadline. I think it is fair to say that, since the announcement was made in the Assembly on 26 November, there has been a willingness — I would not say enthusiasm; that is maybe going a bit far — and a commitment from all parties and colleagues across the public service to engage to try to meet the deadline. Nobody wants to incur a financial penalty to the Northern Ireland block. Our aim is to endeavour to avoid that or, at least, to minimise that as much as we possibly can. So, I look forward to working closely with the Committee on the issue over the coming weeks and months. I am happy to take questions.

The Chairperson: Thank you very much, Grace. I think it is fair to say that, before Christmas, the Minister had painted a very bleak picture. Obviously, as the paper outlines, he saw the primary legislation being passed by January 2015. Now, after Christmas, however, we can do it by April 2014. It is no longer a doomsday scenario, so to speak. Where did those nine months go to in those projections?

Mrs G Nesbitt: First, we have priority in OLC. We are also doing what could, potentially, be nugatory work for officials and the drafters, because we are beginning to work on the draft legislation before the Westminster Bill is finalised. I can give members a reference to the Westminster website, if you wish to follow it, but, potentially, a number of amendments will be made to the Westminster Bill as it goes through its passage. It has left the House of Commons, and a number of changes were considered there. It is in the House of Lords, and, potentially, there will be a number of changes there. The way to do this to make the best use of our resources would be to wait until we see the Westminster Bill in its final shape. However, that is not what we are doing now. We are trying to work in tandem. Potentially, legislators will be writing things that they will be rubbing out a few weeks later, because, given the Executive decision in March last year, our Bill will be modelled on the Westminster Bill. That is the policy decision that was made. That is the first issue.

We have also produced a timetable that assumes that decisions are taken at the earliest opportunity. I think that Minister Wilson made that clear; he actually commented that he thought our original timetable was ambitious. That means, for example, that when something goes to the Executive, the decision is taken at the earliest opportunity, with absolutely no delay. I do not have authority over when the Executive consider matters, but I have experience of the time that that can take. My experience has not been that the Executive always consider matters at the first and earliest opportunity. So, I was trying to produce a timetable that was realistic. If you look at the timetable, you will see that it assumes that something that goes to the Executive on 24 June — that is maybe one of the dates — will be decided by the Executive on 24 June. That has not been my experience to date. I was trying to produce a timetable that was realistic.

The other key area is that we will be consulting on the policy, and we have taken advice on that. Again, we are consulting ahead of the Westminster Bill. Things could change. We are not going to be consulting on the legislation. As I understand it, the practice on that has varied from taking advice from other officials involved in that area.

To answer your question, those are the areas that we have trimmed back on. Is it achievable or is not achievable? I am not going to sit here and say that it is, because I think that it is extremely challenging. I am not going to promise something that I cannot guarantee can be delivered. I think it is extremely challenging.

The Chairperson: I move now to the exemptions. Obviously, we have the small number of posts for which the pension age will still be 60, and that would be subject to ongoing review. Perhaps we could have some discussion about that. Why is it limited to those particular areas? Is it because of the trade union representation, for instance? I know that some had suggested that surgeons should be considered, for example, or posts within the other emergency services, such as the likes of the coastguard.

Mrs G Nesbitt: The Westminster Bill is modelled on what was recommended by Lord Hutton. He highlighted the retirement age in those areas, for various reasons. If you have been following the Westminster Bill, you will have seen that a number of amendments on that were considered. I suspect that as the Westminster Bill makes its way through the House of Lords, that issue will come up again. From representations that I have seen from various unions and from meeting officials across other Departments, I am certainly aware that the unions have already raised the issue of the retirement age for various schemes. I will not highlight any particular one. I appreciate that it is a sensitive issue. I cannot tell you what the definitive position will be in the Westminster Bill because it has not finished its passage. Our Bill will be modelled on the Westminster Bill.

If we in Northern Ireland were to decide to change that in the provisions of our Northern Ireland Bill, we would, first, be going against the Executive's decision of 8 March. That decision has already been made. Secondly, if we were to change something as critical as that, there would be considerable financial implications for us in Northern Ireland. Working longer is obviously a big issue because of the cost, and that was one of the reasons behind the review by Lord Hutton in the first place. If we were to start to vary such things, it would, first, go against the Executive decision, and, secondly, it would mean that we in Northern Ireland collectively would have to pay for that. It would be a very significant change if we decided to diverge from what is in the final version of the Westminster Bill.

The Chairperson: What capacity do we have to vary certain aspects of the Bill that would not incur a financial cost? There will be issues, small and major, on which we will wish to make changes that will not necessarily result in a cost.

