



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Welfare Reform Bill:
Agreement of Committee Report

14 February 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mr Sydney Anderson
Ms Paula Bradley
Ms Pam Brown
Mr Gregory Campbell
Mrs Judith Cochrane
Mr Michael Copeland
Mr Mark Durkan
Mr Fra McCann
Mr David McClarty

Witnesses:

Ms Angela Clarke	Social Security Agency
Mr Brian Doherty	Social Security Agency

The Chairperson: Members, we are resuming our work on the Welfare Reform Bill. We are almost at the conclusion of this. The main reason for today's session is to agree the Committee's report on the Welfare Reform Bill. There are a couple of issues to consider prior to proceeding with that. On Tuesday, we completed our formal clause-by-clause scrutiny of the Bill, but it has been brought to our attention that there may be an issue with clause 115, which is about cautions, that requires a wee bit of clarification. Kevin revisited the Hansard reports from the other day, and when he and I discussed this, we were not entirely sure about the intent of the members and about how the vote ended up. It is a little bit confusing, to say the least. Kevin will take us through the points.

The Committee Clerk: Once we got to the issue of cautions, particularly clause 115, an issue was raised. Members had a discussion about informal and formal cautions. Clause 115 relates to formal cautions, and, as members know, if the Department has investigated an attempted fraud and a person has been found actually to have attempted fraud, the Department can currently issue a formal caution that goes on the record and has potential implications for job applications, travel arrangements and various other things. Clause 115 will remove the Department's option to deliver a formal caution and, instead, will replace it with a more severe administrative penalty. That refers to clause 110. The Committee had considered all along that it wanted to oppose that clause and, therefore, retain a formal caution. Subsequently, when the Department clarified the situation, the Committee was moving more towards agreeing that clause, so that cautions would be removed and the administrative penalty would be applied instead. That is coupled with the Committee's recommendation that the Minister would review the levels of the administrative penalty in conjunction with that.

When going through the Hansard report the other day, I noticed that — I think we were discussing the amendments of the Examiner of Statutory Rules at the time. When I went through the report, I noticed that the Committee had actually opposed the clause. That means that if the Minister were to act on that, they would keep cautions. However, in the Minister's response, he indicated that if we were to keep formal cautions as an option, it would mean that they would retain the formal caution as an option for attempted fraud. Rather than the £350 administrative penalty for attempted fraud, a person could, potentially, end up with a formal caution, which might seem somewhat disproportionate.

I want the Committee to be clear on the decision that it has taken. There is still an opportunity, if I have misunderstood the Committee's intentions, to change that clause, given that the Committee has agreed to oppose some of the other clauses so that the Minister would review the administrative penalty. You want to agree the clause and, therefore, have the formal cautions removed, coupled with the Minister reviewing the level of administrative penalty that would apply.

Mr Brady: I think the issue was around the fact that the formal caution could go on somebody's record and, therefore, impinge on their future — as you say, travel and all of that. The informal caution was warning people off. Presumably, if there was a repeat, there would be more severe action — maybe they would be taken to court, or whatever. The formal caution has removed that option. If you get a formal caution, it is going to impact on your future life, basically. It is a criminal record, essentially, and I think it is disproportionate.

The Chairperson: Do you want to leave it as it is?

Mr F McCann: I take the position that it puts in place what the Committee had asked for, which was that nobody ends up with a black mark on their record that may prohibit particular things.

The Committee Clerk: That would mean that the Committee would have to agree the clause. Agreeing the clause means that the Minister would proceed as he intends, which is to remove the option of a formal caution, and an administrative penalty would be applied instead.

Mr Campbell: My understanding is that that was the Committee's desire.

The Committee Clerk: Yes, it was. It was simply that the Committee actually opposed the clause, but should have agreed it. However, the intent behind the Committee's decision was as per the Minister's action, which was to remove formal cautions as an option.

Mr F McCann: Is there a form of words that allows us to move ahead on it?

The Chairperson: Agree the clause.

Ms P Bradley: We just formally have to agree the clause.

The Committee Clerk: Agree the clause, as drafted.

The Clerk of Bills: If you change what you did the other day, you will be consistent with your recommendations report. As it stands, you are not consistent.

Mr Campbell: We have to try to be consistent.

The Chairperson: Are members content with the clause, as drafted?

Members indicated assent.

