



Northern Ireland
Assembly

**COMMITTEE FOR
FINANCE AND PERSONNEL**

OFFICIAL REPORT
(Hansard)

Northern Ireland Civil Service Pay Issues

9 September 2009

NORTHERN IRELAND ASSEMBLY

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FINANCE AND PERSONNEL**

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Members present for all or part of the proceedings:

Ms Jennifer McCann (Chairperson)
Mr Peter Weir (Deputy Chairperson)
Dr Stephen Farry
Mr Fra McCann
Mr Mitchel McLaughlin
Mr David McNarry
Mr Declan O'Loan
Ms Dawn Purvis

Witnesses:

Mr Sammy Wilson) Minister of Finance and Personnel
Mr Derek Baker) Department of Finance and Personnel

The Chairperson (Ms J McCann):

The next session is on Civil Service pay issues, including equal pay and senior Civil Service pay and bonuses. Members may ask questions after the Minister has given his presentation.

The Minister of Finance and Personnel (Mr S Wilson):

I know that we have overstretched our time, so I will try to be as quick as I can.

I want to see this issue resolved as quickly as possible, but there are complexities. There are negotiations with the trade unions, there is necessary work that has to be done, and there are two considerations to be taken into account. The engagement that officials have had with NIPSA is

being taken forward on a without-prejudice basis at present, so there is a lot of detail that neither I nor the union can share outside of those discussions. I do not want to appear to be evasive, but, if I am pressed, there are certain details that I will have to resist discussing because that would impact on the negotiations.

However, I want to make it clear that I want to see the matter resolved. It will be resolved in two ways, and I have two considerations in mind. First, the outcome must be acceptable to the staff. Secondly, it must be done in such a way as to minimise any adverse impact on the public services that might result from having to fund the settlement that proves possible following negotiations with the unions. We need to work towards securing a resolution that minimises the impact on public services, and I do not make any apology for that. The main purpose in seeking to resolve the matter through negotiation is to find a way through the issues that is acceptable to both sides.

The settlement must be acceptable to the staff because 4,500 claims have been lodged with the industrial tribunal. Unless the staff who submitted those claims are satisfied with any offer that might be made, it is outside our control and that of NIPSA as to whether those people continue to exercise that statutory right and pursue their claims through the tribunal. That is not where I want to go, nor is it where the union wants to go, if it is at all possible to resolve the situation.

The Committee wants to have the matter brought to a conclusion as quickly as possible. However, a review of the technical grades had to be commissioned, and I will remind members why that was necessary. The female members of staff who lodged the claims with the tribunal claim that they are doing work that is either rated as equivalent, or is of equal value, to the work carried out by their male colleagues in the technical grades. Therefore, it was important to undertake the review so that we had a firm foundation for the base of any settlement.

The fieldwork for the review was completed on target at the end of August. A draft report has been provided to NIPSA for consideration and comment as part of the normal arrangements with staff reviews, and we will have the final report only when that process has been completed. We are assessing the review findings not only for the significance of those claims, but for what we can learn about Northern Ireland Civil Service pay and grading generally.

Detailed work must also be taken forward on establishing, in broad terms, the nature of what

might be acceptable with regard to a settlement. My officials have now moved that process to the next stage and are currently engaged with NIPSA on the fine detail of what the settlement might look like. For the reasons that I gave earlier, I cannot say any more on that.

Finally, I am conscious that an Assembly motion that was passed on Monday 1 June 2009 called for payments to be made within three months. That target has passed. Given that the review of technical grades was not due to finish until August 2009, it was never going to be achievable. During the debate on that motion, my predecessor pointed out that it is a complex process; not only to establish the basis for a negotiated settlement, but to put in place the arrangements that are needed to assess any settlement, which would have to address each and every eligible member of staff individually. That is a massive undertaking.

I assure the Committee, however, that even as officials are engaged in intensive and detailed discussions with NIPSA regarding the resolution of the matter, they are also working to put in place the necessary administrative arrangements that will be needed to implement the settlement when it is reached. Therefore, we are not waiting until we have a settlement to decide how we are going to engage with all staff; we are putting those arrangements in place now. I hope that that outlines the present situation. I am happy to take questions.

