



Northern Ireland
Assembly

Committee for the Office of the First Minister
and deputy First Minister

OFFICIAL REPORT (Hansard)

Childcare Payments Bill — Legislative
Consent Motion: OFMDFM Officials

2 July 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Chris Lyttle (Deputy Chairperson)
Mr Leslie Cree
Ms Megan Fearon
Mr Alex Maskey
Ms Bronwyn McGahan
Mr Stephen Moutray
Mr George Robinson
Mr Jimmy Spratt

Witnesses:

Mr David McGowan	Office of the First Minister and deputy First Minister
Dr Martin Tyrrell	Office of the First Minister and deputy First Minister

The Deputy Chairperson: I welcome to the Committee Dr Martin Tyrrell and Mr David McGowan. Gentlemen, would you like to make some opening remarks?

Mr David McGowan (Office of the First Minister and deputy First Minister): Thank you, Deputy Chairman, for the opportunity to brief the Committee on the proposals to extend the provisions of the Westminster Childcare Payments Bill to Northern Ireland by means of a legislative consent motion. I am accompanied by Martin Tyrrell, who many of you may already know. Martin has lead responsibility for delivering on the Bright Start childcare strategy, and he will be able to answer any questions on the development of that strategy.

I am conscious that the Committee has just received a briefing from Employers For Childcare about the proposed introduction of the new tax-free childcare scheme. I am also conscious that Employers For Childcare has raised some specific concerns about the new scheme. In view of this, I intend to confine my opening remarks to providing the Committee with an overview of why the Department is seeking to extend the provisions of the Bill to this jurisdiction. I am happy to take any specific questions on the detail of the new scheme; however, I am quite happy to take back to the Department any questions that I am not in a position to answer to ensure that the Committee receives an accurate and substantive response.

As members may be aware, the Childcare Payments Bill was introduced in the House of Commons on 5 June. If enacted, the Bill will provide the statutory basis for the introduction of a new, UK-wide tax-free childcare scheme to provide financial support to help working families with their childcare costs. The purpose of the scheme is to enable people with responsibilities for children to take up paid work

or to work for longer where they are currently deterred from doing so because of the need to meet childcare costs. If members have had an opportunity to look at the Bill, they may have seen that it contains a total of 74 clauses, so it is quite a substantial piece of legislation. They may also have seen that it contains numerous regulation-making powers. These regulation-making powers will be used to specify in much greater detail the more technical aspects of this scheme.

Why are we seeking to extend the provisions of the Bill to here? Childcare is a transferred matter and, obviously, is within the competence of the Assembly. However, in general, matters dealt with by HMRC apply on a UK-wide basis. As the tax-free childcare scheme will be financed centrally by the coalition Government, it is considered appropriate that the scheme should operate on a UK-wide basis and its operation made an excepted matter. This, however, will require a legislative consent motion from the Assembly. Securing such a motion will enable parents who live here to claim support from government with their childcare costs in the same way as those living in England, Scotland or Wales.

The new scheme will replace the existing employer-supported childcare scheme, which currently provides financial support to parents. This scheme will be phased out. This will be achieved by preventing employers from joining a scheme after the new tax-free scheme comes into operation. However, those employees who are in such a scheme at that date can continue to be in it for as long as they remain eligible and provided that their employer continues to operate the scheme. Subject to enactment of the Westminster Bill, the new tax-free childcare scheme will become available from autumn 2015.

I propose to stop now, but, before doing so, I want to draw attention to the legislative consent memorandum that has been laid before the Assembly in relation to this Bill. The memorandum has been formally referred to the Committee to consider and to make a report to the Assembly. This scrutiny is effectively a precursor to Ministers tabling a legislative consent motion for debate in a plenary sitting in the Assembly. I am happy to take questions.

The Deputy Chairperson: Thank you. The original Westminster consultation was in August 2013. Is that correct?

Mr McGowan: That is correct.

The Deputy Chairperson: Why then is this the first time that the Department is coming to our Committee to speak about this issue?