Mrs G Nesbitt: We have scope or opportunity to vary in two areas in Northern Ireland. First, the Executive decision of 8 March made it clear that, in respect of the framework of the primary legislation, we would follow what happens in Westminster. There is considerable scope for variation at secondary legislation stage. Two levels of legislative change are required in implementing this reform. There will be considerable scope around the types of things that could be varied for each scheme, and I am happy to provide the Committee more detail on that in writing. That is important because they can look at their own workforce and at any particular issues that they wish to consider in Northern Ireland. If they do that within the overall cost ceiling of the scheme, there will not be a financial implication. If they decide to vary something that would have a financial implication, there could be a cost. So, there is scope to vary. Most of that scope exists at the secondary legislation stage, and that is an important scope for Ministers with responsibility for the various schemes to have and to consider. The important point is to look at the impact on the bottom line.

The Chairperson: In a local context, what kind of savings will result from the implementation of this?

Mrs G Nesbitt: I am not in a position to answer that.

The Chairperson: Are there figures that you could get?

Mrs G Nesbitt: If you were to reverse the figures on the costs of not meeting the deadline, you would see that the savings for the first year are, potentially, £260 million across the public sector. I would caveat that by saying that that is an estimate. That is a very high-level figure, but, if that is the cost, the saving is the reverse of that.

The Chairperson: Is that the only figure that you have for the first year?

Mrs G Nesbitt: It is. It is broken down by each scheme in the submission that I have given to you. The savings will depend very much on how the scheme design pans out, so there are quite a few variables in that. The savings are significant, because the intent behind this is that this is an urgent and costly matter that requires attention.

The Chairperson: There is a review mechanism, and, over a number of years, life expectancy will vary. How often will there be a review?

Mrs G Nesbitt: The proposal is that an evaluation will be conducted every three years under the governance arrangements. An evaluation is a very detailed and complex piece of work that is conducted by the Government Actuary's Department. It looks at the costs of running the scheme, and it considers things like life expectancy and the profile of scheme members and all that type of thing. That will inform how that is managed. The high-level proposals for that are set out in the Westminster Bill.

Mr D Bradley: Good morning. I have to declare an interest as a member of the Northern Ireland teachers' pension scheme, although I am still some way off the official retirement age. *[Laughter.]* One of the advantages of those schemes has been the final salary aspect. The likes of you and I could possibly lose out from that point of view. Are there any provisions to lessen the blow to people who are in the scheme?

Mrs G Nesbitt: Yes. I have to be careful about disclosing personal information; I will disclose my own but not that of my colleagues. Because I am over a certain age, shall we say, I am in the 10-year transitional protection arrangements. I said at the start that Lord Hutton wanted to protect the accrued rights of members. There are provisions in the Westminster Bill.

Mr Cree: You are bound to be protected, Dominic.

Mrs G Nesbitt: I am happy to talk to you personally after the meeting. If you are of a certain age, there are protections for you. It is basically people who were over the age of 50 at April 2012. I am not looking at anybody. There is also a little bit of tapering before that, so there is provision for people who are 46 and a half. So, to answer your question; yes, there is a level of protection, and there is also a level of tiered protection outside the 10-year period, which would apply across all the schemes, irrespective of what scheme you are in.

Mr D Bradley: You said that there would be revised measures for the management, regulation and administration of the schemes. Can you give us an idea of what that entails?

Mrs G Nesbitt: I will need to refer to my more detailed notes to answer that. I do not seem to have more information. I can supply the Committee with more information on that. The Bill is quite long; it has 35 clauses. I do not have all the information to hand, but I am happy to follow up in writing on that issue.

Mr D Bradley: That is grand. Thanks very much.

Mr Girvan: Thank you very much for coming. It is hoped that the Westminster Bill will receive Royal Assent in May of this year. It will be implemented in full on 5 April 2014. Is that correct?

Mrs G Nesbitt: No, the Westminster Bill will not be implemented. It is given effect then so it becomes the primary legislation framework. The provisions will have the framework for the secondary legislation. The changes will be implemented on 1 April 2015. It is not 2014. It is necessary to have in place the primary framework before you can really look in detail at the secondary legislation. There are a number of dates to consider.

Mr Girvan: I appreciate that we were looking at the date of April 2014. If we were not to meet that window, are we restricted from implementing it? Should we miss out by six weeks due to a delay in Committee Stage or through the Executive or whatever, that six-week window could put you over into the next financial year. If it could not be implemented within that current year, would it have to be held back to the following year?