Mr McNarry:

Your Department secured access to £100 million for equal-pay payments, among other things. How much of that sum do you believe will be required?

The Minister of Finance and Personnel:

The £100 million was not intended to be used exclusively for the equal pay issue; it was to be used for other things also. As regards how much is required; I have made it clear that, first of all, there was a review to establish whether the basis for the claim was correct. The Department had to identify a whole range of issues, such as the number of people who are likely to have a claim and whether we should include those who have just joined the Civil Service, those who have left, and those who have left and since died. Those issues had to be considered and are the subject of detailed negotiations with NIPSA. Quite frankly, until all those parameters had been established, it would not have been possible to identify an exact figure. Indeed, it is probably still not possible to identify the figure that is required.

On top of that, we are, as I have said, working towards two principles. The first principle is to ensure fairness to staff; it is important to get that right, otherwise it may result in tribunal cases. The second is to ensure that we do that without impinging on the delivery of the Civil Service's work. Furthermore, there is an element of negotiation with NIPSA. It would have been unrealistic to think that given all those uncertainties and variables, we could have had an exact figure or would even be in a position to provide one now.

Mr McNarry:

It would have been great if you could have given me an exact figure, although I was not really —

The Minister of Finance and Personnel:

Indeed, if I had given you an exact figure, it would probably have been the most stupid thing I could have done because that would have given away our negotiating position with NIPSA.

Mr McNarry:

I would not accuse you of stupidity.

The Minister of Finance and Personnel:

I am glad.

Mr McNarry:

That is the last thing that I would do. However, I find that there was a need to secure access to that loan. Therefore, somewhere within that £100 million is the sum that you said that you might use. I am trying only to find out whether that sum is enough. Surely you cannot be saying that, after all this time, you do not have a ballpark estimate. I am not asking for precise figures. However, I would like to hear you say that the Department has a ballpark estimate in mind of how much it is going to cost. My question is whether, if you need to use all of that £100 million, that will be enough.

The Minister of Finance and Personnel:

First, I was not involved in negotiations with Treasury at the time. The £100 million was the figure that it said it would make available to the Department for dealing with a range of issues that includes equal pay. It may be that we will have to go back to Treasury to say that because it is a legacy issue, more money is required; I do not know.

Secondly, I do not want to be evasive on the issue, but if I were to put a ballpark figure on the table, that would immediately become the figure around which the negotiations would centre. It is totally impractical. I have already given an indication of the variables. As well as those, we must consider our position in negotiations. Thirdly, to give any indication of the amount of money that the Department would consider allocating to deal with the issue would be to give hostage to fortune, and you could be sure that that would become a reference point from which people would wish to build.

If I were in your position I would want to know the indicative amount of money that is required, but I hope that members will appreciate that we are in a negotiating position and that it is not practical to start talking about figures while the Department is in discussions with the unions about the detail and parameters around which the scheme is to be worked. I must resist doing that.

Mr McNarry:

I appreciate that, but you will know, as we in the Committee and probably all 108 MLAs also know, our mailboxes are full of correspondence from constituents who have anxieties about the issue. Although I am an elected representative, I am unable to address their anxieties about when a conclusion will be reached. However, I think that the negotiation stance has already been established when your Department sought access to borrow the money. Granted, that was before you took up office, nevertheless, it was phrased as £100 million. You may not be aware of it, but your officials have indicated to the Committee that there would not be much change left from the £100 million after the requirement for the settlement. Some figures are being floated around.

My anxiety centres on the fact that the money will be borrowed and the question of whether we need any more. I understand your sensitivities and appreciate what you have said. You have just said that, if more money is needed, you will have to go back to the Treasury. That movement happening will be a sign that you are reaching a settlement. What concerns me, and you mentioned it earlier, is that there is the option of tribunals, which you have said you do not want to go near. I fully understand that; I think that we would get a whipping at a tribunal, but that is a personal opinion.

At what point do you think that all parties would conclude that a settlement will not be

reached and it will go to tribunal? How long do I tell my constituents that they have got to wait until such time as we might have closure on the issue?