The Chairperson: That is in the record now; we have amended that.

Just, again, to say that these are procedural matters, really. The Committee was not content with a number of clauses as drafted, and has the option of registering formal opposition to the question of those clauses standing part of the Bill. That would ensure, simply, that, in the absence of any amendments to those clauses, they are debated at Consideration Stage — formally logged for debate.

The Committee Clerk: That is right. If the Committee wants, the Clerk of Bills can come in here, but formal clause-by-clause is concluded. Lodging the Committee's opposition to certain clauses gives speaking rights at Consideration Stage to indicate why the Committee took the action that it did. I think I am right in saying that it gives the same weight as amendments.

The Clerk of Bills: Yes.

The Committee Clerk: We can do that between now and Consideration Stage, if the Committee is minded to do so. Otherwise, as the Committee knows, the Consideration Stage debate will focus on amendments. The Chair will be given some latitude for his speech, but, otherwise, you will not be able to address these issues if they are not put down as amendments.

The Chairperson: It makes sense to do that because, at the end of the day, there are points that people want to make one way or another during the debate. Are members content that we do that?

Members indicated assent.

The Chairperson: Again, as circulated, we have an amendment being tabled by the Department. Obviously, as we have concluded the formal clause-by-clause stage, any further amendments by the Department would be brought forward at Consideration Stage. However, officials are here. The matter has been raised before. Members had some discussion about it. It is obviously an important issue. Are members content that we take the amendment? We might not even need a debate as such, but officials are here to assist if needed. The amendment was circulated. There is an introductory letter from Angela Clarke that sets it all out. I hope that members have had an opportunity to read that.

Mr Brady: The whole point of discretionary support is to ensure that it targets the people who most need it. The initial intention of the social fund was to do that, but it kind of got lost somewhere along the way. Basically, it is used to top up people's benefits because people — [*Inaudible.*] — what they were getting. It is all about who it targets. If it is to be effective, it has to do that.

The Chairperson: OK. Are members content with the amendment? It will be subject to Executive approval by way of statutory regulation, and so on, so there will be plenty of opportunities to deal with the details, and so on, at a later stage.

Members indicated assent.

Mr Brian Doherty (Department for Social Development): Thanks very much.

The Chairperson: That was an easy one, Brian.

Ms Angela Clarke (Department for Social Development): Thank you very much.

The Chairperson: Those are all the items from the formal clause-by-clause scrutiny that we did the other day. Are members content to agree the report? I want to clarify a couple of items in my own mind. Obviously, we went through the Bill clause by clause. There is quite a volume of contributions, debate, evidence gathered, views and assertions by a whole range of people, not least this Committee. There were two or three items there that I am not sure — I just have to recall — whether we actually did put any formal recommendations. For example, we discussed the issues — and were heavily lobbied, as people know — around a statutory right to independent advice. If I recall, members were broadly supportive of that concept. However, we did not discuss any particular mechanism for that or means by which the Department would deliver on that. It would probably be appropriate, if members agreed, that we could make, for example, one of the options open to us: a recommendation that the Minister or Department considers this, rather than us putting a formal proposal. I would be content for us to ask the Department to consider that. I am not sure how precisely that might be done. It could be a contract that is given out; I do not know. I do not want to get into trying to determine who might deliver on it, but I would like the Department to formally consider it.

Mr Brady: I think that £69 million was mentioned the week before last. I am not sure how much of that might or might not apply here for advice services. Our intention was to ensure, because of the

complexity — we have been told how simple universal credit is going to be, but I am certainly not convinced from listening to the officials. They are having difficulty explaining how simple it is. There is going to be a huge pressure, as there is already, on the advice sector. The other thing, too, is the whole issue of effective benefit take-ups. There have been a number of benefit take-ups over the past few years that have been effective to some degree. Take pension credit as an example; there is about £1.9 million unclaimed every week, so, obviously, it cannot be that effective. One of the things that we talked about was how the scheme was run in England in automatic entitlement — *[Inaudible.]* — people whom you think might be entitled, then eventually sorting out the people who actually are entitled, after a three-month period or whatever. That seems to have been very effective in parts of Britain. We did not have that option. So there is that, and the other big one that we discussed was the benefit cap. I am not sure what positions, if any, have been taken on that. It was just really, if you will excuse the phrase, to flag that up with you.

