Northern Ireland Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Public Service Pensions Bill: Joint Trade Union Briefing

9 October 2013

NORTHERN IRELAND ASSEMBLY

Committee for Finance and Personnel

Public Service Pensions Bill: Joint Trade Union Briefing

9 October 2013

Members present for all or part of the proceedings:
Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mr Paul Girvan
Mr John McCallister
Mr Ian McCrea
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Peter Weir

Witnesses:

Mr Harry Baird	FDA
Mr John O'Farrell	Irish Congress of Trade Unions
Ms Nuala O'Donnell	Irish National Teachers' Organisation
Mr Bumper Graham	Northern Ireland Public Service Alliance

The Chairperson: Folks, you are very welcome. Bumper, do you want to introduce your panel?

Mr Bumper Graham (Northern Ireland Public Service Alliance): Yes. On my left is Harry Baird from the First Division Association and Nuala O'Donnell from the Irish National Teachers' Organisation. I am from the Northern Ireland Public Service Alliance (NIPSA). John O'Farrell is from the Irish Congress of Trade Unions.

The Chairperson: Do you want to speak on the proposed amendments?

Mr Graham: Yes. We were in for most of the two earlier sets this morning. Although they came to give specifics, they strayed into some of the wider generalities. Our approach is as the single Irish Congress of Trade Unions group representing all the unions. We also continue to liaise with the affiliates and non-affiliates.

Since we last met, I have been disappointed by the quality of the engagement that we have had with Department of Finance and Personnel (DFP) officials. We established the public service pensions group. I noticed that, in its response, it referred to the consultation arrangements. We will set aside the dispute over consultation and negotiation. It referred to the work of the Master of the Rolls, Lord Woolf, and its own work on the Gunning principles, but it has not applied those by engaging in positive, meaningful consultation. When you look at DFP's response to you, you see that it has become the master of lengthy paragraphs that say no. It could have probably shortened its response and just said NO in capitals to cover all the points that we made.

We met the Department as recently as last week, but disappointingly there was no engagement with us in terms of their response to you on the points that we raised. In the engagement process, we are genuinely trying to deal with normal, standard industrial relations arrangements in negotiating with the representatives of employers. I have to say, wearing my Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) scheme hat, that in DFP's response to you there is a considerable power grab by it in areas that heretofore were the responsibility of the Department of the Environment (DOE), given the unique difference between the NILGOSC scheme, as the single funded scheme, and the other unfunded schemes, in which you could understand DFP's wider interest, because it is responsible for the allocation of moneys to Departments.

Again — and it cropped up, I think, in the Fire Brigades Union (FBU) discussion this morning — the Committee is understandably looking for specific Northern Ireland data. We have made constant requests for the data for the Northern Ireland schemes. We reiterated that request last week and went through the type of data that we need, such as the numbers in schemes, the gender breakdown, those that are within the protections outlined in the Public Service Pensions Act at Westminster, and a range of other data. DFP's response was, "You had better write to us". We have been pressing for that data — as, I think, you have since we were first in here — but we keep getting fobbed off by DFP officials. If we cannot get the data, that makes it difficult when you rightly ask specific questions on the evidence points, whether it be of us, covering all the unions, or specific unions.

Bizarrely, the Government Actuary's Department (GAD) letter also says, "We did not have the schemes' data". I have been dealing with actuaries since about 1980, and I have defined actuaries as a pretty pernickety bunch of people who are fairly precise in what they provide. Yet, here we have the Government Actuary's Department saying, "We provided this information without scheme-specific data, and our figures could be £100 million out. It could be £250 million, £300 million or £350 million". I have never experienced actuaries coming forward with such a range. It goes back to the point that it did not do a detailed piece of work because it did not have the data.

Most worrying, to some degree, is DFP's pretty flippant approach to what we call the "Henry VIII" clauses, such as clauses 3(3)(b) and 9(2). I know that the Human Rights Commission gave evidence on that last week. DFP is saying, "Oh, we have no intention of doing these things. Trust us." Well, asking a public servant to trust DFP in the current scenario is beyond the bounds of any reasonable person's expectations.