Mr McGowan: It is unfortunate that the Committee has not been involved prior to now, but we needed to take a position from Ministers to allow us to speak to the Committee. In the previous presentation, there was reference to consultation in relation to that particular scheme. Yes, that consultation was launched by Treasury in August. We wrote out to local stakeholders to advise them of the consultation and to advise them to make representation directly to those who were running the consultation. It may have been useful to include the Committee in that consultation. In terms of local stakeholders —

The Deputy Chairperson: That sounds like one of the biggest understatements that I have ever heard.

Mr Cree: Yes, write that one down.

The Deputy Chairperson: How did the Department respond to the consultation?

Mr McGowan: The Department sought comments from Departments and pooled those comments together and submitted them to HMRC, which was running the consultation.

The Deputy Chairperson: So, OFMDFM did submit a consultation response in August 2013.

Mr McGowan: That was from government. It did not include —

The Deputy Chairperson: What does that mean?

Mr McGowan: We took comments from Departments.

The Deputy Chairperson: Can we have a copy of the consultation response?

Mr McGowan: You can.

The Deputy Chairperson: You said that you wrote to local stakeholders. What exactly did that look like? What local stakeholders did that include?

Mr McGowan: All those who responded to the consultation on the childcare strategy.

The Deputy Chairperson: Can we have a list of those stakeholders?

Mr McGowan: You can.

The Deputy Chairperson: OK. Was there any other wider public consultation to outreach to parents or businesses?

Mr McGowan: Not by the Department.

The Deputy Chairperson: OK. There are serious issues around the level of proactivity from the Department on that consultation, and we can maybe draw that out further.

What impact assessments, such as economic impact assessments and equality impact assessments, have been made in relation to the proposals in Northern Ireland?

Mr McGowan: We have not drawn up a specific economic impact assessment. There is an impact assessment that goes along with the Bill, which has been laid. We have carried out a screening exercise in relation to the various section 75 categories.

The Deputy Chairperson: What will the impact on businesses in Northern Ireland be?

Mr McGowan: They will lose the benefits that they would have received from the discount on their national insurance contributions.

The Deputy Chairperson: Have they been consulted on that? Are they aware of it? What have you done to engage with businesses on that issue that you are going to support the introduction of?

Mr McGowan: We have not engaged with employers on that. As I said, essentially it is a Treasury and HMRC policy. Therefore we have not engaged directly with employers.

The Deputy Chairperson: Will this policy be better than the current policy for families in Northern Ireland?

Mr McGowan: It will be fairer in that it will have a wider spread of potential applicants to the scheme, including employees who work for an employer who is not currently part of an employer-supported childcare scheme. It will also cover the self-employed. Effectively there is a wider pool of families that could benefit from it. However, within it there are variations on what individual families would receive between the new scheme and the old one.

The Deputy Chairperson: So you are saying that this is better than the current scheme.

Mr McGowan: It will be fairer and will have broader support, and the criteria used to provide support will be more related to children. In other words, the amount of money that government will provide will be linked to the number of children in a family.

Mr Maskey: Apart from the last couple of comments and the question that I asked earlier, about whether there would be more benefit under the new scheme than currently, I do not think that you were giving us much to commend the LCM, with all due respect. I am keen to know whether more people would benefit from this scheme than under the present one. You seem to be suggesting that that would be the case. However, I am not sure that everyone is entirely convinced of that. The reason why I am focusing on that is because that is just sums. It is just a headcount to see if more

people benefit than not, but we have had problems dealing with it. There is an outstanding budget that has not been spent yet. Chair, you referred to that yourself a few minutes ago. There seems to be a difficulty in getting people to take up the opportunities that there are, so how can we be convinced that more people will take up this opportunity? I am trying to get my head around it. If people think that it is an opportunity, why do they not take it?

Dr Martin Tyrrell (Office of the First Minister and deputy First Minister): At present, the employer-supported assistance is routed through employers, so parents who wish to avail themselves of the support are dependent on the employers being in the system. Northern Ireland has relatively low uptake; I think that it has the lowest uptake in the UK.