The Minister of Finance and Personnel:

We are now at the stage of sitting down with the unions and talking about the detail of the scheme. How long are those negotiations likely to go on? I suppose that depends on how quickly an agreement is reached that is acceptable to both sides. The optimist in me believes that perhaps the first level of detail that we offer to the trade unions will be accepted, and it will be settled fairly quickly. If, on the other hand, they argue and dispute a lot of that detail, it could go on for a much longer period. I do not know, because there are two sides to the negotiations. What I do know is that, either last week or the week before, I authorised my officials to begin detailed discussions with the trade unions.

You asked me about what kind of comfort you can give to your constituents. You can tell them three things: the first is that I want to see a fair and quick settlement. Secondly, the process has now started, because officials are talking to trade unions about details, a lot the preliminary work having been done. Thirdly, in parallel with that, we are working on the administrative arrangements that will be required to have a one-to-one interface with staff. As soon as negotiations are complete and agreement has been reached, we will move onto that.

Mr McNarry:

I accept what you are saying. Are you working towards the avoidance of a tribunal?

The Minister of Finance and Personnel:

Yes, absolutely.

Mr McNarry:

I am sure that the question has been asked regarding the likely cost of a tribunal. I have heard people say that they are great negotiators, but I do not see much evidence of that at times. That is not a complaint or a criticism. People boast to me about how they are great negotiators and then things start unravelling —

The Minister of Finance and Personnel:

Let me be clear: I am not negotiating with anybody. I am simply authorising the staff who have

the expertise and knowledge on the issue to enter into discussions with the trade unions, and that is what they are doing.

Mr McNarry:

The unions have great skills also. That is why the longer that this goes on, the harder — in money terms — it will be for your Department. Someone must have said to you: “this is what it might cost if it goes to a tribunal, and this is what we think that we could get away with; we will try to meet somewhere in the middle”. Are saying that you are not able to give any indication of the cost that you are working round, in case you declare your hand?

The Minister of Finance and Personnel:

First, I have made it clear that we wish to avoid a tribunal. However, that is a choice for the individuals who have lodged claims. They can exercise their right to go a tribunal. Bear in mind that even if the unions agree and we reach a successful negotiation, individuals still have the right to disagree and take it to a tribunal. Avoidance of a tribunal is not totally within the grasp of the Department and trade unions.

I want to go back to your point about a figure that the tribunal might involve, a figure that we believe is affordable and a figure somewhere in-between. While we are negotiating a settlement, it would be totally irresponsible to put into the public domain a figure for a settlement. I have said that, and I cannot move from that position.

Mr McNarry:

To avoid a tribunal, would you borrow £100 million, £200 million or £300 million for a settlement?

The Minister of Finance and Personnel:

Once an agreement has been reached between the Department and the trade unions, whether the cost be more or less than the figures that you suggested, the Executive will have to address how that should be financed.

Mr O’Loan:

I will try to be as brisk as possible. It is a year and four months since one of your predecessors said that he wanted to settle this. That is an unreasonably long time and I do not think that your

Department has done enough to achieve a solution, so I urge you to find a quick resolution.

As regards the three-month review; you referred to the Assembly motion, which you said was never achievable. Members of the Assembly like to think that Ministers will pay some attention to a motion when it is passed unanimously. It is disappointing that the three-month time period was treated as though it was written in stone. The will of the Assembly was to bring urgency and more resources to bear on the process and for that to happen more rapidly. I am disappointed that the three-month review will remain slightly more than a three-month review.

I am also disappointed at what the Minister said earlier about minimising the impact on public services. He wrote to me on that, and I was pleased by what he had written. He stated that he fully accepted that the pay claims were an entitlement, and that he was confident that legal requirements would be met. To introduce, as part of the negotiating process, that he is taking into consideration the minimisation of the impact on public services seems to me to be improper. The matter must be settled on the basis of giving people what they are entitled to.

There must be proper argument and debate on what is comparable: I fully accept that. However, it is not morally right that the pain that follows should be part of the negotiation. If an offer were to be made soon, and the Northern Ireland Public Service Alliance (NIPSA) were to agree to it, how quickly could the back-payment be made to staff?

