



Northern Ireland  
Assembly

Committee for Finance and Personnel

# OFFICIAL REPORT (Hansard)

Superannuation Bill: DFP Briefing

5 September 2012

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Daithí McKay (Chairperson)  
Mr Dominic Bradley (Deputy Chairperson)  
Mr Roy Beggs  
Mrs Judith Cochrane  
Mr Leslie Cree  
Mr Paul Girvan  
Mr David Hilditch  
Mr Mitchel McLaughlin

**Witnesses:**

Ms Margaret Coyle	Department of Finance and Personnel
Ms Margaret Miskelly	Department of Finance and Personnel
Mrs Grace Nesbitt	Department of Finance and Personnel

**The Chairperson:** I welcome to the Committee officials from the Department of Finance and Personnel (DFP) — Grace Nesbitt, Margaret Coyle and Margaret Miskelly. Do the witnesses want to make an opening statement on follow-up correspondence with the Department since the meeting on 4 July?

**Mrs Grace Nesbitt (Department of Finance and Personnel):** No. We are quite happy to deal with any queries that you have.

**The Chairperson:** OK. Members, does anyone want to kick off? Paul, you are looking at me.

**Mr Girvan:** It is OK. I will wait until someone else opens it.

Maybe I will kick off. My question is around the words "consultation" and "negotiation". What impact do you think that will have on the draft Bill?

**Mrs G Nesbitt:** As I said in the follow-up submission to the Committee after the last evidence session, "consultation" remains the appropriate term. "Negotiation" is used in the context of pay. "Consultation" is the term that is used in pension legislation and is the appropriate term for us to continue to use. It is the term that is used throughout public sector pension legislation. That remains the view of departmental officials.

**Mr D Bradley:** Is it the Department's intention to maintain parity on these issues?

**Mrs G Nesbitt:** Which specific issue, Mr Bradley? Is it the Superannuation Order?

**Mr D Bradley:** Yes. This is really about reducing the amount of compensation, is it not?

**Mrs G Nesbitt:** The matter that we are considering is a change to the Superannuation Order. With the Chair's agreement, I will give a little bit of context. The reason why we are making the change to the Superannuation Order is to bring us into line with changes that were first introduced by the Labour Government in GB. Changes were introduced through the Superannuation Act 2010 to allow the compensation scheme to be changed. Those changes to the compensation scheme relate to what people get paid when they leave work on a voluntary basis or through compulsory redundancy. I assume that is the change that you are talking about?

**Mr D Bradley:** Yes.

**Mrs G Nesbitt:** The overall intention behind that is to maintain parity with GB.

**Mr D Bradley:** In that case, can we really have meaningful consultation?

**Mrs G Nesbitt:** The terms of reference have been supplied to the Committee. I think that I sent those previously. We agreed the terms of reference with the unions at a pension forum. The term that is used in those specific terms of reference, which has been agreed and signed off by various trade unions that were represented, is "consultation". That is the term that has been agreed with and recognised by trade union side. We will endeavour to consult the trade union side, which is the other side, if you like, and it understands the context in which we operate and is familiar with it. We have agreed on the next stage, which is to deal with a change to the Superannuation Order, and which is, I accept, a detrimental change for the majority of people who may, at some point, have to leave work through redundancy. We have agreed with the unions that we will look at the proposals that they come up with, and we will consider them. However, that will be within the overall context of parity. If we can agree something, I have said to the unions that we will look at it. We have engaged with the unions on that, and we have agreed with them that we will look at that.

**Mr D Bradley:** There is an inherent contradiction in what you are saying. On the one hand, you are saying that your aim is to maintain parity and, on the other hand, you will, presumably, consider some differences.

**Mrs G Nesbitt:** At this point, we do not have parity with GB, so you could say that, yes, that is a contradiction. The changes in GB were introduced in December 2010. The union has already made it clear that there may be issues with the timing of the introduction of this change, and that may be something that we would want to consider with other changes that are happening in the public sector. At our last meeting, the union made the point about changes that may occur with the review of public administration and suggested that we may want to consider the timing of the introduction. Although we may keep parity overall with regard to the substance of the change, there may be issues about the timing of its introduction, and those matters could be ironed out in the consultation process.

**Mr D Bradley:** So there might be a few nuances here and there?

**Mrs G Nesbitt:** There may be nuances with the timing, and when we get into the detail of it, there may also be particular nuances with the substance.

**Mr D Bradley:** What is the Department's interpretation of the phrase:

*"with a view to reaching agreement with the persons consulted."*

in clause 2(2)? Does that mean that you will encourage them to accept your point of view or that you will be open to make changes in accordance with their point of view?

**Mrs G Nesbitt:** Without wishing to sound contradictory, it means both. Consultation is not a telling process. In my experience over many years, consultation is a listening process. When we go into a consultation process, we go in to listen to what the other side has to say. From my experience, the other side — the trade union side — is also interested in first hearing what management side is proposing and then, hopefully, agreeing a meeting of minds. That has been my experience. Yes, you

are obviously trying to persuade those on the other side to your point of view, but you are also trying to listen to their side.

**Mr D Bradley:** Very dangerously close to negotiation there.

**The Chairperson:** Grace, just before I move on to Leslie, the Department sent a response to us on 21 March stating that it would be possible to amend the Bill so that any changes to the compensation scheme would be subject to procedure in the Assembly. That could be seen as a fairly minimal and reasonable amendment to the Bill that would recognise the overall Assembly view. Do you agree with that or have you any comment on that?

**Mrs G Nesbitt:** The question was asked whether that could happen, and as I said at the previous session and in my latest note to you in July, that could happen. It would not be the Department's intention to do that. That response indicated that, factually, yes, that could happen.