The Deputy Chairperson: Why do you think that is?

Dr Tyrrell: I think that not all employers are participating in the scheme, despite —

The Deputy Chairperson: Has anybody told people about the scheme?

Dr Tyrrell: There has certainly been publicity for it —

The Deputy Chairperson: From OFMDFM?

Dr Tyrrell: — through, for example, Employers for Childcare.

The Deputy Chairperson: But not OFMDFM.

Dr Tyrrell: Our Bright Start childcare strategy includes the Family Support NI website, which will include promotion of all the support currently available with the costs of childcare. The new scheme, because it does not depend on employers' participation, should, by that fact, benefit more people. More people will be able to avail themselves of it. Moreover, as David said, the funding follows the child. The funding does not follow the parents as in the current scheme; it follows the children. Therefore a family with five children will potentially get five lots of support, whereas, under the current scheme, the support goes solely to the adults in the family through their employers.

Mr Maskey: In a response from the previous delegation about Bright Start, for example, they said that this might conflict with some of the components of that, so, for example, breakfast clubs would not be facilitated under the new scheme. I do not know whether that is right or not, but that is what we are being told. Is there a likelihood that this will conflict with the intentions of the Bright Start programme in a practical sense? Can you give us the essence of the responses from the consultation?

Dr Tyrrell: On the first point about whether this will conflict with Bright Start, it will generally not. We will promote this scheme, if it is introduced, through the normal mechanisms, and we will encourage all participating childcare settings in the Bright Start programme to promote this scheme. We will encourage parents to take up the assistance available. That will be part and parcel of the Bright Start strategy. The issue that Employers For Childcare has raised is relevant. It is that we are focusing our school-age childcare on four- to 14-year-olds, whereas this assistance cuts off at the age of 12. So, there will be children aged 13 and 14 who will not attract funding under this scheme, and that is certainly something that we will look into. That having been said, predominantly, school-age childcare is a phenomenon of primary school-age children. The 13 and 14 year age group is relatively marginal in that group. It tends not to be something that secondary school pupils go for. It is more primary-school pupils who are involved in school-age childcare. Certainly, we will be looking at the implications of this scheme for the Bright Start strategy.

Mr Maskey: I have two points further to that. I was looking to find out whether there was any sense of what the response from the various stakeholders was. When you said that you might look into the difference between the 12-year-olds and the 14-year-olds, you seemed to be suggesting that the numbers are marginal. You said that you are looking into it, but, if an LCM comes in, you can look at it all you want, but you will not change it.

Dr Tyrrell: As the new system is introduced, there will be developments in it, as with any system. If we are asked again, we can ask for assistance with 13-year-olds and 14-year-olds to be considered. We would need to look at the level of uptake of childcare services by 13-year-olds and 14-year-olds

before we would look to see whether there was merit in extending the new proposed system to that age group.

Mr Maskey: You said that you contacted stakeholders in the consultation, so did you get any responses back from them that sparked discussion?

Dr Tyrrell: I do not have to hand what the stakeholders told us at the time that we went out on the new proposals. We are engaging with stakeholders on the full version of the Bright Start strategy. To date, we have launched an initial phase on key first actions. We are developing the full final version of the Bright Start strategy, and we are engaging with stakeholder groups right now on that matter, including with Employers For Childcare. We can certainly take note of this in the course of the consultation exercise.

Mr Cree: I am seeking clarification on a couple of points, gentlemen. Has the Department decided to support this legislative consent motion?

Mr McGowan: Ministers have endorsed it, and we have sought and obtained Executive agreement.

Mr Cree: Both have agreed, so there is no question of a private Bill coming up —

Mr McGowan: No.

Mr Cree: — to avoid that particular path.

Mr McGowan: Yes.

Mr Cree: You said that the existing scheme, the voucher scheme, as I call it, can continue as it is. Another bit then put some doubt in my mind when you mentioned that, on national insurance contributions, employers would not be getting that benefit anymore. If the existing voucher scheme continues, will it continue in exactly the same form as it does at present?

