



Northern Ireland
Assembly

Committee for Finance and Personnel

**OFFICIAL REPORT
(Hansard)**

**Superannuation Bill: Equality
Commission for Northern Ireland**

9 May 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Conor Murphy (Chairperson)

Mr Dominic Bradley (Deputy Chairperson)

Mr Roy Beggs

Mr Leslie Cree

Mr David Hilditch

Mr William Humphrey

Mr Mitchel McLaughlin

Mr Adrian McQuillan

Witnesses:

Ms Eileen Lavery

Equality Commission for Northern Ireland

Mrs Roisin Mallon

Equality Commission for Northern Ireland

The Chairperson: I welcome Eileen Lavery, who is head of advice and compliance at the Equality Commission, and Roisin Mallon, who is a policy manager. I invite you to make some opening remarks, and then we will open the meeting up to discussion and questions.

Ms Eileen Lavery (Equality Commission for Northern Ireland): Thank you for the opportunity to address the Committee. You asked us for some commentary on the Superannuation Bill. The objective of the Bill is to remove the existing requirement to secure the consent of trade unions before introducing changes to the compensation scheme and to place instead a new duty to report to the Assembly on attempts to reach agreement.

As such, the Bill does not fall directly under the remit of anti-discrimination legislation. Requirement for trade union consent is not a matter within equality legislation or anti-discrimination legislation, but it would be remiss of us if we talked to you without recognising that the objective of removing the requirement for trade union consent is that changes can then be made to the compensation scheme; that is, the scheme paid to civil servants and others who also use that compensation scheme on redundancy.

I wish to get across to the Committee that there are two aspects to equality legislation that should be considered when changes are being made to the compensation scheme. First, the anti-discrimination legislation outlaws discrimination on grounds of sex, age and so on. Therefore, you have to think about the responsibilities under those laws when making changes. For instance, will the proposed

changes in any way directly or indirectly discriminate against those who are covered by the anti-discrimination perspective?

Secondly, the responsibilities of the Northern Ireland Civil Service (NICS) under section 75 of the Northern Ireland Act 1998 are the equality and good relations responsibilities. Again, there will be issues around that.

The Superannuation Bill has been given the first stage of consideration under section 75, in that it has been what we loosely describe as "screened". The view of the Department of Finance and Personnel (DFP) is that it does not need to be considered for full equality impact assessment. However, that decision may be quite different when we come to changes to the compensation scheme. The Committee needs to pay attention to anti-discrimination legislation and section 75 issues.

If it would be helpful to the Committee to provide you with some comments on potential changes to the compensation scheme, we would be very happy to do that today. However, perhaps at this stage, the Committee would simply like to ask us some questions.

The Chairperson: Thank you. You said that when similar legislation went through Westminster, it did not require a full equality impact assessment, and you also said that that is DFP's view. Given that the compensation scheme will more likely affect part-time workers, who are more than likely to be women, do you think that it requires a full equality impact assessment?

Ms Lavery: On changes to the compensation scheme, as opposed to changes to the superannuation, which is only the trade union link, we are very conscious of the fact that work was done when the equivalent Bill was going through Westminster, and there was a full consultation. Subsequent to that consultation, there was what was described as an equality impact assessment, but, in fact, even that was criticised in the political process by Theresa May as not being sufficient, although changes were made. Therefore, following the consultation, Westminster looked in particular at the issue of part-time workers and at the issues of age and length of service, and how those two matters were related, and some changes were brought about. Therefore, when it comes to compensation changes in Northern Ireland, there is a real requirement to pay particular attention to those sorts of matters.

The Chairperson: In your view, the necessity for full equality impact assessment is when you get down to dealing with the effects of the legislation rather than when dealing with the legislation itself.

Ms Lavery: That is right. The Superannuation Bill and the requirement for trade union consent is not directly covered by equality legislation. However, changes to the compensation scheme are quite different.

The Chairperson: You said that there was a full consultation on the Bill in Britain. Was there a full consultation on the Bill here?

Ms Lavery: I do not think there has been a full consultation on the Superannuation Bill.

