



Northern Ireland
Assembly

Committee for Employment and Learning

OFFICIAL REPORT (Hansard)

The Term Ahead:
Dr Stephen Farry (Minister for Employment
and Learning) and DEL Officials

10 September 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Robin Swann (Chairperson)
Mr Thomas Buchanan (Deputy Chairperson)
Mr Sammy Douglas
Mr Phil Flanagan
Mr David Hilditch
Mr Chris Lyttle
Mr Fra McCann
Mr Pat Ramsey
Mr Alastair Ross

Witnesses:

Dr Farry	Minister for Employment and Learning
Mr Derek Baker	Department for Employment and Learning
Ms Heather Cousins	Department for Employment and Learning

The Chairperson: Minister, over to you.

Dr Farry: Thank you, Chair. I will try to keep this short and maximise the time for questions. I will highlight some of the major themes that we will seek to address over the coming months. The first thing that I will stress reflects what is perhaps the biggest programme that we are working on at present. It is the review of youth training, and that is really about how we can improve our post-16 offer for people who are leaving school. You will be familiar with the background to that, and there will be more detailed briefings over the autumn in that regard. We are looking to have a consultation go out, probably in late October or November, but we will ensure that the Committee gets advanced sight of the emerging recommendations before that is finalised. There will be a statement to the Assembly on the detail.

In parallel with that, we have the United Youth programme, which we have discussed. Design is proceeding on that. There was a very useful workshop on it over the past weekend, and we hope to have a number of pilots taken forward during this financial year. Indeed, a budget has remained in place to facilitate that.

For the Committee itself, there may be quite a bit of work on employment law issues. Obviously, you are working through the Committee Stage of the Work and Families Bill, and we look forward to your report. Of course, we will give full consideration to any recommendations that the Committee makes. As you know, the zero-hours contracts consultation has almost concluded, and we will be considering the outcome of that with a view to joining it up with the employment law review as a whole.

I will give some detail on the way that we are going to proceed with employment law, as we are about to table a paper to the Executive. Without divulging the contents of that, I will say how we are minded to proceed. We are looking to proceed on the issue of early conciliation and the routing of all claims through the Labour Relations Agency (LRA). That is perhaps the most significant reform that we can address. Hopefully, there is a consensus, both politically and amongst stakeholders, around that. That will ensure that claims are exposed to opportunities for conciliation.

We are also looking to legislate to enable us to provide for a neutral assessment. There is not yet a consensus on how that should be done, but it is important that we at least have the powers in that regard. On the issue of unfair dismissal, there is no political consensus on how it can be taken forward, and the evidence base for change is unproven. That, however, can be taken forward through secondary legislation, so we have the option of moving ahead with it, as and when the circumstances are right, outside the context of the primary legislation.

We want to do a small tidy up on the secondary legislation around unfair dismissal. At present, confirmatory resolution, as opposed to affirmative resolution, is used. The difference is that at present, in the context where I, as a Minister, take a decision, the law changes and has to be confirmed by the Assembly after a number of months. With that, there is a danger that a Minister, whether it is me or someone from a different political party, could take a decision that is not likely to find favour with the Assembly, and we could have chaos in the system. So, it is important that we ensure that any change on unfair dismissal happens through affirmative resolution, which means that it does not come into force until the Assembly takes the decision. That is a very small tweak to the secondary legislation. That issue remains live, but it is one that we do not necessarily need to proceed with through primary legislation that has to get clearance from the Executive.

We are also seeking to change the qualification period for collective redundancies of over 100, which is 90 days. Northern Ireland is an outlier in that respect, and we propose to bring it down to 45 days and remove the consideration of fixed-term contracts from that, which are viewed as an exercise in gold plating.

Also, we are looking to modify the law around whistle-blowing and introduce a public interest test as opposed to a good-faith test. Again, that should make it easier for people to engage in whistle-blowing.

That was a very quick run through: I wanted to share with the Committee my thinking on the issue. That is not to deprive the Committee of a formal briefing on those issues. Such a briefing will be provided as part of your agenda, so I am not trying to tick a box and get it off my list; it will be discussed with you in greater detail.

We hope to get clearance from the Executive this autumn and have an employment Bill before the Assembly around springtime 2015. Subject to this Assembly being in place, that Bill will proceed and hopefully be passed by the Assembly in early 2016. You will also be aware of economic inactivity — it has been mentioned — and we hope to have a strategy on that with the Executive around November. The careers review panel will report at the end of October or early November, and I understand that the chair of the panel is going to speak to the Committee in a few weeks' time. No doubt you will want to reflect your views on the way forward to him, building on the report that has been commissioned.

