



Northern Ireland
Assembly

Committee for Enterprise, Trade and
Investment

OFFICIAL REPORT (Hansard)

Credit Unions and Industrial and Provident
Societies Bill: DETI Briefing

27 February 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Patsy McGlone (Chairperson)
Mr Phil Flanagan (Deputy Chairperson)
Mr Steven Agnew
Mr Sydney Anderson
Mr Sammy Douglas
Mr Gordon Dunne
Ms Megan Fearon
Mr Paul Frew
Mr Fearghal McKinney
Mr Mitchel McLaughlin
Mrs Sandra Overend

Witnesses:

Mrs Jackie Kerr	Department of Enterprise, Trade and Investment
Ms Marie Turner	Department of Enterprise, Trade and Investment

The Chairperson: We have with us today Jackie Kerr, head of business regulation division; and Marie Turner, deputy principal in company law. Thank you very much for being here today. It is good to see you. You know the format; you have been here before. You can take up to 10 minutes and give us a succinct analysis of where the Department is, and we will then have a question-and-answer session with members.

Mrs Jackie Kerr (Department of Enterprise, Trade and Investment): Mr Chairman, it may be useful to give you a quick update on progress on this policy proposal and the legislative proposals since we last came to the Committee, in December 2012. In the period since that, we started a process of pre-consultation with relevant stakeholders on the basic outline of what we proposed the Bill would address, and that continued into early 2013. During that pre-consultation, some of the stakeholders that we met included the three trade bodies for the credit union movement; a number of individual credit unions; the Financial Services Authority, as it was at that time; Treasury; the Northern Ireland Co-operative Forum; the Northern Ireland Federation of Housing Associations; the Central Bank of Ireland; and the Department of Finance in the Republic of Ireland.

As the Committee is aware, following Executive proposal of the consultation, the public consultation on the Bill went ahead in June 2013. During the consultation period, three public meetings were held. They were held in Downpatrick, Cookstown and Ballymena and were open to everyone. They were quite well attended. It was a very useful discussion. It was very informative for the process of pulling together the proposals. In mid-September, the consultation closed, and 37 responses were received. It became apparent at that time that there were some differing positions on some of the proposals

among the trade bodies. We thought that it was useful at that time to bring the bodies together and talk through the various positions on the issues and to explore that a bit further. That was used to further inform the policy process, and it has been taken into account and reflected in the proposals that are with the Committee now. It was useful to help clarify some points of concern that were raised by the trade bodies. In December, the Committee received the proposals as they stand now, reflective of that consultation process. The Committee has also received details of who responded as part of the process itself.

We are still working on a timetable of the Bill being introduced to the Assembly in June this year, before the summer recess, but that is obviously subject to the approval processes of the Executive and Committee consideration stages.

Nineteen distinct proposals were consulted on. Perhaps members would find it more useful to specifically address any issues that you would like further clarification on, rather than us going through all 19 in detail.

The Chairperson: That is grand. Thanks very much. Probably a lot of it will be drawn out during the question session anyway. The first person up is Mr McLaughlin — Mitchel.

Mr Mitchel McLaughlin: Thank you very much.

I am interested in the removal of the restriction on non-qualifying members of credit unions. Paragraph 46 of the Department's proposal states that the 10% limit on non-qualifying members is to be removed. What is the rationale for that recommendation, as opposed to the original rationale for putting in a protective limit? I suppose people were thinking of entryism, caucuses operating and policy decisions, but what is the Department's view of all that in protecting the sector?

Ms Marie Turner (Department of Enterprise, Trade and Investment): We looked at the fact that life has changed over the past number of years, and people move about more. This would enable credit unions to maintain that community link. It will be enabling legislation; they do not have to introduce it in their rules if they do not want to. However, it was thought that a lot of people would want to maintain the link with the credit union that they started with. Bringing this in would enable them to do so.

Mr Mitchel McLaughlin: Yes, I understand that. However, does it open up the possibility of a controlling caucus emerging, as a result of the removal of any upper limit, and people maybe operating on a common agenda?

Mrs Kerr: The risk of that is considered to be minimal. As Marie said, it is an enabling provision. A credit union can use its discretion and does not have to apply it. Within its own rule book it can decide to maintain the current limit on membership. It is reflective more of society now. There is much more mobility, and people move because of jobs and so on. The core of it is to retain the original ethos and community ownership of the credit unions. We consider that the risk of it being used for other, ulterior motives is minimal.

Mr Mitchel McLaughlin: I understand what you are saying. People may have, over years, built up savings. Switching within credit unions is not the seamless exercise that it might be with, say, a bank. Have the credit unions formally responded to the proposition that the limit could be removed?

