



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Legislative Consent Motion on Proposed Cap
on Public-sector Exit Payments:
Trade Union Representatives

12 November 2015

NORTHERN IRELAND ASSEMBLY

Committee for Finance and Personnel

Legislative Consent Motion on Proposed Cap on Public-sector Exit Payments: Trade Union Representatives

12 November 2015

Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Mr Gordon Lyons
Mr John McCallister
Mr Máirtín Ó Muilleoir
Mr Jim Wells

Witnesses:

Mr Jim Caldwell	FDA
Mr Jim Quinn	Fire Brigades Union
Mr Justin McCamphill	National Association of Schoolmasters Union of Women Teachers
Mr Bumper Graham	Northern Ireland Public Service Alliance
Mr Alistair Long	UNISON

The Chairperson (Mr McKay): I welcome the witnesses to the table. Members, before us this morning we have Bumper Graham from NIPSA; Alistair Long from UNISON; Justin McCamphill, NASUWT; and Jim Caldwell from the FDA. We are also told that an unusually shy Jim Quinn is in the Public Gallery — *[Laughter.]* He is from the Fire Brigades Union. He can come to the table should any questions arise in respect of the impact on firefighters. OK, folks. Do you want to make an opening statement? Then, we will go to questions.

Mr Bumper Graham (Northern Ireland Public Service Alliance): Thank you very much, Chairman. We welcome this opportunity to provide oral evidence in addition to our written submission. I want to cover a number of key issues. I am also here in my capacity as chair of the public service pensions group of the Northern Ireland Committee of the Irish Congress of Trade Unions (NICICTU), so I am covering not only NIPSA interests but those of wider public sector trade unions.

Our principle at the outset is our objection to the use of legislative consent on what is clearly a devolved matter. We went over the same ground, thankfully, with the Public Service Pensions Act 2013. We have our own separate legislation which differs from the Westminster legislation. We believe that there are very specific Northern Ireland considerations, which we will come to in our evidence this morning, that show the basis for not agreeing to legislative consent. We listened very attentively on the playback facility to what DFP officials said to you last week, and we will comment on that, although I did notice that there was a very-last-minute rearguard action from them yesterday in sending you a letter which we have had only limited opportunity to examine. I think that there are still deficiencies in that letter. We will pick up some of the points that they made in our presentation.

The first thing we will refer to is the consultation process. We accept that this was a Treasury-driven consultation with little or no input from DFP. The consultation period was very truncated. It lasted four weeks and was held from 31 July to 27 August. I suspect that that was done deliberately by Treasury in the hope that it would get people off guard with summer leave, etc; but it did not work and there were 4,000-plus responses, the vast majority of which opposed what was in the consultation paper. As one has come to expect from the current Government, they virtually ignored all the consultation responses. I wonder where that would leave them in relation to the application of the Woolf/Gunning principles. Only one change has been made from the consultation paper to what has now emerged as the response, and that is to drop the inclusion of accrued annual leave from the calculation for the purposes of the cap. They had to do that because people had accrued it as a legal entitlement and because it would have run contrary to the working time directive.

DFP officials said that they engaged with the trade unions. It was pretty remote engagement. There was a meeting on 6 October of the central consultation group on public service pensions, and, at that meeting, the trade unions raised the point about the £95,000 cap and the reference in the consultation to seeking to use legislative consent as the way forward. We made it clear at that meeting that we were opposed to the cap and that there should have been detailed engagement with us on the impact on Northern Ireland. Then we had DFP screening out a full equality impact assessment (EQIA). It is clear to us that, should the cap be applied, there will be a disproportionate impact because it will hit people who have been serving for longer. Therefore, there will be a disproportionate impact on older public servants. We believe that there should have been a full EQIA.

We are also a bit concerned at the indecent haste at which this is being done. You have a debate scheduled for 7 December in the Assembly, and I question whether that gives the Committee the full opportunity to explore the matter in depth, prepare your report, have members consider that report in detail and be able to discuss the implications with other key stakeholders. All this is being done so that it can be slotted into the Small Business, Enterprise and Employment Bill at Westminster to get it in place for 1 April 2016. That is another concern.

I will not go into too much of the general detail of the case against, because the various unions have covered it in their submissions, and I know that a number of those submissions have been sent to the Committee. This morning, we will concentrate on the Northern Ireland situation. It is very clear that, in Scotland, England and Wales, there have been many cuts to public services. They have run voluntary redundancy schemes, many of which have been completed, whereas we are only commencing the reduction in public services with the aim of losing at least 20,000 public servants over the next number of years. Therefore, we are in the midst of the voluntary early retirement exercises. The Civil Service thinks that it will be out of the woods by 31 March, but that will not be the case elsewhere in the public sector, and that will lead to differential treatment between sectors and within sectors in that public service workers who go before 31 March will not have the cap applied and those who go after that will.

There are some specific cases. I draw your attention to the review of public administration, particularly its impact on local government. The Local Government Act (Northern Ireland) 2014 provides for regulations for a severance scheme for local government. That was introduced in the form of the 2015 local government regulations for compensation for loss of employment, and that scheme runs until 2019.

Senior people, such as chief executives, directors and assistant directors, will have gone and will have received payments that they are entitled to, many well in excess of £100,000. However, the restructuring has not finalised in local government and will take months, if not years, to finalise as it rolls out and down through the system. When it comes to people at the fifth and sixth tiers and the very basic levels, then somebody who, for example, earns only £27,053 would be affected by the cap if they have 20-plus years' service, because of their entitlements under regulations for local government RPA.

In the local government pension scheme, people have a legal right to an unreduced pension, should they be involved in a voluntary or compulsory severance situation. It also has a potential impact on who would go, because people with more years and more senior service will not go if they are going to be affected by the cap. In order to get the savings, that would put the pressure on getting more junior people out. Hymans Robertson assessed that and, in their submission, said that restructuring exercises may be hampered by councils having to keep on their higher paid and longer serving staff instead of allowing them to retire and bring in restructuring and lower cost replacements. So, a large consultancy firm, who we would not often find ourselves in agreement with, are saying the same thing as the trade unions.

Next, I would like to address the waiver, about which there are a number of points. Of course, there are those who have got their first-class waiver ticket in their pocket when you look at the list of excluded bodies. Does it not really surprise you to find that the excluded bodies are all the banks and financial institutions, the Bank of England and broadcasting corporations where Government have ownership or a significant shareholding? That is so that they can continue to give those who got us into the financial mess payments well in advance of £95,000. Why should that group of people have a waiver given to them?

When you come to the other aspects of the waiver, there is potential to use it in individual cases. One of the DFP officials indicated that they may consider using it in the Northern Ireland Civil Service. We suggest that that could result in cases of direct or indirect discrimination on the grounds of community background, gender or other section 75 categories.

You can have waivers for sectors or individual employers within sectors. Again, that would lead to differential treatment between and within sectors. For instance, a Minister could decide that one of their non-departmental public bodies would have the waiver applied to it but that another one would not. Likewise, council a could decide to apply the waiver and council b could decide to not do so. The need for redundancies — which, as you know, we are opposed to — looks as if it is going to be even greater. This week, heaven help us, we had four Westminster Departments falling at the feet of George Osborne and offering up 30% of further cuts over the next four years. The only way you are going to get that level of sustained cuts is through further massive reductions in the public service workforce. Those people who leave will be affected by the cap, whereas those who went before were not.

Who would approve waivers? In England and Wales, it is proposed that it will be the Minister. Again, DFP officials suggested to you, "Trust us: you can leave that one with us." I noted the Committee's hilarity when that comment was made to you by DFP officials. I am afraid that in DFP we do not have trust to ensure fairness and equity with anything.

The consultation document makes reference to future changes. It is already signalled that the Government may come back and look at the level of the cap. I suggest that they are going to look at it to go in only one direction, and that is downwards. Surprisingly for an issue like this, there is no indication of any indexation of the value of the cap. They also indicated that they may look at applying other changes and limits, such as the limits provided for in statutory redundancy.