The Chairperson: The first issue raised there was the statutory right to independent advice. Am I right in reading that members were sympathetic to that concept, without going into detail?

Ms P Bradley: I think that we were all concerned about that. At Question Time on Monday or Tuesday, that was one of the questions that the Minister was asked, and he was quite open to that. He said that there were going to be more people phoning in to the Department and its local offices needing advice, so he is aware of that. I do not think that putting that down is a big ask.

The Chairperson: So, we will put in a recommendation that the Department and the Minister should formally consider supporting this particular concept. Is that fair enough?

The Committee Clerk: I have actually put in a recommendation to that effect.

Ms P Bradley: Have you now?

The Chairperson: Do we have that in? Well, that is why I was —

Ms P Bradley: There you are. Was there a meeting going on before this? *[Laughter.]*

The Committee Clerk: No, it was on the basis of Mr Durkan raising the point about the £65 million. We just looked it up. It is in the executive summary and the recommendations. I refer members to the recommendations, at paragraph 83. I do not know whether this is strong enough for the Committee; I put it in on the basis of what is coming out of Westminster and the £65 million fund that there is to support the advice sector across the UK. When officials were here at the last meeting, they indicated that, if it were UK-based, Northern Ireland would be subject to accessing that funding. It is just that little bit at the end, where I put in:

"The Committee recommended that appropriate resources are made available to the independent advice sector in NI during this period"

— that is April 2013 to April 2015, which is the key period when this is rolling out —

"to ensure that all benefit claimants can access independent advice as they prepare for the transition to the new system."

Does that encapsulate what the Committee wants, or is it actually more focused on the recommendation for a statutory provision? If so, that would really mean amending the Bill, as we discussed before. It would appear that funding is available.

The Chairperson: OK. Although, in saying that, we do not know. We may or may not get something out of it.

Mr Brady: There are many small, local advice centres. There are the big regional ones — National Association of Citizens Advice Bureaux (CAB), Advice NI and people who are affiliated — but there are a lot of small, local advice centres that do a lot of very good work. Sometimes, they feel that they are being bypassed in funding. I know that myself. I worked in a centre for many years, and for the first 17 years, we got little or no funding. It was only when matching funding came from the Department for Social Development that we started to get money from councils and that kind of thing. So there are many small, local advice centres, and I think that any system has to ensure that they

benefit from any funding that is available. I think it is unfair that sometimes, if you are not affiliated to some of the regional organisations, you do not necessarily come in under that.

Mr Copeland: It is just the idea — maybe I am reading it wrong:

"as they prepare for the transition to the new system."

The real difficulties will come when they find themselves in the new system. The way that that is worded leans more towards people who are current claimants and who are going to have the nature of their claim altered, as opposed to those who may be entering for the first time. It is a moot point, and I suppose that it is open to interpretation, but I would have thought that the requirement for independent advice would go some considerable distance beyond the point of preparing for transition to the new system.

The Chairperson: Those are only a couple of words, which we could amend. Paragraph 83 goes a long way, certainly in my mind, to delivering what we want. If you want to add another couple of words, that would maybe firm it up a little bit, but, again, it is only a recommendation to the Minister and the Department.

Mr Copeland: On a point of information or interest, there is a motion coming from the all-party group on mental health, through Sue Ramsey, which is more strongly worded. It might be an idea to have a look at it in case we find ourselves at cross purposes.

The Chairperson: This is more general. That is from the Health Committee.

Mr Copeland: Yes, but it is specific to advice.

The Chairperson: We were sympathetic to the notion that people need to have access to independent advice. Paragraph 83 goes a long way, and we can insert a line from, in a way, the lobby, asking the Minister to consider the argument that people need access to independent advice. We have already agreed that we are going to lodge these so that we can speak to them in the Assembly and that people can elaborate on them if they so wish at Consideration Stage. Kevin, are you happy enough that you can recirculate it again to people, just asking whether they want to agree?

The Committee Clerk: Sure, I can do that. Is it a case of ongoing advice? Not just the transition from one system to another, but while they are in that system, their circumstances may change.

Mr Copeland: It has got to be ongoing.

The Chairperson: As you say, Michael, it might be a moot point, but at the end of the day, we all know it is from the outset. Actually, people need to have access to independent advice at all times, which is why the Department funds organisations: to make sure that they do have access.