Mrs Kerr: Yes.

Ms Turner: Yes, 66% of respondents were in favour of it.

Mr Mitchel McLaughlin: No variation on the threshold; just simply that it could be removed at the discretion of a credit union.

Ms Turner: Yes, it can be removed, or the credit union can set whatever threshold it wishes to. They will be given that freedom.

Mr McKinney: Thank you both.

You have accepted in the consultation the issue of deferred shares. If a member of a credit union holds deferred shares and wants to transfer them, does the person to whom the shares are transferred have to meet the common bond?

Ms Turner: I cannot honestly say. Are you asking —

Mr McKinney: If I have deferred shares that I want to transfer to a colleague or family member, does that family member have to share the common bond?

Ms Turner: The deferred shares would be in that particular credit union. The common bond would have to exist. I do not think that I am altogether sure what you are —

Mr McKinney: OK. It is important to tease that out, and it might be worthwhile investigating further whether that link must travel with the shares. Also important is what happens on death. If somebody owns deferred shares, does the person who inherits have to abide by the common bond principle, or in some way — it is the same point and whether the common bond transfers.

Ms Turner: Yes, what happens to deferred shares.

Mr McKinney: Yes. Does the person who receives them have to abide by or be associated with the common bond?

Mrs Kerr: Marie, just to clarify, are deferred shares relevant only to corporate members, as opposed to individual members?

Ms Turner: Anyone can have deferred shares, but we envisage that most of those who would enter into deferred shares would be more likely to be corporate members.

Mr McKinney: The inheritance situation would still apply, would it not?

Ms Turner: If it was a corporate member the shares would belong to that corporate.

Mrs Kerr: Deferred shares cannot be transferred from one member to another, is that right? We can come back and clarify that point, but I think that the understanding is that they cannot be transferred from one Member to another. On the point that Marie made, the transfer would be within that credit union anyway, so because it is a common bond —

Mr McKinney: If they cannot be transferred, what happens to the property on death?

Mrs Kerr: We will come back and clarify that. We will get a legal opinion on that, just to be 100% sure.

Mr Dunne: Thanks very much for coming in to give us your presentation. I want to ask about a couple of issues. In relation to abolishing the minimum age for membership and the minimum age for becoming an officer in credit unions, the Department is reluctant to move, yet there seems to be flexibility in relation to industrial and provident societies. Can you clarify why that is the case?

Mrs Kerr: That reflects the outcomes of the consultation. There was not a desire for that proposal to proceed in relation to credit unions, but there was a strong response that industrial and provident societies would be content with that. The different positions for the two types of organisations reflect the responses that we received to the consultation.

Mr Douglas: So, you are saying that there is no big demand?

Mrs Kerr: Among the credit unions, yes. Do you have the statistics, Marie?

Ms Turner: It was quite close, at more or less 50:50. However, in reaching our decision, we considered that industrial and provident societies are very different entities to credit unions. Credit unions look after money, and there are a lot of issues that mean that it is would perhaps be better to leave the age limit where it is.

The proposals are broadly based on the legislation in GB. That legislation differs from ours in that the main impetus there was to introduce this for industrial and provident societies. More by default than design, it also then applies to credit unions, because of the way that their primary legislation is formed. We are different here and have two distinct pieces of legislation. In the round, and balancing everything, we thought that it was better to maintain it as it stands for credit unions. Although a lot of the respondents said that they would favour it, their response was tempered with a need for it to be enabling. Although they said yes, they also said that they probably would not use it.

Mr Dunne: But surely, on the age limit for membership, credit unions are trying to modernise, broaden out and attract more younger members and make it, I suppose, something that families engage in. It is like any savings plan: if you are engaged in it from a young age or your parents introduce you to it, you are likely to stick with it. Does that need to be looked at? I think it is something that perhaps we should encourage. At the end of the day, credit unions realise that they have got to move on; if they do not, they will struggle.

Ms Turner: Credit unions have the ability to open juvenile accounts that young people can access. That facility exists.

Mrs Kerr: The credit union movement is quite active in schools and in encouraging children to open accounts with them. There are juvenile accounts, and the movement encourages children and young people.

Mr Dunne: But they are not active members.

Mrs Kerr: They are not members, no. That is correct.

Mr Dunne: OK. Thanks very much.

The Chairperson: Returning to the deferred shares, proposal 7, which is outlined in paragraph 56, suggests that deferred shares will be transferable but not withdrawable and will not be covered by the financial services compensation scheme. Will you expand on that a wee bit? I do not understand what that means in practice.