Mrs Roisin Mallon (Equality Commission for Northern Ireland): No, as far as we are aware, the only equality assessment has been the screening document that the Department released. The Department screened it out and indicated that it did not consider there to be a major impact on equality of opportunity. Therefore, a full equality impact assessment was not done on the Superannuation Bill. As Eileen said, the Cabinet Office carried out a full consultation on the Civil Service compensation scheme. It was part of the Fairness for All consultation, in which equality was considered as part of that. The Cabinet Office subsequently did what it called an equality impact assessment, but it was quite limited. It was not a full equality impact assessment. It was a bit like the screening that was done by the Department here. However, it was criticised for being limited. Therefore, it is important that the Department liaise with the Cabinet Office to ensure that it did a further equality impact assessment and to determine whether, as a result of criticisms, it did more to ensure that equality was taken into account.

The Chairperson: So that I can be clear about your perspective, are you satisfied with the screening exercise? Do you expect that, on the implementation of the legislation, full equality impact assessments will kick in?

Mrs Mallon: Yes.

The Chairperson: OK. Thank you. Does anyone wish to ask any questions?

Mr Cree: In your briefing paper, you refer to article 11 of the UN International Covenant on Economic, Social and Cultural Rights (ICESCR): the right to an adequate standard of living. Surely Her Majesty's Revenue and Customs (HMRC) attacks that very principle all the time?

Ms Lavery: I am sorry. Are you referring to our comments?

Mr Cree: Yes. In the paper that we received from you, it states.

"The right to an adequate standard of living."

Mrs Mallon: Is that perhaps from the briefing paper from the Human Rights Commission (HRC)? It is not from our comments.

Mr Cree: You are not guilty of this one, then?

Mrs Mallon: No. The HRC is coming next.

Mr Cree: Sorry, I thought that those were your comments.

Mr McLaughlin: Were any other representations made to you from representatives of the staff side?

Ms Lavery: No. We have not had representations from trade unions. I am conscious of the evidence that trades unions have given to the Committee. We have read it, but the trades unions have not come directly to us.

Mr McLaughlin: OK. Is it not your function to elicit those perspectives to help you come to your view?

Ms Lavery: No. I do not think that it is.

Mr McLaughlin: OK. Therefore, the position is that the Department has decided that a screening was sufficient in these circumstances. Your position is that you will watch the operational impact of the legislation and, although they have been quite vocal on this, the trades unions have not made representations to you.

Ms Lavery: That is correct. As I said, the requirement for trade union agreement to bring about changes is what we are talking about here today. That is something that the Department has considered and decided that it does not need to do a full equality impact assessment for. I think that when we come to making actual changes to the redundancy and compensation schemes, the same decision will be very different and a lot of consideration should be given to it.

The Chairperson: It is the case that changes to the compensation scheme are not subject to Assembly control. In your view, is there a concern that DFP may decide also at that stage that it does not require a full equality impact assessment?

You said at the start that you were prepared to speak about the changes to the compensation scheme. Perhaps you will offer us some thoughts on that?

Ms Lavery: You would like us to talk about changes to the compensation scheme? There are a number of things that we need to consider. First, who is covered by the compensation scheme? Although the

focus has tended to be on civil servants, there are many others in Northern Ireland who work for public bodies who are also within that compensation scheme.

The objective of the change is, of course, to reduce the impact on the public purse, and we therefore recognise that payment to staff leaving on redundancy will most likely reduce. We also recognise that there will be distinctions within the very terms and definitions of the scheme as to how that impacts on different groups of staff. I think that it is a responsibility of the Department to consider fully those issues.

The statutory scheme for redundancy has what we call a differential based on age and length of service. The courts have ruled that, where a scheme reflects that statutory scheme, they are happy to support it, but it must reflect the actual statutory scheme. Therefore, careful consideration will have to be given to the proposals to show that they reflect that.

Another issue of concern is the question of whether there is a greater impact on those who work part-time or who have broken service — who are perhaps women, rather than men — and all of those are matters that require careful consideration. I am not prepared to sit at this table today and say that it is sufficient for those changes to come about without those matters being considered.

The Chairperson: However, as the Assembly may not have a role in that, who should give it such careful consideration? Do we rely on DFP to give it careful consideration? It assures us that it has taken all those factors into account and is doing the right thing. Where do you think such careful consideration and scrutiny will come from?

Ms Lavery: As I said, the Cabinet Office in Great Britain did a consultation, took responses, made amendments and did further work. That is the kind of pattern that should be happening in Northern Ireland.

The Chairperson: You expect DFP to follow the same pattern?

Ms Lavery: Yes, we do.

The Chairperson: No one else has any questions. Thank you very much. That was helpful.