I have a couple of general points before I conclude. There is a clear tension with the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). Where work has been transferred out of the public service, those people will continue, and rightly so, to retain their rights. The cap would not apply to them but they are still delivering public service functions, albeit on behalf of the public service by a private entity.

The Government gave a commitment at the time the Public Service Pensions Bill was going through Westminster that this would be a once-in-a-generation change and that public service pensions would not be affected for a further 25 years. However, this is a big impact on public service pensions, because the £95,000 includes any actuarial costs for the early release and payment of pensions.

When you asked DFP about legal advice, you got a pretty woolly and evasive answer. We took legal advice, and our legal advice is quite clear: this has implications for contractual rights of public servants and for legislative rights such as those provided for in some pension schemes and in the specific RPA entitlements for severance payments. If need be, we will pursue those legal rights to the nth degree to ensure that our members are fully protected.

This is yet another case of public service bashing. You will have seen the 'Daily Mail' again this week having a go at exit payments for public servants. I wonder who writes the script for George Osborne. Is it his special adviser or the editor of the 'Daily Mail', and that is why we are in this situation? It ignores the consultation responses. In Northern Ireland, it raises serious issues of principle in relation to the use of legislative consent. More importantly, it fails to reflect the current and future reorganisation of our public services in Northern Ireland. There have been no detailed negotiations with DFP. They were not in a position to provide you or us with the level of detail and operational arrangements that would be needed for any application of the scheme. At the end of the day, it is more about appeasing 11 Downing Street than dealing fairly and equitably with public servants where we are in this difficult situation of trying to manage massive cuts in public expenditure and consequential reductions in the public service workforce.

The Chairperson (Mr McKay): Thank you, Bumper. You said that we would have seen the 'Daily Mail'. It is important to point out first of all that I have not seen the 'Daily Mail' in 20 years and do not intend to look at it again. But that is my personal opinion.

I want to get a sense of how this will affect different sectors locally. I have had a number of issues raised and complaints with regard to education workers in particular. I want to get a sense of who that salary range is affecting. We got a couple of examples of that in Hansard with our session with Grace Nesbitt last week. Give us an idea who this is going to affect.

Mr Graham: Jim and Justin will be able to deal with their areas of interest in more detail. A civil servant earning £55,000-plus would clearly be affected. Anybody in the NILGOSC pension scheme, which covers all white-collar support and blue-collar workers, to use the old term, in housing, education, local government and many other public bodies, who has 20 years' service and earns £27,053 and would be going at the age of 55 on a restructuring or redundancy situation, because it includes the actuarial costs of early payment of the pension, which they are legally entitled to and required to get, that would take them over the £95,000 cap. You are talking about quite junior levels — first- and second-line supervisory levels in local government and the same in education. In the health service, I think that you are looking at people in and around band 5, which is the core band for nursing grades in our health service and would include a lot of social work-type grades and other professions allied to medicine grades.

Mr Justin McCamphill (National Association of Schoolmasters Union of Women Teachers): From the point of view of education, I accept that the NILGOSC workers will face an immediate hit, more so than education workers. My view is that, while teachers no longer benefit from early occupation release, this move would tie the hands of any future Education Minister who may wish to use that mechanism to assist with any potential workforce renewal plan. Since the Public Service Pensions Act was passed, the normal pension age for teachers will rise, first to 67 and potentially to 70. If we are to grasp what the implications of having an older workforce will be, any future Education Minister, or even the current one if he is still in place, should have the flexibility to be able to restructure the workforce within education and have the mechanism of using actuarial buyout as an incentive that older workers would be able to take.

Mr Jim Caldwell (FDA): Chair, there are other points to make. The FDA covers some senior civil servants. One of the issues for it is that, at that level, there is little opportunity to be redeployed simply because of the role that they take and the relatively small numbers involved. The same will apply across the rest of the public sector at a senior level. Where do those people go if there is a restructuring or if there has to be some change at that level? The only option left is some form of redundancy and exit package, and those people are unlikely to depart if the limit is going to be £95,000. As Bumper said, DFP claimed that the policy was intended to safeguard public finances, but the Westminster Government's stated intention and objective was to stop six-figure exit payments; it was nothing to do with the public finances. The scheme proposed and the scheme in GB does not do either of those things. At a senior level, there is the difficulty of where those people go. Also, those people are likely to have relatively long service. What is being proposed penalises people at all levels with long service. It is potentially damaging to future restructuring and reorganisations if people do not want to volunteer to take redundancy and leave on an amicable basis. That will happen here if the cap is applied.

Mr Graham: Chair, I will supplement that. Proportionately, it would have a greater impact in Northern Ireland than elsewhere, because people tend to have longer periods of service in the public service here. Likewise, any movement would be from one part of the public service to another. Under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order, most of that service qualifies. For instance, if you did 10 years in the Housing Executive and moved into local government for eight years, it is your combined service that counts. Given the dependency on the public sector and the longevity of people staying in the public sector, I think that it has a disproportionate impact on Northern Ireland via any of the other regions.

Mr Caldwell: Just one final point, Chair, to pick up on that; when we had brief discussions with the Cabinet Office around all this, even it confirmed that, of those civil servants who would be affected by the cap, 57% are as a result of the employer top up, which allows staff to leave before pension age. That is the key. It is allowing them to leave before pension age without an actuarial reduction, which, for some people, could be as much as 50%. Those people will not leave on a voluntary basis if that tight actuarial reduction is applied.

The Chairperson (Mr McKay): I have two further questions on that. If this were not to go ahead, in your assessment, what would the financial impact be? You referred to the fact that some public sector workers will be more likely to take up the package, and I noted a bit of criticism of the possible use of the waiver. We received documentation from DFP saying that a delegated power to relax restrictions must be exercised by the employers, which, I presume, are the Departments, under guidance that will be issued by DFP. Is that a good thing or a bad thing? Does that give, for example, education or health the opportunity to say, "We will put waivers in for some of these workers", such as the example that you cited of those earning £27,000.

Mr Graham: The delegated power is a bit of a curate's egg. You could argue that if it is applied and there is no waiver, in that particular area, everything is fine, but then you get into the position of why that was applied by employer a and not applied by employer b in the differential treatment argument. Then, of course, it all falls back on having faith and trust in the guidance. DFP is not too good at issuing guidance; it is pretty good at issuing diktats. You can choose to ignore guidance. I do not think that I have ever seen DFP issue anything that you can choose to ignore. How would it then issue that "guidance"? Will it engage with the Committee and the trade unions, and we will get a set of agreed guidance, or will Grace and her colleagues just stick a senior civil servant's name on the bottom of an order and we will be stuck with it?

In respect of the cost, it is difficult to say. We are in the midst of a round of severances. There is the £700 million, which, we think, is bizarre, where you borrow £700 million to ditch 20,000 jobs. If there ever was a case of economic suicide, that is it. In the Civil Service, the aim is to have the bulk of the severances done by 31 March. When you go outside the Civil Service, the senior people in local government will have gone, so it will be the junior people, but because of the pension and the actuarial impact of early release of pension, they will be past the cap. So, the financial cost is difficult to assess until you see the detail of the applicants, their pay levels and their costs, but, if there is a cushion in the cost, the Executive already agreed the £700 million and it is there, albeit as a loan, and, no doubt, it is taken into account in the public expenditure profile for Northern Ireland going forward.

Mr McCamphill: In my view, DFP should bring the costs to the Committee if it is asking you to endorse the motion on legislative consent. The Committee should be aware of all the costs involved.

The Chairperson (Mr McKay): Yes, but the DFP costs might differ from what the trade unions say.

Mr McCamphill: It would be good to see its estimates.

Mr Caldwell: I will come back to the point, Chair, that the legislation is not based on saving money for the public finances. The Westminster Government's objective, as stated in their manifesto, was to stop six-figure exit payments; it is nothing to do with saving money. In any discussions that we were involved in with the Cabinet Office, albeit that they were limited, the cost to the public finances was not really a matter for debate.