I will touch briefly on other issues. The ill health point featured again this morning. Paul raised the issue of, well, if it is not ill health, and you then just go on to benefits, what is the degree of subsidiarity for that? On the one hand, you could say that that would come out of the AME and the Westminster pot, but it is still a cost on public expenditure. The other side of the coin is — we are pressing DFP on this point, but it will not move on it — that if you increase the normal age of retirement, the propensity for ill health retirement increases, and that becomes a cost on the scheme. You then get into cost-capping issues. That then will potentially breach the ceiling, and then it is only the employee's pay for any breach of the ceiling.

In the past day, we have received the latest Treasury guidance on the directions that it is going to give. DFP has not given us a commitment that it will formally engage in proper negotiations with us as to how the directions may be applied in Northern Ireland. We are concerned that the evidence that the Trades Union Congress (TUC) has already given to the Westminster Government about that suggests that this could be loading costs on to the scheme, which will breach the cost ceiling and, again, falls back on the employees to pay for, despite the fact that this was supposed to be a guarantee for 25 years of stable, settled public service pension schemes.

I have two other brief points. I think that the FBU submission this morning mentioned that clause 8(1) still provides for the creation of other schemes, which could be defined-contribution schemes. Again, we go back to the point that this is supposed to be a settlement for 25 years. Why, then, have the proviso to introduce other schemes that are much worse than even what is being proposed through the current changes? We do not see that there is any scope or need to have those provisions if this is supposed to be a 25-year settlement on public service pensions.

There is one last general point that I would like to raise with you, and I only got this information last week in my role as a member on the committee of the NILGOSC scheme. The actuaries for the scheme, Aon Hewitt, produced a report for us, because it is the triennial review of the funded scheme, and life expectancy in Northern Ireland is not going in the direction that everybody thinks it is. At 2010, at the last actuarial evaluation, it projected the life expectancy of men at age 65 to be 87·9 years. It has now reduced that to 87. For a woman aged 65 in 2010, life expectancy was 90·7, and that has been reduced to 89·5. That is one piece of firm evidence that we have that goes to the point that we have made in previous evidence sessions with you: that the improvement in life expectancy was going, to some degree, up on the graph. We thought it was beginning to taper out, but here is hard, imperial evidence from the actuaries that there has been a reduction, albeit a slight reduction, in life expectancy and mortality in that one Northern Ireland scheme.

We propose, in the absence of DFP giving us access to all of the data, that that is probably being replicated in the other schemes. If you increase even further the age of retirement, then we will see a further and quicker drop in life expectancy.

The Chairperson: Bumper, the British Medical Association (BMA) pointed out in its submission the 'Working Longer Review' and the planned increase in the normal pension age for staff in the NHS pension scheme of 68, which is currently being undertaken jointly by the Westminster Government employers and health unions. Are you involved in that in any way? What is your awareness or analysis of that?

Mr Graham: The health unions in Northern Ireland have some access to that information, and we will see the report when it comes out, but it is only dealing with England and Wales. One of the things that we proposed was that there should be a single exercise undertaken in Northern Ireland across all of the schemes — and, again, we have had a negative response to that.

The Chairperson: How concerned are you about clause 10(3)(a) and the state pension age deferral, as we talked about earlier?

Mr Graham: Well, the Government are currently saying that they are going to increase state pension age to 66 and then 67 from 2026, I think. They are projecting that it will go to 68 quickly thereafter, with a review in every Parliament of what that age will be. However, given what Prime Minister Cameron is saying they will do to welfare reform in their next manifesto, we anticipate that, if the Conservatives are re-elected, they will bring forward to a much earlier date an increase to age 68, and not wait until after 2026. That will impact even further on job opportunities. I know that you are hearing from the Nevin Economic Research Institute next week, and its paper on that is fair and balanced and identifies the problems for the labour market from increasing the age of retirement. If you then increase the rate at which you push up the state pension age, that position becomes even more acute.