Finally, on teacher training — I think that Fra mentioned that — we are meeting different IT providers over the coming weeks to seek their responses to the report that was provided by the Sahlberg panel at the end of June and beginning of July. I know that the Committee is also seeking to engage with the providers and we can have a more detailed discussion about what the emerging consensus or divergent views on the way forward are during the autumn.

We are happy to answer questions on those particular points or on anything that people wish to raise with us. We will endeavour to answer as best we can.

The Chairperson: Minister, will you tell us about Steps 2 Success?

Dr Farry: The contracts have been awarded for Steps 2 Success, and I believe that they are going live on 1 October.

Mr Derek Baker (Department for Employment and Learning): We are moving to implementation. We are going through a pre-implementation phase and will be going live with that. I think that the

Committee is going to meet the providers over the coming weeks, so you can hear their plans at first-hand.

The Chairperson: Do you have any idea about the establishment of supply chains?

Dr Farry: We have a list of the supply chains that we can provide to the Committee. We released that a few weeks ago and will ensure that that is provided to you before your next meeting. It is a list of the organisations that have been part of the supply chain for each of the three lead contractors.

The Chairperson: We have heard what your term ahead will be. One thing that the Committee will be focusing on is its inquiry into the provision of post-19 special educational needs (SEN). One of the things that we raised on our awayday was the pressures on budgets and how we can make the most of the budgets through what we do. There is a finite budget out there, and I suppose that it is a bit like the careers inquiry: it is about how we make the best use of what is already out there. Your thoughts on that will also be important.

Dr Farry: Let me answer that by giving you what is perhaps a realistic assessment. First, we are doing our own work on the disability employment strategy — I apologise, I should have mentioned it — which is a much more narrow intervention. We are finalising a consultation that should go out during the autumn, and we will give you an advanced briefing on that work. I still have to receive the report from officials on that and sign it off.

The learning disability transitions issue is a wider issue and is obviously a cross-cutting matter. That has been raised and dealt with through an Executive subcommittee, and DEL is coordinating activities on that issue. The inquiry that the Committee is conducting is certainly something that the Department welcomes, and it should very much complement the work that is being done.

The difficulty that we have at this stage is, again, with additional resources. There is an issue about gaps in provision, and that is really the nub of the issue. There are things that DEL can do that are clearly interventions for it, there are things that Health should do that are clearly interventions for it and there are things that lie in the middle. Officials from different Departments are doing a gaps analysis to see what proposals we can bring forward to fill those gaps. The difficulty is that that will probably require additional resources.

It is not just a case of doing things smarter. There may be things that are simply not being done that we need to invest in, and the provision of transport is a clear example of that. I do not want to say that, because we are in a difficult financial position, that is off the table, because sometimes, even in a difficult financial situation, you will take a decision that certain things are so important that you will seek to invest in them even at the price of having to cut more elsewhere. I will look at that type of issue in that spirit, although the difficulty of doing it is so much more accentuated given the situation that we are in. Hopefully, that is a realistic assessment of where we stand on that.

The Chairperson: I think that that is also where the Committee wanted to be. We did not want to build up hopes for the sake of building them up through our Committee report. We will very much rely on working with and getting the support of the Department to make sure that we come up with something that is realistic and achievable.

Mr P Ramsey: I am very keen to see the disability employment strategy coming through with reference to the most vulnerable, whether they have a physical disability or a learning disability. There are two other areas that the Committee has invested a huge volume of time in. One is NEETs, and the Department now has a NEETs unit. I am still very keen to see how that is progressing and how the collaboration with other Departments is going, because it is fundamental to ensuring that the most vulnerable are getting the attention that is required.

I will be very brief on the other one, Chair. The Committee invests a lot of time in careers, and there is an ongoing review by your Department and DE. You gave us an assurance, Minister, that there would be the most structured and comprehensive review of that, but I do not see any call for submissions from interested parties in relation to the review. It was indicated that there would be consultation or engagement with the most vulnerable, such as young people in care and in juvenile detention, and I am concerned about that. If we are to make a difference, we need to get to the hub of the careers issues.

Dr Farry: Hopefully we will have that disability employment strategy before the Committee as soon as we possibly can. On the issue of NEETs, the Pathways to Success strategy has been rolled out. Our funding for the different projects expires in March 2015, and that is to be superseded by the new United Youth programme, which is not a like-for-like replacement for the NEETs strategy. It is a wholly different concept, but it will subsume NEETs, amongst some other types of intervention. Just to clarify that point, we will have to secure the funding for United Youth in future Budgets and, again, that will be a huge challenge in the current situation, but it is viewed as being of strategic importance not just by this Department but by the whole Executive.