Mr Wells: Where do I start? First, the Westminster Government have paid out 660 packages of over £100,000. Let us look at the private sector here. "Willie John", who has worked for 40 years in some industrial plant or shop, would get the statutory redundancy, which is a fraction of what is offered at present in the Civil Service. Is it not a wee bit rich to say that you should retain a system that is clearly gold-plated in comparison with what people in the real world get? Secondly, we are dealing with voluntary redundancy. A person will look at the package and decide whether it is worth their while to take it. The golden rule of what we are doing under the £700 million loan is that people are given the option, and, if they do not feel that that option meets their needs, they will not leave.

I have more questions, but, thirdly, and finally in this round, I sat in this room for many weeks listening to Finlay Spratt when I was on the Justice Committee. Finlay said that his people would not be bought by the redundancy scheme that was on offer to the prison officers, whereupon 95% of those who were aged over 50 and eligible applied. His members walked with their feet. They applied to the scheme, and, indeed, the next wave of complaints was from scores of prison officers who did not qualify but wanted to take it. Those are my first three points.

Mr Graham: I will pick up on the usual point made, which is very much a 'Daily Mail' point of view, if you do not mind my saying so, Jim, of public versus private. The fact of the matter is that, in the private sector, you are talking about many different situations, from the small employer with one or two staff, who is not even covered by some of the statutory regulations, up to big employers such as Bombardier, which, as we hear today, is taking measures to avoid financial difficulties. Many big

employers in the private sector have schemes that go well beyond the statutory scheme, but, as I said, we took legal advice, and, for many public servants, this is both a contractual and a legal entitlement.

On voluntary versus compulsory, if you are prepared to negotiate with us and give us a cast-iron, irrefutable, unbreakable, absolute guarantee that there will be not one solitary compulsory redundancy in Northern Ireland for as long as the cap applies, we might be prepared to enter into negotiations. To date, the schemes have referred to voluntary severance, but a number of employers in the public sector are talking to us about the potential need to go for compulsory redundancies.

The reason why so many people in the Civil Service applied voluntarily is that you do better under the voluntary scheme than under compulsory redundancy. You could argue that it was a very clever trick pulled by the Cabinet Office to change the compensation scheme for the Civil Service to ensure that people got more for voluntary redundancy than compulsory redundancy, because, normally, it is the obverse of that. They did it so that they would be able to say, "We do not have to make anybody compulsorily redundant because everybody has applied voluntarily." Of course they did: if you thought that you were going to be made redundant, you would apply voluntarily in order to get more money.

Mr Wells: It is very interesting that, according to the latest statistics, each Department is having no difficulty getting people to come forward.

Mr Graham: One of the reasons is that you get more under the voluntary scheme. However, it also tells a very salient but sad story about the state of public services and suggests that people cannot see themselves being able to continue to serve because of the state of our public services.

Mr Wells: Those 660 people cost the British taxpayer £1 billion last year. They got packages of over £100,000 in their hand. Of course, the first £30,000 —

Mr Graham: It was a contractual right.

Mr Wells: We need to look at that contract, frankly. The first £30,000 of that is tax-free, so, in real terms, the £100,000 is worth an awful lot more. Those 660 went away, and I am sure that they were all delighted and very willing to take what was on offer. Can we, in the present economic situation, stand over such largesse? Some had an enhanced pension up to their normal retirement age to boot. That, to me — to the ordinary man in the street — is an extremely generous package.

Mr Graham: Jim, can you stand over the fact that somebody who worked in this Building — this applies to other buildings as well — voluntarily left a job one day, got a job the next day, for which they did not have to compete, and received a very handsome exit payment?

Mr Wells: I am sure that you are not raising the case of a specific individual. The unions would never dream of doing that.

Mr Graham: I am raising a point of principle.

Mr Wells: A single individual.

Mr Graham: I am raising a point of principle, which that case highlights.

Mr Wells: I will not comment on that case, but that person was not one of the 660 who got the £100,000 payment.

Mr Caldwell: Chair, can I deal with the 660 cases approved in GB? I am not sure whether it covers Northern Ireland. Each individual case that costs over £100,000 is now personally authorised by the Minister for the Cabinet Office, Matt Hancock.

Mr Wells: He has been very generous if he signed off on 660.

Mr Caldwell: I am sure that you will take that up with him. That is the arrangement now in GB. In Scotland, the authority for that is about to move, to its Deputy First Minister, John Swinney, and we

are having discussions with him. The Scottish Government, of course, have a guarantee of no compulsory redundancies. If they can do it, there is no reason that it cannot be done here.

There are two other points that I want to pick up on. The first is the idea that everyone in the public sector walks away with a relatively small amount of money compared with these sorts of figures. Let us be clear: I worked in the finance sector as a trade union official in the late 1980s and 1990s with Royal Bank of Scotland, Lloyds Bank and other big financial institutions, and they had similar redundancy arrangements to these. Major employers in the private sector have similar arrangements to these. I accept that there will be smaller companies that do not pay that.

The final point is something that we need to remember. I go back to 2010: Francis Maude was the Minister when the changes were made, and Danny Alexander made the pension changes that were subsequently applied in Northern Ireland. At that time, there was a guarantee that there would be no further changes for 25 years. Francis Maude and Danny Alexander are on record saying that. When those changes were applied in Northern Ireland, there was a similar implication that the guarantee would apply. As someone said when we were having coffee beforehand, it seems like only 25 minutes rather than 25 years since those changes were made. The 25-year guarantee was because the Government have already made significant savings from the changes to the pension arrangements and the compensation scheme arrangements. Let us make no bones about it.

Mr Wells: Various answers to Assembly questions indicate that the 11 Departments are having no difficulty with it. There seem to be people fighting over the opportunity to take these packages, and people are very aggrieved that they have not been included. There is no question whatsoever, at the moment, of anybody being made compulsorily redundant under this scheme. We do not need to do it, because the numbers are there. In fact, in some cases, the schemes are shockingly oversubscribed.

Mr Caldwell: Is that a guarantee?

Mr Wells: It is a guarantee in the sense that it is not needed.

Mr McCamphill: Jim, that is not entirely true. There are problems in education, specifically because schools are individual employers, so it is not necessarily the case that everyone who has been made voluntarily redundant is a volunteer.

Mr Wells: It is sometimes difficult, because of operational issues, to match the huge number of people who want to leave with the number of people whom we can afford to allow to leave.

Mr McCamphill: You mentioned Finlay Spratt and the prison officers. The Justice Committee surely should have been asking itself what had gone wrong in the prisons to make 95% want to take voluntary redundancy.

Mr Wells: What went wrong was that Finlay was clearly out of sync with his membership. While he was sitting at the Committee for week after week, saying that the union was not going to touch it, there was a stampede of his members going behind his back to bang on the door of the redundancy section saying, "Please include me". We had a lot of people under 50 coming to us and saying that they wanted to be included. One chap who had missed it by one week contacted me, and he was absolutely furious.

Mr McCamphill: Why were you not asking why someone under the age of 50 did not want a job?

Mr Wells: Lots of them were, in fact, leaving the Prison Service, taking the redundancy package and going straight back to work in other sectors. That brings me to the typical person getting this package. A large number of them are over the age 55. They take their package and enhanced pension, and they can then go and apply, using all of the experience that they have gained, for other jobs. Many have done that, and we saw that with the police: a huge number came straight back to the PSNI as agency workers.

Mr Graham: Let me respond to that. Earlier this year, the following legislative consent motion (LCM) was agreed: if someone left with a payment in excess of £100,000 and went back to work in the same sector, that would be dealt with. The loophole of going back into employment in the same sector has been closed. I do not recollect hearing you, Jim, opposing the Patten reforms. In fact, I think that you were very much in favour —

Mr Wells: Actually, my party was opposed to Patten.

Mr Graham: — of the packages given to police officers.

Mr Wells: Our party did not support Patten at all, for many reasons.

Mr Graham: You supported the packages.

Mr Wells: The packages were extremely generous, but I am certain that £95,000 would have enticed a lot of policemen to go.

Mr Graham: Jim, in the case of a 55-year-old woman earning £27,053, her pension will not kick in until she is 66. Do you think that a package of £95,000 is sufficient to compensate a person who expected to work for a further 11 years, earning in excess of £297,000? When you compare the salary loss with the compensation, the latter is minuscule.