The Chairperson: Just judging from the evidence submitted by all the unions today, there seems to be a trend, and they are saying that there needs to be a bit of flexibility in the Bill, and also that the Assembly should have a stronger voice in the proposals. If the state pension age, for example, was to change, we would, as the Bill stands, have no influence over that. Do you agree with that?

Mr Graham: We would encourage that flexibility. Different members in different schemes can make different arguments that are specific to their circumstances. However, in the general run of things, there is value in what I call the flexible decade of retirement. If you took whatever age it is as the normal retirement age and had a range plus or minus five years, for those who would go early, as many are likely to stay on past the normal retirement age, particularly projecting forward when you look at the general economic position of people coming into work later in life or coming in and having to clear, particularly if they are graduates, student loans, and the whole issue of getting onto the property ladder. They may decline membership of the occupational pension scheme in the early years of their career, and seek to join that later on. Therefore, as time passes, more people are liable to stay, if fit and if everything else is a fair wind for them, beyond the normal retirement age to get a better pension. However, for the next 10, 15 or 20 years, that flexible decade of retirement provides an option for all parties.

Mr John O'Farrell (Irish Congress of Trade Unions): I want to mention one segment of the labour market that you would maybe find working beyond 65 if that flexible approach were extant. One significant sector of the labour market that will be affected will be women who may have taken career breaks for child-rearing or for other caring purposes and were then given the opportunity to continue working beyond a cut-off point of 65 or 66 and, therefore, build up their pension entitlements. As you know, one of the key problems of pensioner poverty involves women whose pension contributions were affected by taking breaks in career for child-raising purposes.

Ms Nuala O'Donnell (Irish National Teachers' Organisation): The issue with the linking of the state pension age to the normal retirement age is that it is on the main Bill and applies to all public services. As you have heard this morning, there are differences across each sector. The accrual rates are different within each scheme, and the contribution rates are different, but everybody will then have this imposed in linking that, which is actually what is causing the problem. In 2006 and 2007, each scheme was able to sit down and negotiate on the actual scheme issues and those that apply to the individual scheme members. At that stage, we agreed with the teachers that 65 would be the age, but for those who entered the scheme from 1 April 2007, and that is something I want to correct from earlier: it does not apply to those who were in the scheme prior to 1 April 2007. The issue is that it removes the flexibilities that are needed and that are different in each of the schemes. It could be left to the schemes to determine the issues for each scheme and to work out the issues, and that was done previously and was agreed. They were slightly different across each scheme, but they apply to the individuals in those schemes.

I want to pick up on what the NASUWT said, because I am here representing the Northern Ireland Teachers' Council, which represents all the teacher unions as well. The issue with managers is that there are more of them post-60. Part of the reason for that is that they do not have a route out prior to that age. They are not eligible for redundancy packages, because they can only go if the post is being made redundant, unless the school is closing, in most instances, or the number of vice-principals is being reduced from two to one or from three to two or whatever. That is one of the reasons why they are still there: they cannot actually get out before 60, and that is why there is a slight imbalance there. There are a number of reasons, but the main issue for us is that if it is removed from the primary legislation the issues can be addressed in secondary legislation, but if it is still there those issues cannot be addressed at all.

Mr D Bradley: Does the Northern Ireland Teachers' Council broadly share the analysis of the Bill that you heard this morning from NASUWT?

Ms O'Donnell: In the main, it does, Dominic. There were a few issues, as I highlighted. The main issue for the Northern Ireland Teachers' Council is the linking of the state pension age with the normal retirement age, and the lack of flexibility in relation to the secondary legislation.

As Bumper has said, one of the key issues for teachers is the lack of access to the actuarial valuations. We have not had one for so many years. The 2008 — there is now a consultation from the Department of Education which is talking about removing that and just doing the 2012 one. It means that we are negotiating in a vacuum and being told that the scheme is in difficulty, but we are not being given any information in relation to that, which is causing its own problems. That is another issue.

