



Northern Ireland
Assembly

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

OFFICIAL REPORT (Hansard)

Childcare Payments Bill:
Legislative Consent Motion

1 October 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mike Nesbitt (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Alex Attwood
Ms Megan Fearon
Mrs Brenda Hale
Ms Bronwyn McGahan
Mr Stephen Moutray
Mr George Robinson
Mr Jimmy Spratt

The Chairperson: I am grateful to Margaret Rose McNaughton and David McGowan, who are in the Public Gallery at the moment, for making themselves available should we have any further questions. Members, we had a useful meeting with the junior Ministers on Monday. I thank the members who represented the various parties, and I put on record my thanks to the junior Ministers for making themselves available and for the quality of the exchange, which was first-class.

Members, I assume and hope that we are all agreed that, if we do not bring forward the legislative consent motion (LCM), the current childcare arrangements will fall in the autumn of 2015 and there will be no scheme available to any of our citizens. Therefore, I assume that we want to bring forward the LCM.

Mr Spratt: The one caveat is that we know that there will be some losers, but it sounds like they are at the high end of the tax scales.

The Chairperson: The junior Ministers suggested that, while they are not entirely sure about who will be less well off after the change and how many people will be in that category, their best guess — it might be a bit stronger than a best guess — is that it will be the 40% taxpayers.

Mr Spratt: The important thing to bear in mind — I raised it at the last meeting — is the fact that a lot of people cannot get into the present scheme, such as those who are self-employed etc. Other than that, we do not have any issues with it.

Ms McGahan: It is important that we engage with all stakeholders to identify the gaps. On the back of Jimmy's point, I am talking to women who pay £800 a month, and, for whatever reason, their employers will not run with the childcare vouchers. I do not know why. It is important that we engage with all the stakeholders to identify the gaps, and that, obviously, will be in line with the childcare strategy.

The Chairperson: It is a point well made: you cannot avail yourself of the current scheme unless your employer is prepared to get involved, whereas, under the new scheme, it is a straight relationship between the family and the Treasury.

On the theme of employers, we have received two letters from groups that represent businesses: the CBI and the Federation of Small Businesses (FSB). They have several thousand members in the small business sector, which is nearly the entirety of our private sector. They make the point that, because of the way in which the current scheme works in terms of national insurance contribution —

Mr Lyttle: Savings.

The Chairperson: — it could cost the local private sector up to £13 million. We, as an Assembly and Executive, always say that the economy is front and centre of everything we do, so we cannot just ignore the fact that there will be an implication for the private sector. It is regrettable, and it is probably one of the symptoms of why it was regrettable, that this has come to us so late. We are getting representations from those business organisations weeks after we should have. We are past our original deadline over the LCM.

Mr Lyttle: I am just about content to allow the legislative consent motion to proceed. That has been the view of most of the people the Committee has consulted with on the grounds, as you say, that childcare assistance would fall if it did not happen. I do not know how it can be worked into reports or whether it is for me to make these comments when the LCM is being debated, but I will be making a strong caveat, as some people have already mentioned, based on my serious concern at the wholly inadequate nature of the consultation from OFMDFM. It failed to consult the Committee, the public, working families, childcare organisations and, as you have alluded to, businesses.

The point has been made that, whilst it will simplify access to childcare assistance for many people, certain profiles of parents and guardians will be less well off under the new arrangements. I totally disagree with the narrative that is being developed that it is only going to be parents in high tax brackets. There is a wide range of profile of parents, from, maybe, one parent in a part-time situation and trying to access a certain amount of childcare in order to spend time with their children at other parts of the week. That narrative is false. I am happy to get details to make sure that I respond to it in a robust manner.

Children over 12 are going to be ruled out, and, as you have said, businesses that have participated in the existing childcare voucher scheme are going to experience significant lost savings as well. If there is a way to record that in relation to the passing of a legislative consent motion, I am keen for that to happen. Otherwise, I am happy to emphasise those comments.

Perhaps the most important caveat is that OFMDFM has given clear commitments to work with childcare organisations and other key stakeholders to make sure that the Northern Ireland childcare strategy adequately responds to those profiles that will be less well off as a result of changes. We need to keep a close watching brief to ensure that that happens.