Ms Turner: They will not be transferable and will not be withdrawable. They are not covered. If someone was to —

The Chairperson: Sorry, it says here that deferred shares will be transferable.

Ms Turner: Sorry, they are transferable but not withdrawable. They are not covered by the normal compensation scheme that ordinary shares in credit unions are. They are not subject to that, so obviously there is more of a risk involved. As Jackie said earlier, it is foreseen that deferred shares will be taken up more by corporate bodies than individuals.

The Chairperson: Why would that be? Will you explain that to me? I am asking because I do not know. Why should that be the case?

Ms Turner: If you buy deferred shares, you cannot withdraw them. So it would be highly unlikely that an individual would —

The Chairperson: Sorry, can you explain why corporates will be more interested or more likely to avail themselves of those than individuals?

Ms Turner: Because you really do not get anything back from a deferred share. You are investing in the credit union —

The Chairperson: Oh, I know, aye.

Ms Turner: — and that money goes to its reserves. It is totally different than saving money.

Mrs Kerr: If a credit union was dissolved or became insolvent in any way, there is greater protection for ordinary members in relation to the recovery of their investment, whereas the deferred shares

would not be seen as one of the primary creditors in the redistribution of any assets if the credit union was to be wound up.

The Chairperson: Why should corporates rather than individuals be more likely to avail themselves of those deferred shares? I am not getting that bit.

Mrs Kerr: I think that we need to clarify. I think that it is more to do with the discretion of the credit union. If it was to admit a corporate member, it would allow it to have deferred shares. I do not think that it is that the corporate body would choose and that that would be its preference. We will come back to you on that. There were a couple of legal points that were raised in Mr McKinney's questions that we will get clarified for you. We will come back with a more comprehensive response on that issue.

The Chairperson: Thank you.

Mr Frew: I want to ask you about proposal 11, which is to:

"Consider an increase in the 1% per month interest rate cap".

That would actually be quite a good thing that would give credit unions a lot of flexibility to compete against the practices of payday loan companies. However, it seems that only 30% of respondents were either in favour of it or did not object. What was the real fault line between rejection and approval of that proposal?

Ms Turner: The ethos of the credit union movement is cheap lending. Especially at the events that we held, members were very strongly not in favour of that proposal. They thought that it would cast credit unions in a bad light, even though this is an enabling provision, so not all credit unions have to buy into it and increase the interest rate. They think that, even if a few did it, that would put them in a bad light.

Mr Frew: Surely, as you said, it only increases the capacity for them to do it. They do not have to do it.

Ms Turner: That is right.

Mr Frew: Surely the two federations can make a corporate decision about whether to do it or not. Is that not the case?

Ms Turner: There is no appetite for it at all. They do not want it to happen. We are very much trying to reflect in the Bill what the movement wants.

Mr Frew: Do both federations say the same? Are they in agreement?

Ms Turner: They came to an agreement that, if they feel that an interest rate rise would be better for them, we should be able to take that forward in subordinate legislation. Obviously, that is a much quicker method than primary legislation, which is what we are looking at at the moment. They were happy with that, because we could then do a very quick consultation and bring in the change very quickly.

Mr Frew: Will that be reviewed within a period of time, or will it be left to the credit unions to suggest it to the Department?

Ms Turner: We can do either. We can review it. It was put to the credit unions to come to us right away if they felt that there was a need for it and that we would organise a consultation with the membership. It could be introduced very quickly. We are in contact with the Irish League of Credit Unions and the Ulster Federation of Credit Unions, so I think that, if anything were to arise, we would be made aware of that very quickly.

Mr Frew: This is my last question — hopefully. With regard to the strength of the credit union movement, how would the increase in the interest rate from 1% to 3% increase the capacity of credit unions? What more could they deliver with that additional revenue?

Ms Turner: That is for the credit union movement to respond to. This week's debate touched on some of those issues as well. Some of the reform over the last few years, including the transfer of regulation to the FCA and PRA, has given the credit unions much greater flexibility in the types of services that they can offer, subject to approval from the regulatory body. It would be for individual credit unions to take the financial decisions that underpin that. Anything that generates additional revenue obviously gives them greater potential and greater scope. However, we are not in a position to comment on what the impact of the interest rate would mean for the credit union movement on the ground.

Mr Frew: OK. Thank you very much.

Mr Douglas: I thank our two colleagues for coming along. My question is about investment and community development and the various types of social, cultural and charitable groups that will be eligible. Can you explain a wee bit more about those?

