

## Assembly Section

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Mr Shane McAteer  
Clerk  
Committee for Finance and Personnel  
Room 419  
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Our Ref –CFP111/11-15

21 June 2012

**Dear Shane,**

In your reponse to your letter of 4 May 2012 the following paragraphs outline the Department's views on the issues raised in the Assembly Research Paper "Consultation: legal requirements and good practice."

**Is the drafting of the Bill sufficiently clear? Does the requirement to consult sit comfortably with the aim of reaching agreement?**

The Bill has been drafted by the Office of Legislative Counsel under instruction from the Department. Instructions were prepared with the objective that the Bill should contain equivalent provisions to those which were introduced by the Superannuation Act 2010 in Great Britain amending the provisions of the Superannuation Act 1972. These include provisions to remove the requirement for Trade Unions consent to detrimental changes to be made to the Civil Service Compensation Scheme (Northern Ireland) and a new requirement to report on the consultation the Department has engaged in with trade unions with the aim of reaching agreement on detrimental changes. The Office of Legislative Counsel is of the opinion that the Bill is legislatively correct and clear in its objectives.

It is outlined in the NI Assembly Research and Information Service Research Paper 69/12 that Government departments may not technically be subject to the requirements of the Information and Consultation of Employees Regulations (Northern Ireland) 2005 ("the ICE Regulations"). The Department would nevertheless maintain that it adheres to principles of best practice conveyed in these regulations, i.e that 'consultation' should constitute an exchange of views and a two-way process of dialogue and discussion. In line with the existing statutory requirement contained at Article 3(2) of the Superannuation (Northern Ireland) Order 1972 the Department routinely consults with civil service unions on all proposed amendments to the Northern Ireland Civil Service pension and compensation arrangements. The Department has brought 39 amendments to Northern Ireland Civil Service pension and compensation arrangements since 2005 and in each case it has written to the

trade unions inviting any comments or questions on the proposed changes. Trade unions have responded on one occasion.

This lack of response on previous changes to the arrangements can in part be attributable to tacit acceptance by unions of a principle of parity which operates between the Northern Ireland Civil Service and the Home Civil Service on pension and compensation arrangements, as long as there is no detriment to union members. This view was expressed by union officials in evidence to the Committee (Official Report 27/03/12). It does not diminish the fact that the Department has and continues to engage constructively on proposed changes.

The Department accepts that the reform of compensation arrangements for civil servants is contentious. In October 2011 the Department of Finance and Personnel established a Pensions Forum between civil service management side and trade union side for engagement and consultation on the prospective changes to public sector pensions in respect of Northern Ireland Civil Service employees and associated employees covered by the PCSPS (NI) arrangements. At the first meeting of the Forum held on 25 October 2011 trade unions proposed that the Forum should be used as an informal arena for information sharing on pension and compensation reform. The Department has since liaised with trade union side on a draft Terms of Reference that re-constitute the Pensions Forum as the primary method of formal consultation between Management Side and Trade Union Side on matters related to pension and compensation scheme reforms with the aim of reaching agreement on any changes. The Terms of Reference were formally agreed and signed on 21 June 2012.

Where agreement does not follow as a result of consultation this does not mean there has not been meaningful consultation on proposals for reform of compensation arrangements. NIPSA, FDA and Prison Officers' Association (POA) have each had direct input to the central process for policy consultation and negotiation on the provisions of the Superannuation Bill as introduced in Great Britain in December 2010 through their representation on the Council of Civil Service Unions. This council was involved in central negotiations with HM Treasury and the Cabinet Office on the then proposed reform of Home Civil Service compensation arrangements.

**Does the absence of a specified timeframe for consultation create a risk that the consultation may not be conducted properly?**

The existing statutory requirement contained at Article 3(2) of the Superannuation (Northern Ireland) Order 1972 for consultation with trade unions representing civil servants does not specify a timeframe for consultation to take place. To date the Department consults with trade unions on pension and compensation scheme amendments without recourse to formal regulations.