The Chairperson: I will take the cost to the business community first, Chris. I am assuming that that can be quantified, absolutely to the penny. I suggest that the Committee simply needs to be aware of that, and I ask the Department to be aware of it. I am not sure if we can make any proposals as to how to mitigate that. Secondly, take a family that is going to be disadvantaged by the new scheme. I am not clear about who, if anybody, will tell them. Who is going to say, "Do you know what? If you had been able to access the old scheme, you would be x pounds a week better off"? Is there going to be some sort of unit set up in one of our Departments to monitor that? I cannot see it.

Mr Lyttle: I suppose that we will know, and other people will know, but, perhaps most importantly, the level of assistance that they will receive may not be as significant as some of the headlines around the scheme are suggesting it will be. Therefore, the point is not so much that we need to advise them that they will be less well off but that we need to make sure that they get the assistance they need and deserve to ensure that they have access to affordable, high-quality childcare in the format that they need it to allow them to care for their family and, at the same time, enter work in a way that is suitable for them.

The Chairperson: As you know, Chris, the point was made at the meeting with the junior Ministers that this is only one part of a bigger picture on childcare. If we get the LCM across the line, it seems that there will be a willingness from the Department to say, "As we fill in the big picture for childcare,

we will try to scope and find out the profile of the people who are likely to lose out through this transition and, where appropriate, the bigger strategy will try to take account of that." When I say "where appropriate", I do not think that there would be a huge amount of sympathy from the junior Ministers if the losers, to use that phrase, are the 40% taxpayers. They would not be the number-one priority, let us say, in this strategy.

Mr Lyttle: Working families that need assistance would be.

I also put one other thing on record quickly to pre-empt the developing narrative that the existing scheme has in some way failed. Having worked closely with some of the organisations, such as Employers for Childcare, for example, it is worth putting on record the huge efforts that that successful social enterprise has made to promote that UK-wide scheme to working families across Northern Ireland. It has also assisted them to avail themselves of one of the only sources of childcare assistance that has been available to them over the last 10-plus years. It is important that its work on this issue is recognised and not forgotten.

The Chairperson: Mr Spratt first and then Mr Attwood.

Mr Spratt: If Alex wishes to come in first, I am happy to speak after him.

Mr Attwood: Thank you. The Committee on the Administration of Justice (CAJ) was this week granted leave to seek a judicial review of the failure of OFMDFM to bring forward an anti-poverty strategy. We know that OFMDFM is too often a place of inertia, not decisive outcomes. We have multiple examples of that. Whilst I will not resist this going to the Chamber, for now, I reserve my position on it.

Although some good words were said at the meeting with the junior Ministers, I take those with a pinch of salt. Between now and the LCM being debated on the Floor, I want to see firm commitments, timelines and a work programme, whereby the numbers of those viewed as potentially suffering disadvantage will be scoped out. I want confirmation of where HMRC is on all of this and that the technical work will be undertaken to ensure that, in the event that the decision is taken, there will be a bespoke scheme for those in Northern Ireland who will be disadvantaged. The timeline should be by Christmas, because I am worried that this will go back into OFMDFM, it will be subject to inertia and, by this time next year, when the current scheme ends for new entrants, it will all still be up in the air. That is probably not an unreasonable assumption, given the many issues that are up in the air in OFMDFM, to the point where the court grants leave to seek a judicial review. I want to see and hear all that between now and when the LCM is debated in the Chamber.

So, whilst I will not resist the LCM going forward today, I want to see this tied down. Hopefully, I am wrong, but my sense is that we could end up in the situation where a hard proposal for a bespoke voucher scheme for those here who suffer disadvantage, or interventions to deal with other disadvantaged groups, may not be taken forward. Arguably, you could end up with the bizarre situation of moneys being surrendered because, at the moment, they are unspent on childcare, and then we would all look pretty foolish. Therefore, while noting the encouraging words at the meeting during the week, I would like to see all of that in writing, tied down and spoken by the junior Ministers.