**Mr Mitchel McLaughlin:** You would consult with the Committee with a view to reaching agreement.

**Mrs G Nesbitt:** Would that be 12 weeks or eight weeks?

**Mr Mitchel McLaughlin:** As long as it takes.

**Mr Cree:** I was intrigued by your answers to Dominic. You handled it very well. It reminded me of a cricket match. However, to put it more succinctly, is the Department prepared to consider any change in substance to the Bill, bearing in mind that there is only one item in the Bill? Are you going to insist on direct parity?

**Mrs G Nesbitt:** I want to make it clear that, at this point, we are talking about the Superannuation Bill. From the Department's perspective, I do not see any need to change any aspect of the Bill. What Mr Bradley was dealing with is the next stage. The change that we are making to the Superannuation Bill is being done so that we can make what is termed a detrimental change to the compensation scheme. There are two different issues. The view of the Department and officials is that, in the contents and substance of the Superannuation Bill, what has been presented represents something that is appropriate and necessary.

**Mr Cree:** So there would be no compromise on that?

**Mrs G Nesbitt:** There are four clauses in the Bill, although it really boils down to two. Perhaps I might elaborate. One removes the union veto, which, obviously, the union is keen to keep. Members may have a view on that. The view of officials is that it is reasonable to remove the union veto; ours is the only pension scheme that has a union veto. With the removal of the union veto, a safeguard is put in place to say that a report will be produced in which officials will have to demonstrate how meaningful the consultation has been and to show that they have tried to reach agreement with the unions. That, in my experience, is unusual; in fact, it is unique. In my experience and to my knowledge —

**Mr Cree:** It is pretty unusual then, is it not, if it is unique?

**Mrs G Nesbitt:** To my knowledge, it is. I do not know of any other case in which a report has to be produced to record a consultation process with the unions. I do not want to say categorically, because there may be something in the mists. However, in my experience of dealing with the unions, I am not aware of anywhere else that a report of that nature is required to be produced. I should also add that, for any other detrimental change, the union veto stays in place; this is just removing the union veto as regards the compensation scheme. Officials and I are content with the content and substance of the changes proposed to the Superannuation Order and will not be proposing any amendments.

**Mr Cree:** If I can, I will sum that up in my humble terms. You are saying that, because of the necessity for parity within the United Kingdom, it should all be the same. Therefore, on the substantive issue, there is no compromise.

**Mrs G Nesbitt:** There is no compromise on the detail of the Superannuation Order. Where there may be compromise, and where there will be a process of consultation, is on the timing of how and when we give effect to the changes for the compensation scheme, which could, if you like, be termed stage

2. There may be nuances, as I said in response to your colleague, to the actual substance of the compensation scheme. However, those are both "mays", because we have not really got into the detail.

The changes that we propose to the Superannuation Order are reasonable and appropriate. Those changes were brought about because of cases that I have highlighted to the Committee before. When the coalition Government tried to make the changes, they tried to secure the agreement of the unions. From memory, they got the agreement of four out of five of the main unions. The Government — I cannot remember whether it was the coalition or Labour Government — were then challenged and lost the challenge. The decision was then made that they had to change the primary legislation, because the unions would not agree to a detrimental change. Therefore, we need to make that change to our primary legislation to enable us to have scope to change the compensation scheme; otherwise, we will not be able to.

**Mr Cree:** Thank you. I think that I understand it clearly now.

**Mrs G Nesbitt:** Good. I am sorry if that was a bit repetitive.

**Mr Cree:** It was just for clarification.

**Mr Mitchel McLaughlin:** Everything has been pretty well dealt with, but I have one wee pedantic point. When you refer to the consultation in the context of the Bill, it means, at all times and circumstances, consultation with a view to reaching agreement.

**Mrs G Nesbitt:** Yes.

**Mr Mitchel McLaughlin:** Just a wee bit of shorthand creeps in; I am being a suspicious person.

**The Chairperson:** You are getting off very lightly today, Grace.

Before you go, we have, this morning, considered amendments from the Committee that we will forward to you for comment. Would it be possible to get written comment on those before Friday, so that we can make a decision on them for next week's Committee meeting?

**Mrs G Nesbitt:** I was going to say, "This Friday?" Can we not have 12 weeks? *[Laughter.]* I would like clarity on the level of written comment that you want. We have already commented, in the previous meeting, on the level of written comment that you wanted. I am loath to use the terms "yes" or "no"; do you want reasons why we do or do not accept the amendments?

**The Chairperson:** Yes. I would like reasons and rationale. There are only three amendments.

**Mr D Bradley:** Consultation aimed at reaching agreement.

**Mr Beggs:** For clarification, the Committee has not agreed these amendments, as I understand it. They are going to you for comment.

**Mr Cree:** It will help with our decision-making.

**The Chairperson:** We would like any rationale or concerns that you have about them.

**Mrs G Nesbitt:** With a view to getting my agreement. *[Laughter.]* When will I get the amendments?

**The Committee Clerk:** You will get them this afternoon.

**Mrs G Nesbitt:** If I do not get the response to you by Friday, I will certainly endeavour to get it to you sometime on Monday. I am a little bit hesitant because I have an industrial tribunal to prepare for, potentially. I will know later today whether that is running. I will certainly get it to you by Monday at the latest. Is that acceptable?

**The Chairperson:** Friday would be more acceptable.

**The Committee Clerk:** The members' packs go out at around lunchtime on Monday, so that would be the cut-off point.

**Mrs G Nesbitt:** OK. I will definitely get it out to you by lunchtime on Monday. It would be helpful to have the weekend if I need it. That would be appreciated.

**The Chairperson:** That is great; thank you very much.