Mr D Bradley: On that point, Bumper, it is obvious that Committee members and Assembly Members in general will look at the possible costs of any modifications that we make to the Bill to shape it for the local situation. Are you saying that it is almost impossible to find accurate figures on that?

Mr Graham: Currently, yes. It goes back to the point that I made earlier about the GAD letter's approach to it. That is why we have been pressing, first, in our discussions with departmental officials, to provide all the data to us, but secondly, that before any propositions could be brought forward we would have to have a full actuarial review. That, then, goes into the issue of the cost ceilings. If you do not have a full actuarial review to provide you with a sound basis for the design of the new scheme, how do you determine what the ceiling is going to be and what measures may be taken three years down the line to get the costs back within the ceiling or determine how much employees would have to pay additionally or see benefit changes?

I have never gone into a set of negotiations where the employer has not done their homework. If you go in to talk to any employer on a pay claim, they will work out to the third decimal point what the cost will be. I remember having negotiations 10 or 12 years ago with DFP as to what 0·0001% of the NICS pay bill would get you, but here, when it comes to pensions, which is big numbers, there just seems to be an attitude that it will work out in the wash at some point. As I said earlier, I have never met actuaries who took that approach, other than the Government Actuary's Department aided and abetted by DFP.

Mr Mitchel McLaughlin: I was about to give up there, because I am really under pressure for another meeting. There are a couple of issues that clearly run across not just your position but most of the trade union side's evidence. The NIPSA position is, clearly, that it has stated its opposition to the

CARE model. The equality impact assessment that was conducted in England and Wales came up with an argument that it actually benefits people who are on a lower salary progression, women, minority ethnic groups in particular, and people with disabilities. Have you considered that as an argument or evidence that impacts on your proposition?

Mr Graham: To be fair, the NIPSA position is that the CARE scheme could in some cases benefit some people but in other cases be detrimental. We would want to see all that extrapolated out. The difficulty for NIPSA is that it has members in a number of the schemes. You cannot compare someone in the Civil Service scheme, who has an accrual rate of approximately one forty-fourth but only indexation by the consumer price index (CPI) with someone in the health service scheme who has an accrual rate of one fifty-sixth but indexation of CPI plus 1·5%. That is why it is very difficult to come to a general conclusion about CARE.

Mr Mitchel McLaughlin: Even if some of your affiliated unions accept CARE?

Mr Graham: Some do, and some do not. It depends on which scheme you are in, and it relates as much to the accrual rate and indexation in a scheme.

Mr Mitchel McLaughlin: I do not have to tell the people on this panel, in particular, because you have a very focused interest on what goes on at the Assembly, that, setting aside assumptions that GAD has provided, there is no question that there is a cost factor to be calculated for a differential approach adopted by the Assembly. Have you considered how we can crack that particular conundrum? You probably broadly accept that Members would be empathetic and sympathetic to the workers.

Mr Graham: We accept that the view from Westminster is that there is a cost dimension to it. That goes back to Paul's point as well: how much of that is then offset by subsidiarity through the benefit structure? That is why we say that for every scheme published, all the data should be produced so that we can make these assessments. We may consider, given the price of them, whether it is worth our while to engage actuaries. However, until we get all the scheme data and the triennial reviews, it would not be worth our while even to contemplate doing that. The first thing that an actuary is going to say is, "Give me all the figures that need to be thrown into the computer, and then we can tell you that, if you do A, it will cost X, and if you do B, it is going to cost Y."

Mr Mitchel McLaughlin: I perfectly understand that as a technical approach. However, that does not help us, as representatives in the Assembly, and you to come to a common position. Westminster controls the benefits element of the subvention. We really are between a rock and a hard place. Is there not a better possibility? I do not know whether you can do it without prejudice, but there should be a discussion that allows you to develop a position that tailors the reforms here to that kind of realities.