The Chairperson: Given the history of it coming through this Committee, a good debate in the Chamber is all the more necessary and welcome.

Mr Spratt: I have a couple of points. Your original point was about the CBI and the FSB coming to the table late. I cannot believe that those organisations, given that they are national organisations, only became aware of this in the last couple of weeks. I suspect, given the tax advisers that those organisations have and business has, that some conversations would have been taking place at national level. I suspect that somebody else wrote to them and asked them to throw in their tuppence worth.

I go back to the point in relation to the many people who will benefit from the whole issue. The people who will benefit will be the self-employed people who could not get into any scheme before. That is a very large tranche of people, and most of them have accountants or tax advisers, given that they are running their own businesses yearly. So, they will be advised in relation to any benefits that they can get through the HMRC scheme.

I hear what Alex said in relation to money not being spent, but, unless I am wrong and Mr Attwood is able to tell me that I am wrong, I believe that all the money that we are talking about in both the voucher and the proposed new scheme is coming from Treasury and is not part and parcel of the Northern Ireland block grant. But I agree entirely that any money that might be available in terms of the childcare strategy is — *[Interruption.]* I did not ring you this time, by the way. We need to monitor that over the next period of time. I do not disagree with any of that.

The Chairperson: Are you happy about that aggressive intervention from Mr Moutray's telephone?

Mr Spratt: He was possibly recording me to report me to headquarters.

The Chairperson: In fairness to Alex, he is referring to the £12 million in the childcare budget rather than this scheme, which is Treasury money and is additional to the block grant.

Members, I think that the Committee has exhausted this. There are two sections to our LCM report. One is in your pack, and the other is in tabled papers. Paragraphs 1 to 21 are effectively a factual account of our consideration of the LCM, the proposals to date, what we have discussed and when we have done it. So, can we agree that, including yourself, Alex?

We are maybe having a bit of a divergence when we go on to the final paragraphs. There are three draft paragraphs that will replace paragraphs 22 and 23. The bottom of paragraph 24 is the one to highlight:

"The Committee therefore agreed at its meeting on 1 October, to support the legislative consent motion to extend the provisions of the Childcare Payment Bill to Northern Ireland. However, the Committee strongly recommends that the Department undertakes a scoping exercise to identify the categories of people who will be disadvantaged under the new scheme and, where appropriate, ensures that their needs are addressed within the wider childcare strategy."

Mr Lyttle: Is that a new paragraph, Chair?

The Chairperson: Yes, that was drafted on foot of the meeting with the junior Ministers and officials.

Mr Attwood: The consequence of that is that, if there is no further development of a childcare strategy between now and this time next year, we would lose the opportunity to do something bespoke in respect of this matter. I think that that is putting too many eggs in that particular basket. We should toughen up to demonstrate what interventions there will be to provide reassurance that the issue of childcare vouchers for disadvantaged people will be decisively addressed and when it will be decisively addressed, either within or beyond the childcare strategy. That is a position of strength, as opposed to just saying, "Well, we'll wait and see what the childcare strategy produces, if it produces anything, and if it produces anything in good time". The experience is that it does not produce as much as it should in good time. Besides Bright Start, we do not have a childcare strategy.

The Chairperson: Alex, to be clear, are you suggesting that we go back to Treasury to see whether —

Mr Attwood: No.

The Chairperson: No? There are only two pots of money: there is Treasury, which has said, "This is what we want to do", and the Executive, particularly the £12 million in the childcare strategy. It seems that this form of words says, "If we see a group of people being disadvantaged by the change and we think it is appropriate to help them, we will do that within the broad strategy".

Mr Attwood: My preference would be to add at the end of that paragraph the words, "or otherwise, and to bring forward proposals by January or February of next year".

The Chairperson: So, it would say, "under the new scheme and, where appropriate, ensures that their needs are addressed within the wider childcare strategy, or otherwise, and this is done" —

Mr Attwood: "To bring forward proposals by February of next year". It is the only way in which we will —

Mr Spratt: Define "otherwise".

Mr Attwood: It might be that —

Mr Spratt: Will you define "otherwise"? That is the question I asked you.