For example, the Department consulted on the proposals to increase employee contribution rates to the Principal Civil Service Pensions Scheme from 17 October 2011 until 13 January 2012. As well as issuing the consultation document to employers and their employees the major NICS Trades Unions including Northern Ireland Public Service Alliance (NIPSA), Industrial Trades Unions and the FDA, were

also issued with copies. On 3 February the Department issued a detailed response which included the Key Findings, Conclusion and Next Steps.

Simultaneously, the above groups were also issued with updates on the various stages of the proposed pension reform almost immediately following their availability which included Executive decisions and informative material including a copy of the Proposed Final Agreement which outlined the core provisions of the 2015 revised Home Civil Service pension scheme.

**Is the Committee content with the proposed reporting duty or should it be strengthened?**

The Bill proposes equivalent reporting duties as those which have already been introduced by the Superannuation Bill 2010 in Great Britain.

**Should the Bill specify that the consultation must take place at a time when proposals in GB are still at a formative stage?**

It should be noted that proposals are **not** at a formative stage in Great Britain. These changes have been in place with effect regarding the Superannuation Act and the Compensation Scheme from December 2010 in Great Britain.

The proposal for the detrimental change in the Superannuation Order relates only to the Compensation Scheme.

The Department's current policy is to communicate information to Northern Ireland Civil Service staff and trade unions at the earliest opportunity on any proposed changes to the Home Civil Service pension and compensation arrangements in Great Britain which could have an impact on the arrangements for the Northern Ireland Civil Service. The guiding principle of the Pensions Forum as stated in its Terms of Reference is to engage effectively with Trade Union Side, representative of all employee groups in the Northern Ireland Civil Service, at the earliest opportunity and at the most appropriate level. Northern Ireland Civil Service unions represented on the Council of Civil Service Unions were involved in central negotiations with HM Treasury and the Cabinet Office on proposed reform of Home Civil Service compensation arrangements in 2009/10. The Council of Civil Service Unions has since been dissolved. However during 2011 the seven nationally recognised trade unions in the civil service (PCS, POA, Prospect, FDA, NIPSA, Unite and GMB) agreed to join the new National Trade Union Committee. This decision allows these unions to co-ordinate consultation and negotiation with government.

**Is there any value in creating a duty to report on the consultation to the Assembly in the absence of Assembly control over any amended NICSC Scheme?**

Northern Ireland Civil Service unions represented on the Council of Civil Service Unions were involved in central negotiations with HM Treasury and the Cabinet

Office on proposed reform of Home Civil Service compensation arrangements in prior to their implementation in 2010.

The requirement in the Bill imposes a duty on the Department to consult with the unions and contains an additional safeguard that the Department must report to the Assembly on the consultation undertaken, the steps taken to try to secure agreement and whether such agreement has been reached.

Clause 2 of the Superannuation Bill introduces a requirement for the Department to lay before the Assembly a report on the consultation relating to such a provision before the scheme comes into operation, and specifies what that report must include. This requirement mirrors that of the Home Civil Service Superannuation Bill.

CSP officials have a duty to demonstrate that they have consulted with a view to reaching agreement on any provision of the scheme made under Article 3 of the 1972 Order that would reduce the amount of a compensation benefit. The report therefore would demonstrate the Department's commitment to this transparent process.

**Does the absence of a specified timeframe for consultation create a risk that the consultation may not be conducted properly?**

This issue has already been addressed at Point 2.

**Is the Committee content that consultation under the Superannuation Bill may be taken into account by DFP? In the context of parity, could such consultation influence the outcome?**

The proposed requirement is that consultation takes place with the aim of reaching agreement on any proposed detrimental change to the compensation scheme. The result of this consultation would be considered with other factors including issues of parity in influencing outcomes.

Officials are due to give further evidence to the Committee on the 4 July.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Norman', followed by a long horizontal flourish line.

**NORMAN IRWIN**