Mr Wells: I would give that woman the freedom to make the decision, and, if she felt that it was not the right decision for her, she would not make it. However, I guarantee you that there are 55-year-old men and women in this Building who would bite your arm off for a £95,000 severance package, and they should have the choice to do that. Those who do not think that it is good for them, for family reasons or whatever, do not have to take it.

Mr Graham: Jim, our position as trade unions is that, yes, members have contractual rights and legal rights to their payments, but we are opposed to reductions in the public service workforce. We believe that that is doing untold damage to the delivery of all public services. The reason why many public servants want out is that they say that they can no longer cope with the pressures and the strains, and they no longer want to deliver substandard public services because of the cuts for which you and your colleagues trooped through the Lobbies in Westminster, falling in behind George Osborne to attack public servants and public services.

Mr Jim Quinn (Fire Brigades Union): On behalf of all Fire Brigades Union members, I shall make a Fire Service-specific contribution.

Mr Wells: Can we bring Mr Quinn to the table somehow? I can see you, but you seem to be talking through the head of another gentleman.

The Chairperson (Mr McKay): He can join the DUP Bench. *[Laughter.]*

Mr Graham: Remember, Jim, the cameras are on.

Mr Wells: Can we get a photograph of this?

Mr McCallister: He will be a Minister next week. *[Laughter.]*

Mr Quinn: I want to make a brief contribution on behalf of the firefighters in Northern Ireland. Some still have the normal pension age of 60 for all or part of their pension entitlements, not 55 like the majority. These are firefighters who joined the Fire Service after 2007, and they are in a different type of scheme. Over time, many will transfer to the new scheme, when they reach a certain age and the protection runs out. That will be drawn out over a number of years. However, unlike other firefighters in the Northern Ireland Fire and Rescue Service, they cannot retire before the age of 60 without incurring actuarial reductions to their pension of up to 40%. An anomaly could occur in cases of authority-initiated early retirements, when firefighters are unable to maintain certain fitness requirements. In such circumstances, those firefighters, if no exemptions applied, would be unfairly hit by penalties designed for a completely different purpose. This has been recognised in Great Britain, and an exemption has been applied, as evidenced in the correspondence from Mark Francois, the English Minister with responsibility for the Fire and Rescue Service, that we have given to the Committee. We firmly believe that this exemption needs to be applied here, too. We are pleased that this recommendation has been acknowledged and accepted by DFP officials and that they have confirmed this in correspondence to the Committee.

On another minor point, it seems that the written response received yesterday from departmental officials to the Committee's queries may not be wholly accurate on specific Fire Service pension legislation. However, given that the general thrust of their comments seemed to cover our concerns, the FBU, with your agreement, could seek clarity on those technical concerns directly with departmental officials, as which legislation will be impacted appears to be not a matter of policy but one of clarity. Finally, on behalf of FBU members, I thank all of you for taking the time, and I hope that you take on board their concerns and make the requisite exemption.

The Chairperson (Mr McKay): You are broadly happy as far as the Fire Brigades Union is concerned

Mr Quinn: Colleagues have commented on generic matters. As far as the Fire Service is concerned, we would be happy for it to go ahead as outlined by departmental officials. We are not talking about redundancies in the Fire Service, large payouts or other issues. All we are saying is that, if firefighters cannot make the fitness requirements at a certain age, their pension should not be unduly reduced by imposing the cap.

Mr Wells: I am happy with that. Welcome to the party. *[Laughter.]* Do let us know what ministerial post you want.

What the unions fail to remember is that since the initial payments, Northern Ireland, in common with the rest of the UK, has faced a huge economic downturn. One billion pounds, which will fund over 100,000 payments, would revolutionise Government funding in Northern Ireland and solve so many problems. Obviously, only a small proportion of that would come to us — maybe £30 million — but even that would be very acceptable to the Northern Ireland Budget. You have to take into account the reality of where we are today. You have discussed Fred Goodwin's payment, which was scandalous, as everyone accepts, but that was a child of its time. There is no way that anything like that should be tolerated in future. Do not make the good the enemy of the perfect. The reality is that we cannot continue to sanction this largesse — we cannot. I am surprised at the unions of all people suggesting that someone walking out with £100,000-plus is not a major drain on public finances. It is the price of four teachers. It is serious money.

Mr Graham: That is a serious pay cut for teachers. *[Laughter.]*

Mr Wells: Well, a teacher of my daughter's age. What figure do you want? Do you want £200,000?

Mr Graham: We hear what you say about Fred Goodwin. Here is the Treasury document, and excluded from the cap are the Royal Bank of Scotland, UK Asset Resolution Limited, Northern Rock, Bradford and Bingley, the Pension Protection Fund, the National Employment Savings Trust, the Financial Conduct Authority, the armed forces, public broadcasters and the Bank of England. You will still see not £250,000 payments but £500,000-plus payments often being made to the fat cats who got us into this mess, and that is being sanctioned by lackeys such as George Osborne, who does not want to touch his friends in the banks. This is in the document. Why attack a public servant earning £27,053, who has given 25 or 30 years as a health worker, local government worker or support worker in a school while the fat cats who got us into this mess get off scot-free yet again?

Mr Wells: First, I do not think that anyone here would support those exclusions, although none of them, apart from the armed services, really affects Northern Ireland. I think that the armed services are different: if someone is prepared to give their life in Afghanistan or Iraq for their country, or risk coming back extremely disabled and unfit to work for the rest of their life, that puts them on a different level from anyone else. It is my understanding that, if we decided to tear up this document and go it on our own, the Government could allow that, but the money would come out of the Northern Ireland block grant. Where do we get the money to do that? Do we take it from schools, hospitals or agriculture?

Mr Graham: As we said earlier, we were opposed to borrowing £700 million to destroy 20,000 public-sector jobs. We would much prefer that the cap was not an issue because nobody was being made redundant. The way forward is not wasting £700 million on loans to destroy jobs but using £700 million to create and rebuild our public services.

It is an interesting point that you seem to be making. You are prepared to say, "Let us have the legislative consent motion, and let us have parity. For the most part, we will do what Westminster

wants and ignore all those nice, friendly, well-heeled people in the south-east of England because they are not really our concern." Yet they are the ones who have caused our economic plight.

Mr Wells: You will understand that the budgets for all 11 Departments for 2016-17 are predicated on the £700 million being spent and the requisite number of voluntary redundancies occurring. We cannot rewind: the budgets in most Departments would collapse if that money was not saved.

Mr Graham: I have two quick points, Jim. You are concentrating mainly on the Civil Service. The aim is to close off the Civil Service scheme by 31 March. The cap would not, therefore, be an issue in the Northern Ireland Civil Service. That is not the case in the rest of our public services. There will be ongoing redundancies, hopefully voluntary, but, in all likelihood, some will be compulsory in the education, health, local government and housing sectors. That is the reality after 1 April next year. You, therefore, will treat differently someone in those sectors who leaves on 31 March with in excess of £95,000 and someone who leaves after that. Yet a person leaving after 31 March could, because of the way in which restructuring and reorganisation works, be much lower down in the workforce. You are, therefore, treating a junior, lower-paid worker adversely in comparison with a senior, well-paid worker.

Mr Wells: Do you accept the principle that services in Northern Ireland should be cut in 2016-17 so that government agencies can pay people over £100,000 in redundancy? That is the implication of what you are saying.

Mr Graham: We would not have signed up to the element of the Stormont House Agreement that seems to have been applied, namely, the borrowing of £700 million to reduce public service jobs by 20,000. We are on record from day one, in December last, as opposing that, and we continue to oppose it, along with the further cuts that are coming. It is clear that the autumn statement, which will include the comprehensive spending review for 2016-1020, will bring about many more reductions to the public service workforce.

Mr Wells: Most of us would oppose any form of compulsion; most of us want it to be voluntary. You still have not answered my point. Say that we go it on our own and exclude Northern Ireland — it is wee bit like the debate on welfare reform — and decide to continue with £100,000-plus redundancy packages, do you agree that it is right to close a hospital ward or school to pay for that?