Mr Durkan: What about the interpretation of "appropriate" resources? The Department might say that appropriate resources have been allocated. An additional £3.1 million has been allocated for that period already.

The Committee Clerk: If members want, instead of "appropriate" I can put in "additional".

The Chairperson: Are members happy enough with that?

Members indicated assent.

The Chairperson: With regard to the benefit uptake, which was referred to, members will again recall that even in the fuel poverty discussions, you keep coming up with the fact that, no matter when anyone, including the Department, has launched any kind of take-up benefit campaigns for people's entitlements, they always result in people getting extra money that they were entitled to but, until then, had not been claiming. So there is always this argument over whether the Department needs to have some structured way of making sure that there is a benefit check, either when people are applying or at some point during their claim. We need to make some recommendations. We need to seriously look at that.

At the Committee for the Office of the First Minister and deputy First Minister yesterday, we had a presentation from Employers for Childcare. There are a number of parents here who are not claiming tax credits or receiving some of the vouchers that are available, because they do not know about them or think it is too complicated. That is another example of where people are sitting here at the moment who are not getting what they are entitled to. That would help people to get into work, and so on and so forth, if you know what I mean. So, we need to make some recommendation around trying to get the Department to focus on a means by which claims will be processed, assessed or, if needs be, reassessed to make sure that people are getting what they're entitled to. Does that include advertisements, and so on and so forth? There has been some good work done recently, but we need just to get something so we can say that it was raised with us routinely and that we want to try to focus the Department's mind on the issue and see whether we can make an improvement in regard to it.

Ms P Bradley: I agree with that. Again, at Question Time the other day, that was another answer the Minister gave to somebody to do with the benefits uptake and how it has increased a heck of a bit in the past few years. However, there is still work to do.

In my previous life, I worked with over-65s. Of the people I asked whether they received any form of benefits or pension credit, 90% of them did not. I would say that out of that, a further 60% did not even want me to look at it for them. So, there are other reasons out there as to why people are not applying. It is not necessarily because they do not know. They may feel that there is a certain stigma attached to it, whatever it may be, and do not want to apply for it either. So, maybe it is to bring that knowledge wider, that you can get this; you are entitled to this.

Mr Brady: Unlike many MLAs, Paula listens at Question Time. That is good to hear.

The point that she made about older people particularly is a thing that I would call the "brown envelope syndrome". People here have been brought up to believe — it is almost part of our culture — that if they get a letter from the buroo or something, it is bad news. I experienced that for years. People would come in; they would not even open the envelope, but would hand it to you to open. It could have been a giro or good news.

My point is about benefit take-up. A lot of in-depth research has been done. In Scandinavia, people are paid automatically. When you reach pension age, for instance, whatever you are entitled to, you get. Research has been done here. Apparently, the Department for Work and Pensions in Britain has told people that it cannot do that because of postcodes. We have postcodes that are very straightforward and simple, and we have insurance numbers that are unique to the person. There is absolutely no reason why that cannot be done.

There is so much money spent on benefit take-up. It would seem simpler if we had a proper IT system. I do not think that we are going to get to that stage, but it would be simpler. It is an automatic payment. When you reach pension age, for instance, if you are entitled to the likes of pension credit premiums — all of that — that is all done automatically. They would obviously just put your details in and press a button.

Ms P Bradley: To follow on from what Mickey said, I worked for CAB for about five years and we had what was called a benefit maximiser. You put the details of the client into it and it printed off a sheet that said, even, the amounts of what you could be entitled to. It was simple. It was really very easy to do. There was nothing difficult about it.

The Chairperson: Are members content to draft a recommendation that calls on the Department to deal with that in a formal, structured manner, around the — what did you call it — benefit maximiser?

Members indicated assent.

The Chairperson: I only want to raise one more point, which is the benefit cap Mickey mentioned a minute ago. I want to raise that issue as an MLA and a member of my party, and not as the Chair of the Committee. We had some discussion around this, and I am not sure whether Kevin is going to produce a paragraph relating to it. Failing that, people know that there was a fair amount of discussion around that, and we got information on exemptions and other matters.