Mr McGowan: It will, yes.

Mr Cree: Therefore, employers would not lose national insurance benefit.

Mr McGowan: For as long as their employees opt to remain in the current scheme and remain eligible for payments in that scheme, they can remain in the employer-supported scheme and employers will receive the tax and national insurance reliefs associated with it.

Mr Cree: Therefore, this new scheme will apply only to new entrants.

Mr McGowan: Yes and no. I say that because people who are in employer-supported childcare, in other words, using tax vouchers, can opt to move to the new scheme if that is more financially beneficial to them.

Mr Cree: That is hardly likely, is it?

Mr McGowan: I know that people will put round various permutations, but anybody who has two children will normally be better off moving to the new scheme. So, yes, in certain situations, there will be variations in the amount that people receive, but, effectively, there will be no direct losers. Anybody in a scheme who is receiving employer-supported childcare will remain in it if they do not want to change to the new system.

Mr Cree: That is an important point to make.

Mr McGowan: It is in so much as the word "grandfathering" was used by Employers for Childcare in relation to the existing scheme. However, it will be phased out over time. In the initial stages, people may remain in it.

Mr Cree: Now you are worrying me again: "It will be phased out over time".

Mr McGowan: At a certain point, people will not be eligible to join the tax voucher scheme.

Mr Cree: Could you explain the detail of that?

Mr McGowan: When the new legislation comes into operation, people who have not previously claimed vouchers cannot decide that they want to go back and claim them.

Mr Cree: No, they are new people in my book. OK.

Mr McGowan: They will come into the new scheme. People who are in the existing scheme can stay as long they feel that it is beneficial. Effectively, it will, over time, run down because new people will not be able to join.

Mr Cree: They will die off. However, there is no subtle change planned.

Mr McGowan: No, there is no subtle change. Things will stay as they are. Over time, the current scheme will naturally disappear.

Mr Spratt: You said that the Executive have approved it, not just the Department. Ministers from the Department have taken it to the Executive, and Executive Ministers have agreed.

Mr McGowan: That is correct.

Mr Spratt: Until this point, self-employed people have not benefited. Is that correct?

Mr McGowan: That is correct. They have not.

Mr Spratt: So, it could be naturally assumed that many more people will benefit. So, there will be more benefit. People who are on the voucher scheme at the minute with more than one child will benefit and will hardly want to stay in the voucher scheme. Is that correct?

Mr McGowan: If the circumstance is that it is more beneficial, clearly they will move to the new scheme.

Mr Spratt: You said that the uptake in Northern Ireland is not great. You suggested that we are one of the regions that are lagging behind.

Dr Tyrrell: I think that we are bottom of —

Mr Spratt: Bottom of the league.

Dr Tyrrell: I think that we are number four.

Mr Spratt: One would think that, for instance, for the self-employed who will have to do yearly tax returns, this will be pointed to them on their tax returns. Is that right? Will you tell them that they will benefit from tax relief?

Mr McGowan: There will be communication and, I imagine, a publicity campaign associated with this to advise those who cannot avail of the current system that there is a new system that they can apply to.

Mr Spratt: You heard the presentation earlier. This whole thing is financed from Westminster. All the money comes back into Northern Ireland from Westminster. The folks who were at the table before you suggested that they would like the best of both worlds but had no costings for that. Does the Department have any costings for both worlds?

Mr McGowan: There is not a costing for both worlds. The figures are always very imprecise. We looked at the latest census figures from 2011 and tried to identify the number of families likely to fall into the catchment of the new scheme. We used figures from the census on parents who were both working and had children in the age ranges and came up with a figure of about 100,000 people. That

is not to say that 100,000 people will apply but, using figures, there is a potential uptake of 100,000 families. As I say, I am contrasting that with the figure that was quoted in terms of the number of families receiving the vouchers.

Mr Spratt: But the best of both worlds would be at a cost, I assume, to the Northern Ireland Executive.