Mr Graham: We will work with Departments, health bodies, education and local government to find alternatives to staffing reductions.

Mr Caldwell: I want to make it clear, Chair, that Scotland and Wales are not going down this route. I have already had discussions with the Deputy First Minister, and the position of the Scottish Government is clear. They sent comments as part of the consultation exercise. They will pursue a legislative consent motion, as they have to in order to opt out of the scheme. That is what they will do. They will not apply the £95,000 cap, yet they are able to give us a guarantee of no compulsory redundancies. Our understanding, from earlier discussions with both the First Minister and Deputy First Minister, is that that is likely to continue beyond the May 2016 elections.

Mr Wells: They must feel that they have the finances through their block grant to do that. I am afraid that the situation in Northern Ireland is not as rosy.

Mr Caldwell: Yes, but I come back to the point that the Treasury, the Cabinet Office and the Conservative Party never made any bones about the fact that this was not about public finances but about political posturing, because the Tories had said in their manifesto that they were going to stop six-figure exit payments to, in 'Daily Mail' terms, the "fat cats". We have demonstrated in the evidence both at Westminster and here that this is going to impact people earning as little as £27,000. In the Westminster consultation, the Cabinet Office itself accepted that there was the possibility that people on under £25,000 a year could be impacted by the legislation, so it is not all about fat cats.

Returning to your point about the private sector, you mentioned Fred Goodwin, who, bizarrely enough, I actually negotiated with. There were more than Fred Goodwin walking away with over £95,000 or £100,000. People at relatively middle and junior grades, because of their length of service, were walking away with large amounts of money at the time. That was their contractual entitlement. That is what their employers had signed up to. I come back to the point that the Northern Ireland Assembly, at least by inference if not by formal agreement, lined up with Francis Maude and Danny Alexander in

giving a guarantee to people in the public sector, when the pension changes and compensation changes were made, that there would be a 25-year moratorium on any changes. That guarantee was given, and here we are less than five years later. The public finances have not changed that much in five years. Early doors, George Osborne was setting out what the public finances were likely to be and the difficulties that they had then. I can see no significant change that has taken place. On this £660 million and the figure that you quote as to how much that cost, I repeat that each of those is individually signed off by the Minister for the Cabinet Office, previously Francis Maude and now Matt Hancock.

Mr Wells: It is going to be very difficult politically if, in three years' time, we stop some essential public service — cutting the grass, fixing the street lights or something — and the reason given is that we have had to continue to pay people over £100,000 a year in redundancy payments. That it is a difficult one for the average man on the street. I am not talking about the trade unions, because some of the trade union officials are fabulously well paid and like you, Mr Graham, are very reluctant to say just how well paid.

Mr Graham: No, Jim, I am not. I have been challenged —

Mr McCamphill: I heard it on 'The Stephen Nolan Show'.

Mr Graham: I have been challenged on 'The Stephen Nolan Show' on three occasions, and I have quoted my salary. I am happy to quote my salary.

The Chairperson (Mr McKay): What is it?

Mr Graham: It is a lot less than yours. *[Laughter.]* My salary is £41,000 a year, and I will not be one of those, like MPs and MLAs, who are excluded from the exit cap. The people may decide to give you your £95,000 next May.

Mr Wells: I can assure you that the redundancy payments for MPs are an awful lot less than £95,000. It is still going to be difficult to explain to the people out there that this is one of the reasons why we are cutting back on essential services. I have to say that, to most people in Northern Ireland, £95,000 is a shockingly large amount of money. Most people see that as a very good package. Whether you like it or not, that is the perception.

Mr Graham: But there is a difference between perception and reality. As I said in the example, a 55-year-old woman who has given 25 years' service as a support worker in a school or as a paramedic would have earned a lot more than that if they had been able to stay on. People are leaving the services because they do not believe that they can stay on or take on board more pressure etc that is coming because of the continued decline. If you want to have a debate with the trade unions about building and improving our public services, we are up for that. What we are not up for is the wholesale waste of £700 million in a loan to destroy 20,000 jobs.

Mr Caldwell: Chair, I would also like to hear, perhaps not now but at some point, the Member's view on how Departments and other areas in the public sector are going to restructure without compulsory redundancies if the cap is put in place, because people are going to stop volunteering. People are volunteering just now, and we recognise that, as part of the exercise that is going on in the Civil Service. However, I speak for my own members and senior civil servants, and they are not going to apply to go voluntarily. There is nowhere for them to be redeployed to if they are facing a redundancy situation. What do you do with that? What do you do with a permanent secretary? Fortunately, no permanent secretaries are likely to go under the restructuring, but, if there were, where do you redeploy a permanent secretary? I am sure that we all have amusing answers. *[Laughter.]* Where does a senior civil service go to be redeployed when jobs are disappearing? They are not going to volunteer for £95,000 when they know that they are contractually entitled to get more than that.

The Chairperson (Mr McKay): Gordon, do you want to give the answer?

Mr Lyons: Thank you, Chair. Jim, I have a degree of sympathy with what you have said. It does seem as if this figure has just been brought in because it is below six figures. I would like to see more detail on exactly what the savings would be if it were implemented and the costs to the Executive if it was not. I see that Her Majesty's Treasury has indicated that there could be savings of in and around £200 million for 2011, so you are talking about maybe £5 million or £6 million for Northern Ireland.

That may seem small in the grand scheme of things, but it is still a significant amount of money that we could do an awful lot with.

Mr Caldwell: Assuming you get the money, of course.

Mr Lyons: Yes. Jim touched on this, but I do not think that we got an answer. It is a question that is maybe directed more towards Bumper: are you opposed to a cap at £95,000, or are you opposed to a cap completely?

Mr Graham: We are opposed to the cap, because the cap is a breach of both statutory rights and contractual rights. At the end of the day, redundancy agreements were freely entered into by the employers — in many cases, a number of years ago. I would like to think that the employers, particularly the public-sector employers, came to the table to negotiate with the trade unions with some degree of briefing, knowledge and understanding and freely entered into a collective agreement. Those collective agreements are now being usurped by the Treasury in London and, if the Assembly agrees to the LCM, by yourselves.

Mr Lyons: So you are completely proposed to the principle of a cap.

Mr Graham: Yes, but what I am not opposed to is engagement and negotiations to ensure that we are never in a redundancy situation or that we minimise the redundancy situation as best we can. There are other ways of dealing with the situation. I already mentioned that there was a decision that, if people got a payment in excess of £100,000 and were then re-employed in the same sector, there had to be repayments and stuff. There are other ways of dealing with it. However, at the end of the day, these were freely entered-into, collective, legally enforceable agreements.

One of the other points that I made earlier is that, if you transferred — for the sake of argument, let us take the Committee Clerks. *[Laughter.]* It is just because you are sitting in front of me. Say you decide to privatise the Committee Clerks, and they go out before 31 March. Legally, under TUPE, they bring with them all of their previous terms and conditions of employment. The new employer cannot amend those terms and conditions of employment, so redundancies have to occur among Committee Clerks next year or the year after. That means that the people who transferred will not have the exit cap applied to them, but they are still delivering an essential public service. That public service is still being paid for by the taxpayer, albeit being delivered by Committee Clerks plc. How can you then justify the fact that a Committee Clerk in that scenario could get an exit payment of £150,000, yet a school support worker —

Mr Wells: He is away. *[Laughter.]*

Mr Graham: — would be capped at £95,000? I am not saying that the work of the Committee Clerk is any more important or less important than the work of the school support worker, but that is the nonsense of that artificial imposed financial value level in order to be able to appease the 'Daily Mail', so that you will not see headlines in the 'Daily Mail' again about directly employed public servants getting golden exit payments in excess of six figures.

Mr Lyons: So you are opposed to any cap at all.

Mr Graham: Yes, but I am not opposed —

Mr Lyons: Then you should have no problem with the Goodwin payments, if they are done on the same basis.

Mr Graham: I am not opposed to other ways of controlling public expenditure in terms of getting the best value for money.