Ms Turner: The legislation will be phrased in that way, so it will be up to individual credit unions to decide which groups they want to allocate any of their surplus to.

Mr Douglas: Will the likes of church-based organisations be eligible? I know that some charitable trusts cannot fund religious groups, for example. As you know, some of those groups, for their own religious reasons, will not take lottery money or ask for lottery support. Can you check that one out? There is obviously a huge range of church-based activity right across Northern Ireland.

Ms Turner: We would not prescribe that in primary legislation, but we can certainly check on the point that you make.

Mr Anderson: Thank you for your presentation. I want to touch on dissolution, which is listed as an issue. At present, three quarters of members have to agree to it and an instrument of dissolution must be prepared. Why was that brought up as an issue?

Ms Turner: The Bill deals with credit unions and industrial and provident societies, and the question of dissolution applies to both. The credit union movement did not have a great deal of interest in it, and that is why we are not taking it forward.

Mr Anderson: I note that the two main credit union bodies, the Irish League of Credit Unions and the Ulster Federation of Credit Unions, were at variance on this, but you appear to have got agreement not to take it forward.

Ms Turner: Yes. The main concern was the potential for abuse and that the dissolution procedure might be so diluted that it would become too easy. When we spoke to the two credit union trade bodies, they were not aware of any problems in Northern Ireland with dissolution. So there seemed no point in changing what was already there.

Mr Anderson: So they are quite happy to leave it as is.

Ms Turner: Yes.

Mr Anderson: What about credit unions in the rest of the UK? Is it an issue there?

Ms Turner: I cannot answer that.

Mrs Kerr: The starting point for the proposed Bill was the legislative changes in Great Britain and the recommendations in the Committee's report. Some proposals were that we replicate what has been legislated for in GB, but the credit union movement had no real appetite for that particular one. However, the industrial and provident societies are in a slightly different position.

Mr Anderson: Do we have any evidence that, when credit unions had to dissolve in the past, requiring the signatures of three quarters of members was a big issue?

Mrs Kerr: I am not aware of any issues.

Ms Turner: We asked the trade bodies whether there was a problem, and they could not think of any issues with it.

Mr Anderson: The Irish League of Credit Unions was concerned that, if we went down that line, it could be abused.

Ms Turner: Yes, if it was made it too easy.

Mr Anderson: The Ulster Federation of Credit Unions was not too concerned about that. Ultimately, agreement was reached to leave it as it is.

Ms Turner: Yes. The industrial and provident societies are different in that they have to be dormant to go down that road. So there is a greater control there because the society is dormant anyway.

Mrs Overend: I want to ask about the decision to allow credit unions to offer interest-bearing shares and dividend-bearing shares. Will you enlighten us on the process behind that decision? Is it sensible to have a hierarchy of shareholders?

Ms Turner: We think that offering interest-bearing shares is a positive approach because people know, when they invest in a credit union, what return they will get on their money. It puts them on an even keel with building societies or banks. They know from day one that they will receive a contractual rate of interest on the money. The credit unions may not be particularly interested in that, but they see that there is a point to having it in the legislation. Rather than just paying a dividend, it offers other opportunities.

Mrs Overend: Will the legislation go into the detail of the differing priorities of the two?

Ms Turner: The legislation will go into the detail of what the credit union, financially, has to go to the regulator with: what its assets and resources are and what audit controls have to be in place to allow it to do that.

Mrs Overend: What about the detail of members having to hold a certain number of ordinary dividend-bearing shares before being allowed to hold interest-bearing shares?

Ms Turner: Rather than our prescribing that in legislation, it will be up to individual credit unions to set that number themselves.

Mrs Overend: Is that better than prescribing through legislation?

Ms Turner: It gives them the freedom to set that in their rules. Depending on the size of the credit union, a number that is proper to one might not be for another. We have checked that out with the regulator, and it can be stipulated in the rules.

The Chairperson: My final question is about credit unions charging to provide a copy of their rules to members. Could or should they be required to provide free copies of their rules electronically, either on the web or by email?

Ms Turner: We do not see an issue with that: the legislation does not stipulate how the rules have to be conveyed to members.

The Chairperson: So a credit union with a website and/or well teed up electronically could, if it so desired, provide its rules free of charge.

Ms Turner: Yes. We do not see a problem with it.

The Chairperson: That is grand. Thank you for that. There are a number of issues that we did not have time to probe fully today, so are you content to respond to our questions on those in writing, please?

Ms Turner: Yes.

The Chairperson: There are a few legal issues and the like on which you are to come back to us anyway. Thanks very much indeed for your time.