Mrs G Nesbitt: No. Sorry, that was a bit abrupt, but I would suggest that we do not take that tack. If we made the decision in Northern Ireland that because we cannot implement the reform in April 2015 we would wait until April 2016, we would have a bill of over £260 million from Her Majesty's Treasury. My advice as an official, and the line that our Minister has taken, is that we meet the deadline of April 2015, and if we cannot meet the deadline, we at least get as close to it as possible. I have absolutely no doubt that we will be getting a bill from the Treasury in the form of a daily rate. Therefore, the closer we can get to April 2015, the better. So, our intent is to get to April 2015, but, as I said, the timetable is extremely tight, and any slippage will have a knock-on effect. To be honest, that is my concern.

Mr Girvan: I appreciate that. A number of us have major concerns that it did not receive the nod through the Assembly at that stage, and about the delay and the potential impact that that will have on us. You have already alluded to the ambitious window in which we are attempting to achieve this and the additional work that is going to be implemented in that.

How accurate is the £260 million figure that has been given as a potential cost? We have been looking for information in relation to corporation tax. Treasury has always been very difficult when it comes to giving us direct figures as to what component of corporation tax is raised from Northern Ireland. We are also looking at this. Therefore, how accurate is the figure of £260 million in relation to pensions that are being drawn down into the Civil Service for people who were employed in Northern Ireland?

Mrs G Nesbitt: First of all, we have to look at the source of that information. It is an estimate. So, the question is: how accurate is an estimate? That work was conducted by the Government Actuary's Department, looking in detail at the health scheme and whether the health scheme here could adopt it. The health scheme is the biggest scheme. There is nothing behind why I am picking the health scheme; it was looked at because it is the scheme with the biggest cost. It looked at what it would mean if the health scheme followed the same line as has been proposed. It came up with a fairly detailed piece of work, and produced a figure of 7% of the pensionable pay bill. So, to get an estimate, officials looked at the pensionable pay bill for the other schemes and did a high-level sum.

It is an estimate, and I would emphasise that. That caveat has always been added to that figure. What I would say is that, even if it is 50% wrong, we do not want to lose £130 million from the Northern Ireland block. I do not want to lose a penny. Let me be quite clear about that. Even if the estimate is 50% out, we would lose £130 million; still a huge amount of money, which, in my view we can ill afford to lose. I think we could all agree on that. So, it is an estimate. However, I have no doubt that they will pursue it, and the Treasury and Chief Secretary Danny Alexander have made that clear. The evidence for that can be seen when you look at how the Treasury handled the issue of increased contributions and what would happen if we failed to introduce them in time. We got a bill of £4·6 million a month. Treasury was quite clear that that is what we would be charged. I have absolutely no doubt that the Treasury will take the same stance on this issue. So, it is an estimate. However, based on the source of the estimate, I think that it is a fairly accurate estimate.

Mr Cree: Thank you for your paper. It is very helpful. Certainly, we all want to avoid a cost to the block grant. It works out at £5 a week. I do not know how you got that just so neat.

Mr Mitchel McLaughlin: Five million pounds. *[Laughter.]*

Mrs G Nesbitt: Thank you very much, Mr McLaughlin.

Mr Cree: The GB legislation programme was introduced in September 2012, with Royal Assent expected in May 13; eight months. In Northern Ireland, introduction is in January 2013, with Royal assent expected in April 2014; 16 months. Why twice as long?

Mrs G Nesbitt: I do not know that I am in a position to comment on that. There are different procedures and arrangements for making legislation in Northern Ireland and Westminster.

Mr Cree: To try to be objective about it, surely it is ridiculous to expect that a Bill that will virtually be run in parallel with the GB Bill will take twice as long.

Mrs G Nesbitt: If the Committee wants to speed up the Bill's Committee Stage, that is within its discretion. I have based the timetable for the Bill on the timetable that we use for legislation in Northern Ireland. I have heard those comments and I have made it clear that it is a very ambitious and challenging timetable. I do not like things going so close to an implementation date and I would be delighted if we can get our Bill earlier. However, I do not think that we can do that.

To answer your question, we have different legislative processes and arrangements here than in Westminster. For example, Westminster has set up a dedicated Committee to deal solely with this issue. It is fair to say that they have stuck to their timetable pretty much to the day.

Mr Cree: Do you agree that we could learn something from that?

Mrs G Nesbitt: Possibly.

The Chairperson: OK, members. Is everybody happy enough?

Mr Mitchel McLaughlin: We are ecstatic.

Mrs G Nesbitt: I am delighted that you are ecstatic. I like to share good news.

The Chairperson: OK, Grace. Thanks very much.