Mr Lyons: So for someone like Goodwin or some of those other fat cats that you are talking about, you have no problem. If they enter into a contract on the same basis then surely you do not have any —

Mr Graham: If that is their contractual right, then that is their contractual right. Whoever agreed the contract should be seriously questioned as to why they agreed to a contract like that.

Mr McCamphill: There have been some redundancies in the private sector recently in Northern Ireland. I assume that your party will seek to hold those employers to the contractual redundancy terms that are in place with those employees. You would not just say, "We'll just pay them the statutory redundancy."

Mr Lyons: I am just trying to work out where you are coming from and whether you are opposed to the level of the cap or the cap in principle. I think you have explained that. I agree with you that there is certainly an issue in terms of some of the exemptions that you have spoken about, and the Government have said that they are meant to be independent from Government or whatever else. I do not have much confidence. The Government say that they expect those organisations to go with the same level of cap and in the same timescale. Do you want to see all of that happening? Do you want all of those organisations to be included? Does that include Channel 4 and the BBC? Would you be happy for them to be included?

Mr Graham: If it is good enough for a paramedic, a first-year teacher, a junior civil servant or a local government worker to be hit, earning £27,053 a year, then it is good enough for anybody employed in any of those financial institutions. Heaven help us if Jeremy Clarkson and others are getting pay-offs and stuff. What they get, both contractually and in payoffs, pales into insignificance compared to what a public service worker gets.

Mr Lyons: You have talked a bit about perception and reality. What would you say to those in the public — perhaps you would disparagingly refer to them as 'Daily Mail' readers, but there are a lot of people out there — who would say, "There is somebody who has maybe done a job for 15, 20 or 25 years, but they are getting a £95,000 package"? What would you say to those people who express those genuine concerns?

Mr Graham: I have had the privilege — I do consider it to be a privilege — to stand on picket lines with our members, trying to defend their jobs and terms and conditions. I have a lot of faith and confidence in the ordinary workers and ordinary people of Northern Ireland. If you get an opportunity to explain to them the detail of what is happening, they quickly see it. They get past the front-page headlines and have empathy and support for the vast majority of our public service workers. I think that, given the opportunity to engage in sensible and detailed dialogue with people, they would see that it is unfair that somebody who went out on 31 March gets £250,000, but somebody who may have had longer service but who went out on 1 April is limited to £95,000.

Mr Lyons: I have one final question. There are obviously exceptions in the Fire Brigades Union that our new member has told us about. If this were to go through, do you see other special cases or exemptions that would possibly be included?

Mr Graham: You were not a member of the Committee at the time, but I refer you back to evidence that we gave on the Pensions Act (Northern Ireland) 2015. The scenario that I cannot understand is that somebody can be involved in a major fracas outside a pub on a Friday night and gets arrested by the police. The police have to look after that person until maybe Monday morning to get them to the Magistrates' Court, where the magistrate gives him six months. The police officer who looked after him for 48 hours can go at 55, yet the prison officer who has to look after him for six months has to work until they are 68. That is the sort of position that we have got ourselves into as a result of the 2015 Act, and if this piece of legislation is passed, it will exacerbate those types of fundamental differences and differential treatment. I think that that is grossly unfair.

Jim and his colleagues made arguments in the debate on public service pensions as to the difference between people being dismissed through inefficiency at one end of the scale and ill health at the other. He said that, in between, because of operational issues, there is a different group in the Fire Service who, because of operational requirements around their physicality, cannot meet that, and they got those dispensations. Those dispensations have to be read through, because this is supplementary legislation on the back of the 2015 Act. It goes back to the point that Jim particularly made about the 25-year guarantee. We could all sit here and we could bring in other public service unions and we could give you innumerable cases that would explain why that person is so different from the next person. As I said in the initial presentation, if it is not in the legislation and if it is done by discretion, that will leave the door open to many cases of potential tribunal action for unfair treatment of different section 75 categories.

Mr Lyons: I am tempted to ask about your own redundancy arrangements, but I will leave it there for today.

Mr Graham: It sounds as if you want me made redundant. *[Laughter.]*

Mr McCallister: I was thinking that you would definitely get a picket going then, Bumper. *[Laughter.]* We would maybe even have to join you on it.

There were a couple of things in the broader discussion. While I am not particularly keen on legislative consent motions like this, when we have the ability and capacity to legislate, I understand the reasons given by the Department. However, at times, it seems as though we are doing things by way of accelerated passage and not facing up to the responsibilities, so I am maybe closer in agreement on that.

On the issues around the voluntary exit scheme and borrowing £700 million, I have gone on record a number of times saying that borrowing £700 million to make people redundant is a strange use of money. I get the concept that it is a quick payback, but there is no workforce planning sitting alongside it. It flies in the face of central Government recommendations. I think that the National Audit Office gave guidelines that you should at least be planning out some of this.

Jim mentioned Scotland. If we had put in a recruitment freeze, say, in 2011, we would not have needed to borrow, as the Civil Service would naturally have reduced at that pace. You could argue the merits of that. Is Scotland significantly further ahead of us on restructuring its public sector anyway, meaning that it is in a better position to give guarantees of no compulsory redundancies?

Mr Caldwell: The no-compulsory-redundancy guarantee has been in place since about 2007-08, when the current Administration took over. I was going to say that I may be back, but I will not be back, because I am departing on a voluntary basis in two weeks' time. Not with a package, I hasten to add.

Mr McCallister: Before the cap comes in. *[Laughter.]*

Mr Caldwell: I will not be back.

Mr McCallister: A young man like you, Jim.

Mr Caldwell: I know, yes.

All the indications from the First Minister and the Deputy First Minister in Scotland are that the no-compulsory-redundancy guarantee will be extended beyond when it is due to end, which is May 2016. We are still to have discussions about how long beyond 2016 that will last, but that has involved no recruitment freeze, no freeze on temporary promotion or anything like that. It has all been managed in discussion with the unions, and there has been fairly regular restructuring to manage the situation. Of course, Scotland is in a different position because, at the moment, it does not have responsibility for welfare or social security benefits. That is simply applied by the Government in Westminster. In that sense, it is a bit easier, but the functions remain the same. Any reductions in staffing numbers have all been done through voluntary exit schemes that have been agreed with the unions. One has just about concluded. They have tended to run the schemes once a year or sometimes a couple of times a year. Obviously, as numbers decline and the people who want to go go, it is more difficult to get people to volunteer. If they were applying this, it would make it even more difficult. From the discussions that we have had, once the legislation is through there will be a legislative consent motion to opt out of the legislation on applying the £95,000 cap.

Mr Graham: Can I pick up a point? John, you drew the analogy with accelerated passage. You have to ask why. This proposed set of regulations is being sneaked in after the publication of the Small Business, Enterprise and Employment Act 2015 in Westminster. You have to ask why they are busting a gut to have it in from 1 April next year. The reason is quite simple. The autumn statement will include the comprehensive spending review for 2016 to 2020. As I mentioned earlier, four Departments have willingly offered up 30% of cuts at Westminster, and it is clear that, from 1 April next year, there will be a further raft of major job losses across the public sector. That is why they want it in by 31 March/1 April. If I was on the other offshore island, I would be very concerned about that, but, from here, I am even more concerned because we are not only being shoehorned, through the LCM, into that inadequate consultation phase but we are even further suppressing and reducing the time for proper debate on the issue here. This morning has already shown the wide range of issues that are to be covered by all of this, yet we still do not have any detail from DFP. There is a five- or six-page letter that we got last night with a lot of words but not too much detail on how the scheme will apply.

Mr McCallister: I agree with that point. I do not think that it is a particularly satisfactory way of doing our business. When we have the legislative competence to do this, we should do it ourselves. There is no reason that DFP should not have been engaged more in that, instead of assuming that it could go down the easy route. The difference with Scotland is that it probably has a functioning Government at the minute and a functioning Budget —

Mr Caldwell: It depends on where you sit on the political spectrum whether you agree with that or not. *[Laughter.]*

Mr McCallister: Believe me, I would not be an SNP voter, but the SNP at least seems to be fit to come up with a coherent policy on certain areas and deliver on budget. That is part of our problem, and Jim touched on that when he mentioned the state of our public finances. This is the Finance Committee, and even we are not quite sure whether we are about to run out of money or whether we have already run out of money. We are not 100% sure where we are with all those things.