Mr Graham: Let me take you back to where we were when we thought we had an agreement in 2008. That was that each scheme, at that point, had a triennial review, which allowed, in bilateral negotiations, for each scheme to work out the cap and collar arrangements. Although our members may not have been happy, back in 2008, to accept the changes that were made, they were, nevertheless, agreed scheme changes. We never got to the point of being able to take forward those negotiations because, by the time we got to the next triennial —

Mr Mitchel McLaughlin: They shifted the goalposts. I know that. That will probably continue, will it not?

Mr Graham: Yes. This is why I am very cynical about the 25-year guarantee. We have already seen the Treasury making changes to the discount rate and anticipated salaries. They have added 0·5% and raised it to 4·75% for salary increases, yet we hear that the Government is imposing public sector pay restraint and not just for the duration of this Parliament; it is being signalled to continue through and beyond the next. It is a bit bizarre that one side of the Treasury says that the public sector pay increase is going to have to be brought to 4·75% and then those who write George Osborne's speeches say that there is going to be no public sector pay growth, not even increments. It does not make sense.

Mr Mitchel McLaughlin: The balls are in the air; I am just trying to get them down. *[Laughter.]*

Mr Graham: The trade unions are usually accused of trying to keep the balls in the air.

Mr Mitchel McLaughlin: I would not say that you are not keeping the balls up in the air either, and I would not say that I do not understand that. We are trying to work this out in the best interests of our workers.

Mr Graham: I suppose it comes back to the data point. We are stumbling around in the dark as much as you, because we cannot get access to the data.

Mr Mitchel McLaughlin: There is the working longer review and all of that. There is probably a logic to what is going on from an ideological point of view if you are a Tory. You do the reviews afterwards. We will just try, if we can, to develop a position that the Executive will be prepared to put on the line and say, "Give us the information and the data; let people understand the implications". We would need to work with you on that, because they will simply play up the fact that there are at least three or four positions coming out of this region.

Ms O'Donnell: That goes back to the point that I made earlier in relation to linking the state pension age and the normal pension age and taking that as a broad sweep right across, without any consideration of the individual schemes and how they are currently different anyway. Also, as Bumper said, going back to the negotiations of 2006-07, leading to the changes in 2008, there was an understanding that changes needed to be made at that stage. I think there is an understanding again that there are issues that have to be addressed. As Bumper said, we are not being given the data to enable us to see what those changes actually are. Also, if those broad brush changes go across the main Bill as well, we are not being given the opportunity to look at how they affect the individual schemes or to address those. Those are some of the main issues that we have in relation to it. It is taking away the facility to look at what is needed for each scheme and to address the issues that are there.

Mr Mitchel McLaughlin: Whatever about the benefits of reform — there may be benefits there — I think that, knowing what we have seen of this Government's approach, they do not intend to improve the situation. One of the earlier witnesses used the old expression about pensions as deferred salary. I think the Tories are taking that literally. They are just going to reduce the employers' contribution, and, if they have their way, it will be deferred salary only or as close as they can drive it to that point. We need to waken up to the scale of that assault, and I do not think we can afford to have all these individual positions.

Mr O'Farrell: There are two small aspects. The first point, which maybe Bumper could add more detail to, is to do with the process that we are going through now; namely, the formulation of the legislation itself and the fact that we lack the detail of it. For example, if we talk about one particular issue, which has come up several times this morning, namely the linkage to the state pension age, we do not know how much of the £300 million consists of that particular aspect of the state pension age. We do not know that scheme, let alone a broad overall figure. We simply do not know. That gives you of an example of the vacuum that we are dealing with.

