

## Information for Committee for Employment and Learning

<b>Subject:</b>	<i>Employment Law Review/Employment Bill</i>
<b>Title:</b>	<i>Summary of Responses to Consultation on the Employment Law Review Parental Leave”]</i>
<b>Purpose of document:</b>	<i>Meeting paper 13 May 2015</i>
<b>Links:</b> <ul style="list-style-type: none"> <li>· <b>DEL business plan</b></li> <li>· <b>existing or developing policy</b></li> <li>· <b>consultation</b></li> <li>· <b>legislation</b></li> </ul>	<i>Outcome of the public consultation (July-November 2013) on the Employment Law Review</i> <i>Briefing on the Employment Bill</i>
<b>Brief Summary of information:</b>	<i>Outcomes of consultation in respect of:</i> <i>Early conciliation</i> <i>Neutral Assessment</i> <i>Unfair Dismissal</i> <i>Collective Redundancies</i> <i>Public interest disclosures</i> <i>Compromise agreements</i>  <i>Additional issues for the Employment Bill</i> <i>Careers Guidance</i> <i>Apprenticeships</i>

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SUB/1016/15

Dear Cathie

## **EMPLOYMENT LAW REVIEW – DEPARTMENTAL RESPONSE AND EMPLOYMENT BILL**

1. Executive approval for the preparation of a Bill taking forward the outcomes of the Department's Employment Law Review, was granted on 20 November 2014.
2. The full departmental response has been completed which sets out in detail the responses on each area consulted upon in the July to November 2013 consultation document, and includes relevant quotes from consultees and the rationale for the approach to be taken. In broad terms it covers the following:
  - the Department is taking appropriate primary legislative powers in the Employment Bill which will enable *Early Conciliation* to be established, and will make it mandatory for potential tribunal claims to be routed, in the first instance, to the LRA and in so doing, to extend confidentiality provisions to protect the integrity of the new process;
  - the Department is using the Employment Bill to provide appropriate enabling provisions that would allow for a *Neutral Assessment* service to be established in the circumstances that it was regarded as providing added value by key stakeholders;
  - there is insufficient evidence for a change to the qualifying period for unfair dismissal at this time but an amendment to the relevant enabling power will be made so that any future changes to the qualifying period (if deemed desirable)

will be subject not to the confirmatory but to the draft affirmative procedure thereby ensuring a debate in the Assembly;

- the Department will take forward a change in legislation by way of the proposed Employment Bill to curb above inflation increases in the upper limit on the compensatory award that a tribunal can order for unfair dismissal;
  - the Department will use the Employment Bill to reduce the consultation period for 100+ redundancies from 90 to 45 days and to remove fixed term employees (with exceptions) from the count for the purposes of collective redundancies. An amendment to the relevant enabling power will also be made so that any future changes to the consultation periods for collective redundancies (if deemed desirable) will be subject to the draft affirmative procedure thereby ensuring a debate in the Assembly;
  - the Department is not proposing any legislative changes in relation to compromise agreements/protected conversations but intends to commission further guidance for employers on the handling of what are commonly referred to as 'difficult conversations';
  - the Department will amend the law on public interest disclosures by introducing a 'public interest test' to clarify that disclosures must be in the public interest, thereby closing the loophole identified in *Parkins –v- Sodexho*. The Employment Bill will also be used to alter the effect of the 'good faith' requirement, introduce a power to amend by secondary legislation, the definition of worker, and legislate for employers to be vicariously liable if any employee who makes a protected disclosure subsequently experiences detriment from colleagues;
  - the Department is currently consulting on replicating further proposals for reform on public interest disclosures.
3. The draft Departmental Response is attached here for the information of Committee Members and it is intended to publish the response following the Committee's meeting on the Employment Bill on 13 May 2015.
  4. The main purpose of this letter, however, is to set out in broad terms what is provided for in the draft Employment Bill. The Bill includes additional provisions relating to Careers and Apprenticeships which the Department briefed the Committee on in its meeting of 18 February 2015.
  5. The Bill does not include provisions on zero hours contracts as the Executive Paper on zero hours contracts has not yet been agreed. However, if the Executive approves the Department's proposals on zero hours contracts, the provisions can be inserted via amendments at a later stage of the Bill's passage through the Assembly.
  6. The opportunity has however been taken to use the Bill to include some additional provisions relating to careers guidance and apprenticeships.

7. The careers guidance provisions arise from a range of reviews and publications which have recommended that a legal footing for impartial careers guidance would benefit the careers system in Northern Ireland. In particular, the Committee's 2012 inquiry into careers education, information advice and guidance in Northern Ireland made recommendations around legislation, and the 2014 CBI review of Education and Employer Partnerships in Northern Ireland, also recommended that "all year 10, year 12 and year 13 students should have an interview with a DEL Careers adviser who can provide professional and impartial advice. This should be a statutory obligation."
8. The Bill will amend primary legislation to introduce a regulation-making power to ensure the continued delivery of high-quality, impartial careers guidance by suitably qualified individuals. The proposed enabling power will be used to set criteria for the delivery of careers guidance and will be exercised following further engagement with key stakeholders.
9. The provisions dealing with apprenticeships arise from the *Securing our Success: The Northern Ireland Strategy on Apprenticeships*, in which a clear case was made for underpinning the new apprenticeship system in legislation given that current legislation does not provide specifically for apprenticeships.
10. The Bill will amend primary legislation to define in legislation what constitutes an apprenticeship in Northern Ireland. The provision in the Bill allows for a distinct area for apprenticeships to be created that provides the power to make future regulations that will both unambiguously establish the core components of an apprenticeship in Northern Ireland and also clearly establish the need for all apprenticeships to be supported by a tripartite agreement between the employer, training provider and apprentice which would clearly set out the requirements expected from each party over the course of an apprenticeship.
11. Officials will be happy to provide further information and to take questions at the forthcoming Committee meeting.

Yours sincerely

**Fiona Stanley**  
**Departmental Assembly Liaison Officer**