The £95,000 sum sounds fairly generous. Can somebody explain to me further the pension argument? Is it just solely that, if people take their pension earlier, there is a 4% reduction? Are you just building that in, or is it different from what —

Mr Graham: It varies from pension scheme to pension scheme, but the accepted norm is that, for each year that you take your pension before its normal due date, there is a rough cost of about 5%. In individual cases, it will vary from scheme to scheme.

If you take the scenario in which the age of retirement is 65, and you have that 55-year-old woman, who is a school support worker, the legislation states that she has a right to an unreduced immediate payment of pension, and the collective agreement in her contract states that she has a right to that. She has done 25 years, so she is entitled to her redundancy payment. It is calculated what her redundancy payment will be, and the actuary is then asked how much it will cost to let that person go 10 years early. The actuary will throw up a figure based on paying the pension 10 years earlier, while not having her contributions or the employer's contributions. It is then calculated what the investment return would have been on those two sets of contributions over the 10 years. You then go to the other end of the scale, and the general rule of thumb is that, the earlier that you retire, the longer that you live, so the actuary will say, "If that woman had stayed on to 65, she would have lived to 83, but if she goes at 55, she will live to 86". The actuary therefore adds in the three years' additional cost of paying the pension at the other end and produces what are pretty frightening figures, even in an individual case. For sake of argument, say that that is £80,000. However, she also has an entitlement to the redundancy compensation element, so that might be £40,000. If you add the two together, the total package value is £120,000. She will then be hit with the cap, being £25,000 over. She will then have a choice. She can either defer taking her pension, but that will require regulatory and legislative change, or she can use the compensation money to pay for the actuarial reduction to bring the total value of the payment down to £95,000. That is how it would operate. She could also say that she will contribute herself whatever the difference is between the cap and the total value package in order to get immediate payment of the pension.

Mr McCallister: Right. Is that how a lower-salaried worker gets caught by the cap?

Mr Graham: That is how a lower-salaried worker is hit.

Mr McCallister: If you were going in your late fifties and getting £95,000 and if you were able to defer your pension and work part-time or whatever, that would seem a pretty generous —

Mr Graham: If you were a 63-year-old —

Mr McCallister: You probably would not get it.

Mr Graham: — and your pension was to kick in at 65, the sensible thing would be to defer the application of your pension until 65 and live on the £95,000 to get you through to the pension payment. The number of people in that scenario will be few. As time goes on, and there are further rounds of cuts, the people left in the system will, on average, be younger.

Bizarrely, the pension changes that have increased the age of retirement add costs. Instead of getting your pension paid at the age of 65, your pension payment age may be 68, so you will have to add

another three years of no contributions from either party and three years of additional early payment of the pension.

Mr McCallister: I was just not completely clear. I knew from the Pensions Bill discussion that there was quite a reduction, of 4% to 5%, for people claiming. It was a big issue with the fire guys, because of the way in which it worked.

The way in which we are going about this is not particularly helpful. All those issues in the Pension Schemes Bill would have benefited greatly from a Committee Stage. We might have come to the same conclusion and said that this is unaffordable, and you might not have liked the conclusion, but —

Mr Graham: At least we would have had the debate.

Mr McCallister: We would have had a debate and scrutiny, and a process whereby the Committee would have had a chance to formulate a view. It is probably regrettable that that did not happen.

Mr Ó Muilleoir: Gentlemen, good morning. Thanks for coming. When we had our colleagues in from the Department, we quizzed them on some of those issues, and we were not entirely happy with all the answers.

Nolan wanted to broadcast the earlier part live. Maybe he is holding it for tomorrow morning. I am another person who does not read the 'Daily Mail'. I do not know what the 'Daily Mail' is, but I do listen to the 'The Stephen Nolan Show' and am aware that those views are aired in —

Mr McCallister: You will not get his salary. *[Laughter.]*

Mr Graham: He would certainly be hitting the cap. *[Laughter.]*

Mr Ó Muilleoir: He will be delighted that he is under the waiver if he comes under London.

Without going into too much of the politics, I will say that we have a metaphorical gun to our head from London. Mr Osborne that has left us in an invidious position. We have taken a decision to try to do what we can for the very vulnerable, and that is where we have placed a lot of our emphasis over the past 24 months of tortuous talks, negotiations and processes here.

Where you have our sympathy is particularly around the type of circumstance that you outlined: people who have worked. We have a letter in our pack — I do not know whether we shared it with you — from someone who worked in an education agency for the past 35 years, who feels that the cap will be detrimental to his departure. Those are the sorts of people whom we would like to protect.

None of us likes to see any civil servants having to go compulsorily or voluntarily. I will be very distressed if there are compulsory redundancies in this scheme. Let us see where we go in this round. I will come back to that.

Will we really end up with a legal challenge to this? We are very unhappy with the fast-track system. As a Committee, we do not have a lot of say in what happens in here anyway, but it drives a horse and cart through any procedures when the Minister and her officials come in and say, "This is the way it's going".

Is the threat of legal action a real threat? Could we end up costing the Government more because they are accepting the policy being introduced through London?

Mr Graham: I will take the point about a legal challenge first. I can see three potential areas for a legal challenge. It could be challenged in tribunals, potentially as an unlawful deduction of earnings, because people have a contractual right to that payment. Likewise, it could be challenged in tribunals on the basis of unfair application of waivers, under section 75 headings. It could be challenged in the courts as a straightforward breach of contract or, indeed, a breach of legislative entitlement, because a number of cases are legislatively covered. We have already mentioned the RPA provisions that were agreed by the Assembly and in regulations under the Local Government Act 2014. There is also, I suspect, the potential for judicial review, because of the indecent haste, lack of consultation and lack of proper scrutiny on the application and implementation of it. There are therefore three potential areas that we will sit and have further discussion with our legal advisers on, as and when required.

One of the other things that strikes me as somewhat strange about this one is that, when we went through the negotiations on the Public Service Pensions Bill, we included protections, and people who were within 10 years of their normal retirement age on 1 April 2012 were protected. In many respects, this flies in the face of those protections, so there is another potential area open to challenge. Those people will have expected that, if they were in a redundancy situation, to have no actuarial reductions paid, because of their protected status through being within 10 years of normal retirement. There has been no discussion whatsoever with the Cabinet Office and the Treasury about applying protections to this. If you were to ask me whether our position would have been different if there had been, I suspect that I would say that it would not, but there might have been less sting to our argument if there had been something like that.

Mr Ó Muilleoir: Is any one union more minded than another to take legal action? I know that we have had correspondence from the firefighters. If you do take legal action, will it slow any of this up or will it be retrospective? Will it be in three or four years' time that this will all be settled?

Mr Graham: I suppose that it is more liable to be a decision that each union will have to take on the basis of whatever representation it got from an affected member or an affected group of members. There is a possibility that, under the auspices of the Irish Congress of Trade Unions (ICTU), we may look to see whether there is a combined challenge available. That would be more likely done through the judicial review route rather than a specific case route.

Mr Ó Muilleoir: I want to touch on one other thing. We do not get an opportunity often enough to thank you for the public service that you provide. The unions brought us the weekend but brought us so much else as well. In particular, I think of the firefighters who are here today.

Talk to me about the sums. It is my fervent hope that we do not have 20,000 redundancies. I am looking at the figures, and maybe you can give us some information. As you know, the first tranche was meant to be through by the end of September, Bumper. The figures that have been released are £200 million for 3,000 redundancies, which works out at about £66,000 each. At this stage, do you know what the average redundancy payment has been in the September tranche?

Mr Graham: No, because we will not get those figures given to us until the full cycle is got through. It will differ from sector to sector. Redundancies are being made in Civil Service Departments. Redundancies are being made in the Housing Executive that are quite significant, given the size of its workforce. There have been some in further education colleges.

Mr McCamphill: There have been quite a lot in further education, comparatively.