Mr Attwood: There might be no further developments in respect of the childcare strategy, for all we know.

Mr Spratt: Well, that is always your soapbox stuff.

Mr Attwood: If it can be done in the childcare strategy, that is fine. If it cannot be done within the time available because there are no further developments, let us not throw the baby out with the bath water.

Mr Lyttle: I am happy to support that.

Mr Spratt: We are not happy to support that.

Mr Attwood: I propose an amendment to add to the end of the paragraph, "or otherwise, and to bring forward proposals by February of next year".

The Chairperson: Do we have a seconder for that?

Mr Lyttle: I second that.

The Chairperson: We will take a vote. Can we have an indication from members on that amendment?

Ayes 2; Noes 5; Abstentions 1.

AYES

Mr Attwood, Mr Lyttle.

NOES

Mrs Hale, Ms McGahan, Mr Moutray, Mr G Robinson, Mr Spratt.

ABSTENTIONS

Mr Nesbitt.

Mr Lyttle: Paragraph 24 talks about undertaking a scoping exercise to identify the categories of people who will be disadvantaged. That is work that should have already been done. Mr Spratt said earlier that FSB and CBI should have known about this. The Department knew about it and has wholly failed to communicate with key people affected by it or to do work to identify — this is the lead Department for childcare — key gap areas for which the new scheme is not going to provide.

The Chairperson: We have been over that ground, Chris. We have made the point.

Mr Lyttle: OK. We will keep making it.

The Chairperson: OK.

Mr Lyttle: I am not content with the language in paragraph 22:

"Members heard that the current voucher scheme is complicated and take up is low".

The take-up was low in the current voucher scheme because OFMDFM did absolutely nothing to promote the voucher scheme to parents and families across Northern Ireland, while other social enterprises with nowhere near the same resources as the lead Department did much more to promote it and got people on the scheme and got families assistance. I am not content with that without any balance in that narrative to recognise that work was done to ensure that families accessed it.

The Chairperson: Let me be clear, Chris, because there may be two issues: factually, are you saying that you are or are not content with the phrase "take up is low" as a matter of fact?

Mr Lyttle: No, I am not content with it. Take-up could be higher, but there is no explanation of why that is or what work needs to be done on that.

The Chairperson: The second point is whether you want some sort of narrative to explain why take-up is low, but I have to know whether you are content with take-up being low as an accurate description.

Mr Lyttle: More work should have been done to ensure that more people were aware of it.

The Chairperson: Are you contesting that the take-up is low?

Mr Lyttle: No, I am not.

The Chairperson: So you are saying that you want to add a narrative to explain why take-up is low.

Mr Lyttle: Yes.

Ms McGahan: On the back of Chris's point, it is important that we ask ourselves as elected reps what PR we have done locally. As an MLA for Fermanagh and South Tyrone, I know that a statement was carried in the papers that the take-up was low and encouraging people to get more involved. I do not know whether that made a difference, but we have a PR duty as elected reps.

The Chairperson: Certainly. Yes.

Mr Lyttle: I am happy to provide evidence to the Committee, if that is what is being requested.

Ms McGahan: It was just a comment, Chris, on your point.

Mr Lyttle: I agree with the point. Absolutely. We all have a role to play.

Mr Spratt: I get the impression that we are going to try to change every line in every paragraph. Surely the place to make points is the Chamber, and the rest of us can decide whether we accept them.

The Chairperson: Yes, but you do not want to be a hostage to fortune by arguing something and then being challenged in the Assembly on why you did not object in Committee. Further to Jimmy's point, are there other parts of paragraphs 23 and 24 that anybody wishes to change, or is this the last bit?

Mr Lyttle: Paragraph 22 states:

"one of the groups that is better off in the current scheme are those in the higher tax bracket."

I do not feel that that is factually accurate.

The Chairperson: I heard junior Minister Bell and junior Minister McCann say that.

Mr Lyttle: Yes, but I do not always agree with junior Minister McCann and junior Minister Bell.

Mr Spratt: That is where you are going wrong.

The Chairperson: Chris, paragraph 22 begins:

"A delegation from the Committee met with junior Minister Bell and junior Minister McCann on Monday 29 September."