There is a second aspect that is related to it and is worth pointing out. It is not just the rather irritating reminder in about every third paragraph of DFP's response that DFP has a clear function to safeguard public finances. We really did not know that, but thank you for the reminder. It is to do with DFP's attitude to negative resolution, which has been raised by us and also by the Human Rights Commission. There is something that I would like to know, just out of curiosity, from people who experience it; namely, you, as working MLAs. If legislation, regulations or directions come down from the Department, which is more likely to be seriously looked at more diligently by MLAs — something that requires positive resolution or something that requires negative resolution? My suspicion is that DFP wants a negative resolution process so that it can shovel through directions. We discovered only recently in our discussions with them that they have this extraordinary power of direction, which is like a self-appointed form of gold-plating. Essentially, they can just add on. The basis of it, as in their response to us on clause 28, just mentions in passing that the secondary legislation will be drafted to comply with the core provisions of the proposed Assembly Bill on the basis of the Executive's decision of 8 March 2012 to implement reforms in line with those for the equivalent schemes in Great Britain.

That assumes a huge amount of knowledge that was already there at the time. We know for a fact that we are talking about one piece of A4 paper, which was given to the Executive under the three-strikes-and-you-are-out rule on 8 March 2012. Again, that is why we cannot answer your question; we do not know what the answer is.

Mr Graham: There is one matter that we do have an answer on because we asked how much GAD charged for the two rather inept pieces of work. Did DFP consider spending £37,100 as safeguarding the public purse?

Mr Mitchel McLaughlin: Yes, although we may have some responsibility for that because we insisted that they came back with GAD.

Mr Graham: We rightly insisted, but did we get value for money out of £37,100?

Mr Harry Baird (FDA): Picking up on what Mitchel said about doing some work, the previous delegation said that you were still waiting on a response from DFP, but, of course, you got that in the past couple of days. That response is probably typical. We went away, spent some money and got a bit of work done, and it was basically rubbished. In our view, it was rubbished on wrong assumptions. They immediately latched on to the £300 million. That was totally wrong because, as John just said, nobody yet knows the cost of that specific aspect, in other words the state pension age. They used the £300 million just like that, as if it is gospel. It is plain what would happen if we were to get together to spend more, because that is an indication that there is basically no point. Minds are made up. That was like economist to economist. It is not a response that you would have expected. We certainly did not expect it. It was like two economists who will never agree.

Mr Mitchel McLaughlin: I do not think that anybody is giving any great credibility to those assumptions and careless, throwaway sums. They are just trying to intimidate people. At the end of the day, however, we still have to square the circle. If there are penalties, and I suspect that delay or even amending the Bill will have a cost, that then throws up the question of which aspect of our spending programmes do we impact to pay for that. That is a serious challenge for MLAs.

Mr O'Farrell: Absolutely, but, to reiterate a point, if the Committee was inclined to accept that some amendments suggested by the trade union side are worthy of consideration, it may be useful to have a breakdown clause by clause. If the Committee recommends a particular amendment for a particular clause, what will be the cost of that rather than some general ballpark figure?

Mr Graham: Quite a number of the amendments have no cost if you take the power-grab approach of DFP, sucking into its area of responsibility stuff that is the legitimate responsibility of other Departments, such as the Department of the Environment.

Mr Mitchel McLaughlin: One aspect that would make that attractive to me would be if we could get much more focussed costs, even incrementally. They would not be estimates but costs, because you would be dealing with aspects of the scheme. It is really in our joint interests here to figure out how we can resolve the issue of the cost penalty and see what the actual figure is. People can then make judgements about whether we can afford to do this or not.

I have to run, I am sorry. I am 15 minutes late for another meeting.

The Chairperson: OK, Bumper. Thank you all very much again.

Mr Graham: May I make a closing comment?

The Chairperson: Yes.

Mr Graham: My take on the discussions — "conversations" may be a better term — that we had with DFP officials and the nature of their written response to yourselves, is that they are really smarting that this did not just go through on the nod via legislative consent. As we said, this is a devolved matter, and it is quite legitimate for you to examine the issues in their totality and bring specific Northern Ireland considerations to the table. I am really annoyed at the dismissive approach that we get from DFP officials when we try to engage with them in the negotiation sessions.

The Chairperson: I welcome your contribution today, as well as those of the other trade unions. We now have firm proposals as well as an idea of the cost of some of them, which was missing. We very much welcome that and will discuss it further. We will probably also send you further questions.

Mr Graham: OK. Thank you.