Mr McGowan: The plain fact of the matter is that the employer-supported childcare scheme is supported through tax and national insurance reliefs. In effect, that is an excepted matter. Whether the Bill extends to Northern Ireland or not, the employer-supported childcare scheme — if it remains in the Westminster Bill and does not extend to Northern Ireland — the fact that the legislation that it is amending will extend to here will mean that that scheme will go. So, in effect, Northern Ireland will not have people able to join an employer-supported childcare scheme from autumn 2015. Unless there is some other local scheme, they will have no support from government.

The Deputy Chairperson: OFMDFM has never made any contribution of any nature towards the childcare voucher scheme, so I suspect that it would be a challenge to have it do so from now.

Mr McGowan: No. There is no financial support to that scheme; it all comes through tax and national insurance reliefs.

Ms McGahan: As a local MLA, I have been advertising the childcare voucher scheme in local newspapers. I do not know what that did to encourage local people to apply for it, but I know that there was a very poor uptake. Not all employers could avail themselves of it. I know people who were paying up on £800 in childcare for two kids and were unable to avail themselves of it. Childcare does not just affect low-income families; it affects people who take in a good income but most of it goes on childcare costs. Could this new scheme potentially push up the costs of childcare? What are the pros and cons?

Mr McGowan: It should not do that. At the moment, payments are made to the provider from the tax voucher account and likewise, under the new system, payments will be made to the provider for the costs of childcare. It should not have any impact on the cost of childcare because there will be little administration for the provider, over and above what they are already doing at the moment. A lot of those childcare providers will have accounts for the current voucher system, so there should not be any —

Ms McGahan: Just to clarify, all families can apply for this, whereas, before, it was limited to certain employers? Is it that how it works?

Mr McGowan: I have to admit that a range of eligibility criteria is set out, but, essentially, it has to be families in which both parents are working.

Ms McGahan: Both parents? What about single parents?

Mr McGowan: No distinction will be made. A single parent, working, will receive the same support as two working parents. So, yes, a single parent can apply.

Mr Maskey: Does that mean that, if the two parents are not working, they cannot apply because they are not eligible?

Ms McGowan: That is correct.

Mr Maskey: Is that not adverse?

Mr McGowan: The target of the new scheme is to support working families and the way it is structured is that both parents must be working.

Mr Moutray: Can I ask you about this? The presenters previous to you, in their written submission, raised concerns about the application process. What can you tell us about the application process to allay the concerns that they have? They talked about the possibility of it being a complex process, one that will have to be reviewed every three months.

Mr McGowan: The intention is that the system of applying will be as simple and easy as the current system. There are still decisions to be taken as to who will run and administer the childcare online accounts. I think that a final decision has not yet been taken. The previous presentation by Employers for Childcare alluded to a recent consultation in relation to who would run the accounts. To all intents and purposes, it should be a simple and easy system for parents to access. It will be online, with help for those who cannot access an online account. It will be similar in that there will be an online account. Parents can put money into that account and that money will then be topped up by a payment from government. The money will be in the account and will go to their registered childcare provider.

There will be three-month entitlement periods. At the beginning of that period, you will have to show that you are eligible and entitled to it, and you will remain entitled for those three months whether or not your circumstances change. At the end of the three-month entitlement period, you will have to show eligibility again. However, if there is no change to your circumstances, there is no issue with your continuing to receive support.

Mr Moutray: OK. There was one other point that you made in answer to Jimmy Spratt that I did not pick up. This scheme has already been agreed by the Executive in principle, is that right?

Mr McGowan: The Executive have agreed that they wish to seek to promote and bring forward a legislative consent motion. The legislative consent motion will be debated on the Floor of the Assembly, but the Executive have agreed to support the motion.

Mr G Robinson: One small question: has there been an awareness campaign to let parents and people know that it exists?

Dr Tyrrell: When the scheme is introduced, we will promote the new financial assistance as part of the promotional work undertaken under the Bright Start childcare strategy. We will encourage all the childcare settings that we support to promote the assistance to their service users. That will be a condition of their receiving funding under the Bright Start strategy.

Mr G Robinson: However, as it stands, there is no campaign to let people know.