Mr Graham: A lot of people went out, not so much on the teaching side but on the non-teaching side earlier when the Education and Skills Authority (ESA) was in, if you like, shadow mode. Then we had the announcement last week from the Health Minister, who, without any consultation, decided that he is going to wind up the Health and Social Care Board (HSCB). I think that he is in breach of the redundancy legislation, where, if you have an inkling of any redundancies, you are required to engage with the trade unions in order to mitigate and avoid those redundancies. He just came out with an off-the-cuff statement that he was closing down the HSCB. We had strong views about the nonsense about the purchaser-provider split and so on, when it was all created.

The problem that we have is that there is a very fragmented approach across different sectors. There are different schemes paying different entitlements, and, as John said, there is no control mechanism and no workforce planning. It is a matter of, "Lob in your application, and we will try to get you out the door". Nobody has sat down and said, "How many people in this geographical area can we afford to let go? How many people in these grades can we afford to let go? How many people in these specialisms or disciplines can we afford to let go?". The thought has been, "Great, we have got the pot of gold", but it is fool's gold. It has to be paid back. To just say, "Open the doors and let them out" is crazy management.

Mr Ó Muilleoir: None of us came into political or public life to be in charge of a redundancy scheme. That having been said, the current estimate is that the maximum that you can get for £700 million is 10,000. Now, I am not saying that that is any consolation. It is 10,000 too many, but, if the estimates are right, we will not get anywhere near 20,000, and that would be a godsend.

It is our intention, or it is my intention anyway, based on the evidence that you have given us and on what we have heard from the Department, to continue to lobby to protect those people, especially the

lower-paid. We love our permanent secretaries, but we are not too worried if some of them are capped at £95,000. I accept what you say: the values behind this are the values of the Tories, and that is why they exempted groups. I am not sure why they exempted the broadcasters, but we know why they exempted their colleagues in the banks who blew the whole place up. However, we will certainly stretch ourselves as far as possible to protect those who are lower paid. Thanks for your evidence today.

Mr Caldwell: Chair, may I make one further point that I forgot to make earlier? I will not comment on the failure of the member to defend permanent secretaries, as they are perfectly capable of defending themselves without assistance.

I do not want to reopen the debate, but, for clarity, the current Civil Service compensation scheme is already capped for high earners, with a maximum pay threshold, set in 2010, of just under £150,000. Now, you can agree or disagree on whether that is too much, but there is a pay threshold already in the system. Unlike the current proposals in this consultation, that limits the exit payments of higher-paid individuals, as opposed to long-serving individuals who are more likely to be hit by these proposals. A maximum pay threshold has therefore already been set. Whether you agree with the amount is a separate debate.

Mr Graham: For clarity, that is just in the Civil Service.

Mr McCamphill: One issue that I do not think has been raised is that of settlement agreements, which are thankfully rare. Any payments within those in lieu of notice will be included in the pay cap as well. We think that that would be unfair in trying to get an agreement that, in most cases, would be in management's interests, too.

Mr Alistair Long (UNISON): I have listened patiently, because the arguments are being made clearly, but it does not seem that the redundancy packages have been widespread in health. We heard the announcement last week, and it is of grave concern to know that that may well come to health very soon. When we look at where the redundancy level falls and hits, and the point was made earlier by Bumper, we see that it will hit at the most basic level in health. It will hit social services; it will hit that standard social-care worker out on the road. It will hit your paramedic and your nurse. It will hit that entire grade of staff, which is a massive group of staff in the health service. They are all going to be held to the cap if it is brought in.

It is so important that this is not allowed to happen. The cap discriminates against that entire health service group that the redundancies have not hit yet. We have to recognise that. It is worrying and concerning that that is yet to come, especially given that we have CSR savings coming for a three-year term as well, which will put pressure on us.

I will speak about my profession, which is the Ambulance Service. The people who work in our profession tend to come into hard times when they reach around 55 years of age. Irrespective of the fact that the £95,000 cap sounds like a lot of money to certain people, it is not, because those staff will not be able to be redeployed. That is not just the case for my sector or my particular group of people. They are not going to be redeployed. They are not going to be able to find another job. To be honest, they have already worked themselves to the bone by that age and are still expected to go to 65, and to 67 and 68 should that be the case. Their health will continue to deteriorate. They will want to look at those packages, but they are not going to do so when there is a £95,000 cap, which is well below what they should be entitled to and be given.

Mr Wells: I have a wee bit of experience of this. There would be no question of redundancies in nursing, because we have taken on 700 nurses in five years. We have taken on 150 consultants and something like 200 doctors. The reality is that you do not, under a voluntary redundancy scheme, make people redundant if you are simply going to bring others in immediately to replace them. That just does not make sense. You look at roles in which it is possible to take capacity out without affecting front-line delivery.

Mr Long: Jim, that is why I said that the CSR is coming in. There is a three-year package, and, clearly, front-line services will be affected, because they are under the CSR.

Mr Wells: You talked about last week's announcement, but that is entirely about administration. The board is costing us £27 million a year.

Mr Long: I understand about the board.

Mr Wells: Bumper has outlined how the problem there was that the open market, and the competition between producer and deliverer, was just not happening. Therefore, the Minister has decided to take out that layer of bureaucracy. Of course, a lot of those people are going to be moved into the Department or the trusts. The actual number of redundancies will be relatively small. The health service is a totally different vehicle. The reality is that, if you need eight nurses on a ward, you need eight nurses. You cannot use a redundancy scheme to reduce that number to seven, because you are going to have to go straight to the open market to find an eighth.

Mr Long: That is why I go back to the CSR, Jim, because we have reduced services. It is a fact that the Ambulance Service was reduced by 70,000 hours. We do that under the CSR, and we have to recognise that.

Mr Wells: That issue is completely different issue from that of redundancy schemes.

Mr Graham: I would not be as dismissive of the potential for redundancies and job losses in the health service. We are hearing announcements. There was one made last Friday about the closure of another children's home by the Western Trust. Job losses are occurring in our health service, and we hear of the crisis week after week. No doubt that will ratchet up now that we are into the winter, because we will hear about insufficient resources. It goes back to the point about the difference between borrowing money to create job losses and borrowing that same amount of money to invest it, in not just in our health service but all our public services.

The Chairperson (Mr McKay): I have one final point to make, Bumper. You raised issues earlier around equality screening, and we have just had fresh correspondence from the Equality Commission that probably echoes some of the concerns that you aired. The correspondence states:

"The Screening document has noted that there may be an adverse impact on long serving (older) members of staff."

It goes on to state that the document:

"provides no evidence as to how these conclusions have been reached."

It also states:

"the more senior the grade within NICS the more likely it is that staff will be male and Protestant. There is no evidence in the screening document that this data or other analyses have been considered."

Have you had much contact with the Department on the issue of equality screening?

Mr Graham: No. The only engagement with us was on 6 October, when we raised it at a meeting. The meetings of the central group that deals with public-service pensions tend to be quarterly. Like others, and no doubt the Committee, we were sent a copy of DFP's document, which said that it had screened out a need for a full EQIA. We made it quite clear that our view was that there was likely to be a disproportionate impact, and therefore a full section 75 review should have been conducted.

I have not seen the correspondence from the Equality Commission, but, from what you have just said, it seems to support our contention, and certainly for older workers. You can look at it from sector to sector. Yes, in the Civil Service, it would have an adverse impact on male Protestants. In some of the other sectors, that impact could be reversed. I am not saying that it would be, but, in local government, the impact might be on females, because there might be a greater proportion of females at higher levels of local government than there is in, say, the Civil Service. You would think that the DFP officials would at least have had some realisation of the potential for adverse impact and, to protect themselves, if nothing else, would have said, "We require a full section 75 EQIA". Why did that not happen? My cynicism says that Minister Foster has done the deal with London and said, "Don't worry, London. We will be compliant and fall into line with you. What is the time frame? Let's work backwards". The civil servants have been left in the corner saying, "If we want a full section 75 EQIA, we will not meet Minister Foster's timescale". She may be challengeable on that.

The Chairperson (Mr McKay): There is certainly a lot of detail that we need to flesh out and little time in which to do it. It is of great concern to me. Thank you very much for your evidence today.

Mr Graham: Thank you.