Mr McLaughlin:

I welcome the Minister's commitment. It is a legal requirement for the Assembly to have the matter resolved. I also welcome the fact that the reviews of technical grade 1 and technical grade 2 have been completed. The intention was to create the threshold on which the negotiations could be built, and that was accepted by the trade union. The outcome of that work is with them and the Department at the moment.

Is this matter going to be dealt with as an outstanding gender-equality issue — a disgracefully outstanding gender-equality issue — as distinct from the periodic process of job evaluation, which happens in any case? Is this being dealt with as a way of giving women their entitlements on the principle of equal pay for equal work or is there disagreement between trade unions and management as to the range of posts being considered in the discussion? For example, are male workers in other Departments being included in the negotiations?

The Minister of Finance and Personnel:

My understanding is that the unions may be lodging claims on behalf of some male workers who have indicated that they want to be included because of equality issues. I do not know enough detail on that.

Mr Derek Baker (Department of Finance and Personnel):

I will pick up on that point.

The issue concerns gender exclusively, and the claims that have been submitted are on behalf of female members of staff. During discussions with NIPSA, there has been some debate about the eligibility of male members of staff at the same grade to any compensatory back-pay element. It has been included in the negotiations because the issue was raised and challenged during an employment tribunal case in Great Britain. A ruling has been made on that case, and the issue is likely to go to the Court of Appeal in Great Britain. Legally, the issue is still running, so a question mark remains over it.

As the Minister has said, NIPSA has informed us that it has taken legal advice, and that it will be submitting contingency claims on behalf of the male workers as a precautionary measure.

Mr McLaughlin:

Therefore, the figure of 4,500 could rise to 9,500: is that correct?

Mr Baker:

It could grow. However, it is also fair to say that in the context of working through the detailed negotiations with NIPSA — and we are working through those matters in great detail — we are trying to reach agreement on the exact pool of people who would be eligible for a compensation payment.

In relation to the other point you raised; the issue is being dealt with on its own. However, during discussions with NIPSA, we have acknowledged and made very clear that other anomalies exist in Civil Service grading structures that stem back into the mist of history. We need to deal with those issues. We want to begin a comprehensive review of Civil Service pay and grading structures quickly so that we do not end up in the same position two, three or five years down the

line. We need to drive those anomalies and deficiencies out of the system so that, once and for all, we have a solid base that provides protection for trade unions, ourselves and staff against equal pay claims.

The Minister of Finance and Personnel:

Declan asked how long the payment will take once the settlement is reached. Considerable work is under way on that matter and we are establishing the administrative arrangements. However, individual arrangements will be necessary. Are there any estimates of the timescale?

Mr Baker:

It should take three months for the money to reach people's pockets. We will have to engage with every member of staff on an individual basis. Given the Minister's comments about people's legal rights and their prerogative to go to a tribunal; in order to reach a negotiated settlement, we will have to engage with every member of staff to explain the offer and their legal rights and to ask whether they accept the offer.

We must examine every member of staff's individual circumstances. We must determine how long they were in the grade; whether they worked part time or full time; whether they took a career break, and whether they had a temporary promotion during that period. All those aspects must be taken into account in order for us to arrive at a figure for each staff member. We are assembling the knowledge, information and database to do that. When reaching a negotiated settlement, any agreement with NIPSA must be watertight so that we do not compromise ourselves yet again.

Mr O'Loan:

It is helpful to achieve some firmness on the matter; I welcome that. I asked other questions that have not been fully answered, but I appreciate that we are pressed for time. I will let it rest there.

Ms Purvis:

Minister, you said that there are two considerations; that the agreement must be acceptable to staff, and that there must be no impact on public services. I want to pick up on Declan's point because I am concerned about the second of those issues. There has been a focus on the £100 million that has been set aside to deal with the equal pay issue. There seems to be a perception that if the settlement is greater than £100 million, it will have an impact on public services. If

more money is not received through negotiations with the Treasury, it will have to come out of the Northern Ireland block grant. How are you measuring the impact on public services? That is something you have to be measuring as you go along. What measures are you using?