Dr Tyrrell: Only what HMRC is doing.

Mr McGowan: To a degree, this is still subject to legislation. The Bill will provide the statutory basis for that. There will be a campaign to promote it at a point in time. However, as I say, the legislation has just been introduced at Westminster. Any awareness that there is has come through consultation processes that have already been run. There is an awareness that something will happen down the line, but, clearly, the actual promotion of the scheme will —

Mr G Robinson: It would be premature yet to —

Mr McGowan: There is awareness, but physically promoting it is something that HMRC will do in due course.

The Deputy Chairperson: In closing, gentlemen, can you tell me exactly how many local stakeholders you wrote to in relation to the consultation?

Mr McGowan: Those whom we wrote to were those who responded to the childcare strategy consultation.

The Deputy Chairperson: Off the top of your head, you do not know how many that is at this stage.

Dr Tyrrell: If it is equivalent to the number who sent in written responses to the consultation document, it is between 60 and 70. There were between 60 and 70 detailed written responses to the consultation document, and each of those stakeholders was approached.

The Deputy Chairperson: OK. How many responses did you receive?

Mr McGowan: We asked that they respond directly to HMRC and copy their response to us. I would need to check —

The Deputy Chairperson: How many copied responses did you receive?

Mr McGowan: I do not have that.

The Deputy Chairperson: OK. How quickly can you provide us with an accurate list of the organisations that you wrote to and the responses that you received? We are going into recess. Is that something that you can do in a matter of days, for example?

Mr McGowan: I am sure that I have information —

The Deputy Chairperson: Can you give it to the Committee Clerk in the next few days?

Mr McGowan: Yes, that is not a problem.

The Deputy Chairperson: OK. Gentlemen, whether or not the Executive have released the LCM to come for Assembly consideration and whether or not this is a better scheme, there have been quite a few, hopefully constructive, questions raised by the Committee today. On foot of that, I find it astonishing that the Committee was not advised or communicated with by the Department when the consultation was live, not least given how many different sessions we have had on the issue of childcare in the time since then. Moreover, for an organisation such as Employers for Childcare, which I am aware has assisted a huge number of families with childcare across Northern Ireland — frankly, in the absence of assistance from OFMDFM — to feel that it has not been communicated with on this issue is poor as well.

It is an increasingly complicated framework for families and parents to know how to engage with and avail themselves of childcare opportunities, and it does not feel as if OFMDFM is any closer to making it less complicated. Hopefully, the criticisms and feedback that we have put to you today are constructive. You can have a think about how you can utilise the Committee more to assist with addressing those concerns. We will take on board the information that you have said you will provide to us as soon as possible.

The Committee has a decision to make. However, given the late stage at which we have received a briefing and communication on this issue, we will be required to take a decision on it at our next meeting. We may have to think creatively about how we feed our own views into that. Thank you for your presentation and for taking our questions.

Mr Cree: Chair, may I ask two quick germane questions when we have the gentlemen here? I do not see any reference to the legislative consent motion of either Scotland or Wales. Do you know if that is because this childcare function has not been delegated?

Mr McGowan: The legislation extends to Scotland and Wales.

Mr Cree: Yes, it is GB legislation.

Mr McGowan: It extends there, so they are not required to —

Mr Cree: So, it is not involved there.

The other point is that, in the Bill, I see reference to universal credit, which presupposes that that will apply here. How do you propose to handle that one?

Mr McGowan: If you look at it, you will see that there is a crafty construction of wording that refers to —

Mr Cree: But it does not exclude Northern Ireland.

Mr McGowan: I would need to look more closely at the wording, but the way it is drafted is flexible in relation to whatever welfare system exists here at that time.

Mr Cree: I think that it is more specific on universal credit. Perhaps you could come back on that one.

Mr McGowan: I can.

Mr Cree: Thank you.

Mr Maskey: That is where we will need creative ambiguity.

Mr Cree: I knew that you would like that.

The Deputy Chairperson: Gentlemen, thank you very much for your presentation.