In terms of the approach that we have taken to careers, it is for the panel to determine how it is operating. The answer to your question, Pat, is that it is seeking to build upon the work of the Committee. As part of its terms of reference, it has been asked to build on the work of the Committee. It will not go back to first principles. The Committee has done an extraordinary amount of work in that regard, and for us to simply repeat that exercise will probably waste the time of the stakeholders and, frankly, is disrespectful to the Committee, which has done a professional job in accumulating all that advice. Brian Ambrose will probably tell you himself that, when he took over, he was presented with a pile of papers about that high on his desk, and he has probably spent his summer working through it all. A large element of that was the work that was commissioned by the Committee. It is, however, engaging in some direct engagement with a number of target groups, including young people, businesses and those who are vulnerable. That is part of its modus operandi. It has not done a full consultation or call for submissions but there is a target engagement with key stakeholders to ensure that what they are doing is right. I am hearing positive feedback that the process is working well.

Mr P Ramsey: I look forward to it, but I recall that your comments at that time were about substantial and structured engagement with stakeholders. I do not think that has taken place through the joint review and I certainly encourage and appeal to the Department to look at that again to make sure that we are not missing a trick or an opportunity.

Mr Flanagan: It is good to get more questions. I attended the launch of a report by NICVA yesterday on the introduction of a living wage. Are you keen to explore that in any way in the coming term?

Dr Farry: I am keen to see where companies themselves want to do this. I think that we need to be very mindful of ensuring that we are adopting a balanced approach to exactly how we take this forward. Where companies voluntarily wish to move in that direction, that is good. If we want to make something like that mandatory, there is a danger that it could be counterproductive and actually drive people out of employment back into unemployment or remove opportunities for young people to engage in training and gaining valuable experience. It is important that members are aware that a lot of our projects and schemes often work on a very marginal call for employers around incentives, and we use, for example, subsidies as part of the youth employment scheme. We are considering subsidies as part of the economic inactivity strategy. So, particularly for small businesses, there are a lot of marginal calls that have to be made around how many staff they will take on. Ultimately, the best way of driving up wages is through improving the productivity in the economy, and investing in skills will transform the profile of our economy over the years and decades to come. That is the best way of sustaining this rather than having government legislating to artificially set a living wage that is significantly in advance of the minimum wage. That said, it is a UK-wide issue. There is a view that the minimum wage may well be worthy of being increased across the UK as a whole, and, again, that is something that I am very open to seeing happen. I think that there will be a view that it is maybe lower than it needs to be.

Mr Flanagan: So, you want to see the minimum wage increased. To what level would you like to see it increased?

Dr Farry: We have a Low Pay Commission that gives advice to government in that regard, and it is there to give advice.

Mr Flanagan: It will not give advice to you but to Vince Cable or someone else, so you should be allowed an opinion.

Dr Farry: I am allowed an opinion, but I also have to respect my limitations in terms of knowing what we are qualified to give opinions on. We have to ensure that what comes forward is sustainable.

Mr Flanagan: Do you think that the minimum wage that somebody should be paid should be enough to sustain a decent standard of living?

Dr Farry: I am sure that, for many people, the wages that they are on are very challenging for them. However, what we are about as an Executive as a whole and, indeed, as a Department is helping people to get into work and to sustain work. There are a host of factors and levers that are involved in that process that we need to be mindful of. The level of wages is one aspect of that.

Mr Flanagan: I will give you two suggestions of things that you could do without introducing a statutory or mandatory living wage. The first is that you engage with the living wage theory and try to encourage more companies here to voluntarily agree to pay a living wage. The second is that any large employer that wants to benefit from the subsidies or grants that you hand out through the Assured Skills programme has to pay its employees at a rate that is no less than the living wage. Those are two things that you can consider doing for me.

Dr Farry: Certainly, we are happy to engage in and around the first issue in the context of the comments that I made earlier. With respect to our Assured Skills programme, I do not think that we need to make that a condition because the reality is that our Assured Skills interventions happen in relation to jobs that are coming in that are increasingly of a higher-paid nature. For example, there are jobs that are supported through the Invest NI jobs fund that Assured Skills does not usually complement. Even jobs that are supported through the jobs fund are in advance of what the living wage would pay. You are looking at some of the programmes that Assured Skills has been supporting recently. For example, the average salary of the jobs that were announced yesterday by Deloitte is £30,000-plus. So, we are talking here about us attracting and supporting very well-paid jobs at present.