The Minister of Finance and Personnel:

You have identified the issue correctly. If a massive sum has to be financed through the public purse or block grant; that will have an impact on public services in Northern Ireland. However, the bottom line is that NIPSA will negotiate a settlement on behalf of the workforce. Once that settlement has been agreed, it will have to be funded. Therefore, staff interests are safeguarded by NIPSA.

We will be cognisant of the fact that there are implications for the delivery of public services, depending on the level of the associated costs. I do not see that those two things are incompatible, because the final outcome of negotiations will have to be acceptable to us, from the point of view of the resources that will be required, and to the unions who represent the staff. Ultimately, there will be a negotiated settlement; therefore, it should be fair.

The Chairperson:

That brings us to the end of the session. Before we move on, I will sum up the Committee's views. The Committee has discussed the matter in previous meetings, and the issue is about equality. Some men may be affected, but the issue mainly concerns women. I echo what some Committee members have said about the need to resolve the matter sooner rather than later. We will take comfort that the equality issue will, hopefully, be resolved, and that the Minister is aware of the need to resolve it.

I ask members to keep their questions and comments brief after the next presentation, because we are pushed for time, and there is a lot to get through.

The Minister of Finance and Personnel:

As we are pushed for time, I will just say that bonuses have received a fair amount of publicity anyway. I know that the Committee expressed concerns about the level of bonus payments, which had been increasing in value since they were introduced in 2002. The payments had increased from approximately £297,000 then to a proposal for £1.242 million this year. The calculation and allocation of bonuses caused difficulties in the senior Civil Service. Public

perception was also a factor, as was the concern that bonuses were not the right way to address senior Civil Service pay.

The arrangements that I put in place in August have ensured that there will not be any bonus payments and that we will be breaking the agreement that exists for senior civil servants elsewhere in the United Kingdom. Also, and this is important because it has ongoing implications, the minimums and maximums for the pay bands for each of the three senior Civil Service grades will be frozen at 2008 levels. In addition, the overall cost envelope for the pay award will be capped at 3.5%. The pay award will be differentiated by performance, so that the top 25% of performers will receive a higher pay award. The criteria for the allocation of that top 25% will be based on an assessment of delivery on objectives.

To address some of the weaknesses in the pay system, a reference point will be used, with staff at the lower end of the pay scales, below the median, receiving an enhanced award. The pay award will apply equally to all Civil Service grades, including permanent secretaries. The savings that will accrue from the measures that I announced this year will be £1.1 million. That is the right way to move, as far as senior Civil Service pay is concerned.

The Committee is aware that I want to see that bonus template extended beyond the senior Civil Service, because I made that clear when I made the announcement. The Executive will be asked to ensure that Departments and their Ministers, particularly those who are involved with arm's length bodies, start looking at whether bonuses are appropriate, and that we stop bonus payments where there are no contractual obligations. That is it in summary. I am happy to answer questions.

Mr McLaughlin:

I welcome the Minister's proactive approach. With the Chairperson's stricture in mind, I have two quick questions. Will the review deal with whether negotiations concerning the senior Civil Service cohort of between 200 and 270 people will be conducted locally, as is the case with junior ranks in the Civil Service that more accurately reflect the social and economic reality of the region?

Secondly, will the review deal with incentivising performance, both by awarding bonuses when justified by performance and by introducing sanctions for missed personal and business

targets, because that seems to be an anomaly in the existing system?

The Minister of Finance and Personnel:

Perhaps in my opening remarks I should have mentioned the review. The terms of reference have not yet been cleared by the Executive, which gives me an opportunity to look again at the whole review procedure.

The Department had intended for the review to be carried out by external consultants, but that would be costly. Given the changed circumstances, I am now looking at whether it can be carried out by the Office of Manpower Economics, which has specific expertise in the field and will probably do it at a fraction of the cost of using outside consultants. It will require us to look again at the terms of reference for the review. We will bring those terms to the Committee, bearing in mind some of the points that members have made.

Mr McLaughlin:

Thank you.