As a member of the Committee, I am concerned that because this is enabling legislation, we do not know where this might end up. I only really want to serve notice, if we do not have any formal

recommendation in relation to a benefit cap. I am not suggesting that we open up a discussion on that item at the moment, because I do not think that we would get agreement on it. I just want to formally record that I and my party colleagues are concerned about it. I am not suggesting that others are not, but I am just putting it on the record formally that, notwithstanding that we are content to agree the final report this morning, we are likely to raise this at Consideration Stage, possibly by way of opposition or some amendment. I am just serving notice of that and making people aware of it.

Are members happy enough with that? If there is nothing else that anybody else wants to raise, it is just left to ask members whether they are content with the final report of the Committee.

The Committee Clerk: Chair, we really need to go through it section by section. That is just in case there is a certain emphasis or wording that members may wish to address.

The Chairperson: OK. We will use the executive summary paper.

The Committee Clerk: Just to be clear, members, of course, know that there are tables of contents and a whole ream of appendices. In the end, the report will probably be two or three volumes. However, this is the body of the text that is of real concern.

Committee staff will deal with the table of contents, numbering and everything else. Once the Committee agrees the report — assuming it does — we will go over it again and look for any typos and things like that and change those. We will not change any of the content or emphasis of the report once it is agreed, subject to the two additional recommendations that the Committee would like to add.

The Chairperson: Members were provided with the report and asked to read through it again. It recaptures all that we have already agreed. We will formally go through it.

I ask members to turn to page 6 of the draft report. Paragraphs 29 to 84 on pages 6 to 12 form the recommendations of the report. This section lists the Committee's recommendations to the Minister.

Are members content with paragraphs 29 to 84?

Members indicated assent.

The Chairperson: I ask members to turn to page 13. Are member content with paragraphs 85 to 100?

Members indicated assent.

The Chairperson: Are members content with paragraphs 101 to 472 on pages 15 to 68?

Members indicated assent.

The Chairperson: Are members content with paragraphs 473 to 564 on pages 69 to 78?

Members indicated assent.

The Chairperson: Paragraphs 1 to 28 on pages 1 to 5 give the executive summary of the report. Are members content with those paragraphs?

Members indicated assent.

The Chairperson: On that basis, are members content that the report be the fifth report of the Social Development Committee to the Assembly?

Members indicated assent.

The Chairperson: I need to determine whether the Committee is content for the Chairperson to approve the section of today's minutes that refers to the Welfare Reform Bill report. This will allow the

printing of the report to proceed without the need for a further Committee meeting. Are members content that I just sign off on the minutes from today's meeting?

Members indicated assent.

The Chairperson: Is the Committee content that the report be ordered to be printed on 14 February 2013?

Members indicated assent.

Mr Campbell: Chair, the Minister's position will obviously come into play on the timing. Given what he has said up to now about the cost of delay, what is the likely timeline beyond today, provided that there is no further delay?

The Committee Clerk: I have spoken to the Department about when the Consideration Stage might be. Although it has indicated that it is not set in stone, it is scheduled provisionally for 19 March. That might change.

On the first package of recommendations, the best that I could get from the Department is that the Committee is scheduled to get them somewhere between April and June. The last timetable I saw was for May, and that is a package of about 15 or 16 recommendations, all on the basis of confirmatory procedure, and scheduled to come into operation around October. However, we are looking at 19 March for the next stage of the Bill.

Mr Campbell: OK.

The Chairperson: I want to take this opportunity to formally thank everybody who has been involved in this. It has been a very challenging and time-consuming exercise. It has been more challenging, in so far as we committed ourselves to a very extensive and robust scrutiny of the Bill. The conduct of the Committee, with the support of officials — big time — the Department and a whole range of stakeholders have demonstrated the import of this particular report. Indeed, because of the possible implications of the Welfare Reform Bill as it rolls out over the next couple of years, we were duty bound to give it robust scrutiny. I am satisfied that we have done that and that we have given a fair hearing to all those who were promised that. I think that the fact that the Committee has adopted the position that it has is testimony to that. It was very difficult for all the members to grapple with these issues, and I want to afford my personal thanks to Kevin and others for the critical support they have given to me as the Chair and to the Committee. I want to thank everyone who has contributed big time to allowing us to do this job robustly and with the integrity that it merited.

Mr Durkan: I concur with your thoughts and echo your thanks to the Committee staff. I also commend you on how you have chaired the proceedings. It has been a difficult enough process.

The Chairperson: OK.