Mr Flanagan: On the discussions on employment law, how is the working group with employers and trade unions progressing on trying to find consensus?

Dr Farry: That has been very beneficial to us and has allowed us to build consensus around a number of the reforms. More work has to be done in that regard. For example, there are issues around the evolution of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), which I do not propose to go into today. Those need to be discussed in more detail with the key social partners. I should also say that, outwith the formal primary legislation, there is also work going on around the review of tribunal rules, where there will be a consultation. Those will largely be addressed through secondary legislation, but, again, that is part of the wider equation of making the system more efficient and effective. I am conscious of trying to ensure that what happens in Northern Ireland has the support of key stakeholders and also political support.

Mr Flanagan: Finally, are you hopeful of making any further progress this year on the issue of barriers to mobility across the border at undergraduate level?

Dr Farry: I am realistic about that at this stage. We are making slow progress on that. A working group has been established between the two Departments to scope out a whole range of issues to see how we can address barriers. This is an issue that is not moving as fast as I would like to see it moving. The issue of pace is not one that lies in my hand but is more of a reflection of how quickly our counterparts in the South are moving on the issue.

Mr Lyttle: Thanks, Minister, for your update so far. I think that everybody has concerns about the impact of welfare reform and is working in their own way to try to mitigate that. Maybe the disagreement is how exactly we achieve that.

I think that the Committee will want to hear more about the disability employment strategy, the NEETs strategy, the work being done with Hydebank secure training college and, indeed, the United Youth programme in the term going forward. Obviously, the key to getting people out of employment and into work, increasing productivity and getting higher wages to grow the economy is improving skills. Can you give us a bit more of an update on the work that you have done to improve the skills relevant to industry needs in relation to the pilot welding academy launched in connection with the Belfast Metropolitan College and Harland and Wolff? Can you give us an update on the work being done on the software professionals course as well?

Dr Farry: Thanks for those. I stress that none of that was planted, by the way.

The Chairperson: Aye right.

Dr Farry: He thought of that all by himself. *[Laughter.]*

Mr Lyttle: I was not fortunate enough to get any pre-briefing, so I had to do the work myself.

The Chairperson: Tell us about all the good work that you have done, Minister.

Dr Farry: First of all, looking at this strategically, we have a skills strategy for Northern Ireland, which identified that, for Northern Ireland to be truly competitive, we need to see a transformation of our skills over the decade. That means meeting our targets for skills at levels 2, 3, 4 and 4-plus among the working-age population. We are making steady progress on that. We have a particular need to address and invest in science, technology, engineering and mathematics (STEM).

It is useful to separate the interventions we make into two different types. There are structural interventions, such as improvement to careers advice; the provision of additional undergraduate places, particularly in economically relevant subjects, and PhDs; and the new apprenticeship strategy. That is all about getting it right from first principles when people are on a smooth journey.

We do, however, have to make interventions that are of a more corrective nature. A lot of the things that we do around the academies and the software professionals course are about investing in people who have a very good level of skill to begin with and ensuring that they have the very particular skills that are required by businesses. Hopefully, as time progresses, the need for that type of intervention will decrease, because the mainstream system interventions will meet those requirements.

The Harland and Wolff scheme is now live, and I think that it is actively seeking to recruit as of the beginning of this month. Again, it is a bit of speculative training on our part, so we will see how that goes, though the indications to date are promising.

The software professionals course is an example of the work that we are doing on the back of the ICT working group through a number of different interventions to meet the needs of the flourishing IT industry in Northern Ireland. It takes people who are graduates in other areas and gives them the ability, over a very short period, to engage with and become employable in IT. Again, our further education colleges have been a key delivery partner in all that, and that, again, is a clear example of the importance of the FE sector as a key plank of our economic support.

The Chairperson: OK, members. Minister, thank you very much for taking the time to come along this morning and to engage with the Committee in this open and frank forum.

Dr Farry: I am happy for Fiona and Cathie to liaise and to make any further modifications to the forward work programme to reflect any of the issues that I mentioned today that you want to pick up in more detail or that are not yet fully programmed. Again, I am happy to come back to the Committee in a few months' time to provide a further assessment of where things stand. Again, you will be formally notified in the usual ways around the time of the October monitoring round. If the situation changes radically from what has been presented today, we are happy to come back to directly explain any further adjustments that we have to make to the budget in light of any further cuts that are asked of us in year. Thank you very much.

Mr P Ramsey: Good luck.

The Chairperson: Derek, Heather and Stephen, thank you very much.