Mr O'Loan:

Work on the overall review, not just on the Civil Service but on higher-level salaries across the public sector, must be looked at. I am not convinced that the Minister has achieved much this year as regards overall costs. An additional cost of £533 million has been reduced by £1 million; therefore, it appears that there has been just a redistribution. The reference to:

“differentiated pay increases to reward the top 25%”,

seems to be replacing one type of bonus system with another, and that must surely be part of the review.

The Minister of Finance and Personnel:

I must say that I am surprised by the remarks that have just been made. This is a net saving to the public purse of £1.1 million. It is not a redistribution of that £1.1 million. There has been a reduction —

Mr O'Loan:

It is a reduction of £1 million in £533 million.

The Minister of Finance and Personnel:

The total pay —

Mr McNarry:

Could some of it be given to Margaret Ritchie for the special purchase of evacuated dwellings (SPED) fund in order to get that policeman sorted out, then maybe we will all be better off?

The Minister of Finance and Personnel:

Margaret has got plenty of money to sort that one out.

Mr McNarry:

There is £1.1 million that she could use.

The Minister of Finance and Personnel:

The total cost of the bonuses was £1.242 million, and £1.1 million has been saved from the cost of payments recommended by the Senior Salaries Review Body (SSRB). I assure the member that the total cost of the SSRB's recommendations was not £533 million. Let me make it clear: that figure is ridiculous. If that were the figure; there are 252 senior civil servants. If the cost of their pay award this year had been £533 million, that means each would have received an increase of about £2 million.

I think that the ridiculousness of that claim —

Mr O'Loan:

I will quote from the Minister's own letter to the Committee:

“in financial terms, the additional cost of his decision to the NICS pay bill will be £533—”

I apologise; I have misquoted him. *[Laughter.]*

Mr McLaughlin:

I will just misquote from the letter? *[Laughter.]*

The Chairperson:

Have we moved on?

Mr McNarry:

You had us all going there, Declan. *[Laughter.]*

I could not find the letter.

Mr O'Loan:

At least I had the sense that when one gets in a hole — *[Laughter.]*

The Minister of Finance and Personnel:

Stop digging.

Mr McNarry:

The Minister does not recognise holes.

Ms Purvis:

I welcome the Minister's commitment and decisiveness in dealing with this issue: it is something that has been raised by the Committee on a number of occasions. I want to ask the Minister about the differentiated pay increases to reward the top 25%. The briefing paper states that that will be based on performance against personal objectives, but business targets and departmental objectives are continually mentioned in Committee meetings. Indeed, Civil Service pay has also been mentioned at Public Accounts Committee meetings, in situations where business targets and departmental objectives have not been met. Will those be included in the review of the performance of the top 25%?

The Minister of Finance and Personnel:

If you do not mind, given the detail of the question, I will pass it to Derek.

Mr Baker:

To pick up on the point about the detail in the current year's pay award: at the start of the reporting period, which was in April or May 2008, each senior civil servant agreed written performance objectives with his or her line manager. Those performance objectives cover three dimensions, one of which relates to business objectives. Performance objectives must flow directly from the business objectives of the Department, so that there is a clear line of sight

between what an individual does in their day-to-day business and the objectives of the Department.

In assessing which members of the senior Civil Service should be allocated to the top tranche of the award, the departmental pay committees and, ultimately, the permanent secretary in each Department will have to make a judgement on whether individuals met the objectives that were agreed at the start of the financial year. That is how the system works. The reason why the two-tranche system was retained is that it is still believed that the performance-related element is appropriate. I know that bonuses cause major difficulties. This is consolidated, and it is to incentivise performance. Any organisation reviewing a pay system will tend to recommend the inclusion of a performance-related element.

The Minister touched on contractual rights. It could have been deemed — and we took legal advice on this — that senior civil servants could claim a contractual right to performance-related pay. It is a moot point as to whether they could claim a contractual right to bonuses, but they could certainly claim a contractual right to performance-related pay.

The Chairperson:

That is all that we have at the moment, so thank you very much for your perseverance —

The Minister of Finance and Personnel:

Is that all that you have? I think that that is enough. *[Laughter.]*

The Chairperson:

We look forward to your coming back to the Committee.