It continues, "Members heard", so this is a report of what they told us. It is not a report of what is, necessarily, factually accurate.

Mr Lyttle: Later in that paragraph is the sentence:

"It was highlighted that all entrants to the new scheme will be on an equal footing".

I disagreed with that language in the meeting, and I still disagree with it. We have consensus that there are policy intentions behind the new scheme that will benefit many, but others will not get the assistance that they most likely need. That sentence continues:

"whereas one of the groups that is better off in the current scheme are those in the higher tax bracket. "

Maybe we could cloak that sentence by adding, "Junior Minister Bell and junior Minister McCann said".

The Chairperson: We make the point twice. In the very first line, we mention that the Committee met:

"junior Minister Bell and junior Minister McCann".

The next sentence begins, "Members heard", which clearly reflects that the information is coming from them. Then, later in paragraph 22:

"The junior Ministers also advised that".

Are you proposing that we put in a third reference? It might read, "It was highlighted by the junior Ministers that all entrants to the new scheme will be on an equal footing".

Mr Lyttle: Yes. That change makes it clear that the junior Ministers said that, and I can disagree with their view when the time comes.

The Chairperson: In the middle of paragraph 22, the current wording is:

"It was highlighted that all entrants".

Can we change that to, "It was highlighted by the junior Ministers that all entrants"?

Mr Spratt: Yes, that is factual.

Mr Lyttle: Chairman, the only problem is that this is our Committee report. Although we are saying that the junior Ministers said it, it is our report. That is the information that we are choosing to put into the public domain, and there is a heck of a lot of information that I, as a Committee member, would want to put into the public domain in preference to that.

The Chairperson: Am I wrong here? I think that this is a factual account of what happened in that meeting, and that is what the report is supposed to provide. Then, when the report goes to the Chamber, you can let rip with, "I tell you what, they told me — pfft". Can Hansard spell "pfft"?

Mr Lyttle: OK, on those grounds.

Mrs Hale: Chris, for clarification, under the old scheme, the higher earners — those claiming 40% tax — were also benefiting from it. The "equal footing" refers to the fact that it will go down to 20%, so everybody would get the same sort of childcare, not just those in the higher tax bracket. That is what it means: in the current scheme, if you are in a higher tax bracket, you are better off under the scheme.

Mr Lyttle: Yes, you get the tax relief in your bracket.

Mrs Hale: In the new scheme, everybody is at 20%, so, in that sense, everybody is on an "equal footing".

Mr Lyttle: Maybe there is a way to clarify the language to make it clear that it is to do with the tax relief that people experience. There are two parts to it: the maximum amount of salary sacrifice; and tax

relief. Everyone received the same maximum amount of salary sacrifice, but tax relief differed commensurate with the bracket that people were in.

The Chairperson: So, for this sentence in paragraph 22, we now have, "It was highlighted by the junior Ministers that all entrants to the new scheme will be on an equal footing with regard to tax relief".

Mr Spratt: Is that not what it already says when you continue reading:

"one of the groups that is better off in the current scheme are those in the higher tax bracket."?

Is that not self-explanatory?

Mr Lyttle: Yes, but it means better off with regard to tax relief.

The Chairperson: For the sake of it, Jimmy?

Mr Spratt: I am not going to die in a ditch over it, but it is very pedantic. I think that somebody is looking for a sound bite.

The Chairperson: Now, now.

Mr Spratt: It is true. If I think it is true, I will say it.

The Chairperson: So, after "an equal footing", we add, "with regard to tax relief".

Mr Lyttle: It adds to the accuracy.

Mr Attwood: When you talk about sound bites, I am tempted to ask this: who are the pygmies and who are the lemmings?

The Chairperson: Now, now — come on.

Mr Spratt: Do not tempt me to tell you, Alex. You might be embarrassed.

The Chairperson: With the agreed changes to paragraph 22, are we content to adopt this as our report on the LCM?

Members indicated assent.

The Chairperson: Thank you very much.

Members have a list of appendices. Are we content to approve the appendices to the LCM report?

Members indicated assent.