



Northern Ireland
Assembly

**COMMITTEE FOR
FINANCE AND PERSONNEL**

**OFFICIAL REPORT
(Hansard)**

Proposed Superannuation Bill

15 June 2011

NORTHERN IRELAND ASSEMBLY

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FINANCE AND PERSONNEL**

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Members present for all or part of the proceedings:

Mr Conor Murphy (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Mr Paul Girvan
Mr William Humphrey
Mr Ross Hussey
Mr Mitchel McLaughlin
Ms Caitriona Ruane

Witnesses:

Mr Kieran Hargan) Department of Finance and Personnel
Mrs Grace Nesbitt)

The Chairperson:

This session is being recorded for Hansard, so there should be no mobile phones in operation. I welcome to the Committee Mrs Grace Nesbitt, who is head of human resources (HR) policy, pay and pensions policy, and corporate HR in the Department of Finance and Personnel (DFP), and Kieran Hargan, from Civil Service pensions branch, corporate HR branch, DFP. Would you like to make a presentation?

Mrs Grace Nesbitt (Department of Finance and Personnel):

I would. Thank you very much. I welcome the opportunity to meet the Committee to discuss the

proposed Superannuation Bill. I have provided a paper to the Committee that sets out the background to the proposed Bill. I attempted to keep it as concise as possible, but I confess that I did not achieve the target of keeping it to one page. I apologise for that at the outset; it is because the area of pensions is very complex. With the Committee's permission, I propose to give a brief overview to help members to better understand the issue. I will then be happy to take any questions. If that is agreeable to the Committee, that is what I will do.

In the overview, I will provide members with more information on the context and background to the principal Civil Service pension scheme in Northern Ireland; the membership of the scheme; its current provisions, including the current compensation scheme and the links that we have had with GB; the changes that have happened in GB and the possible scenarios that it faces; and the changes and choices that Northern Ireland faces in respect of parity, cost and industrial relations.

I begin with the context and background. At 31 March 2011, the details of the membership of the scheme were as follows: there were just over 34,000 current members, known as active members, contributing to the scheme, and around 8,500 former employees, known as deferred members. Deferred members are people who have left the scheme but have yet to draw their pension. We have around 20,000 pensioners and 5,500 dependants in receipt of the pension.

Membership of the scheme is open to civil servants and to the staff of 30 or so public bodies. The range of public bodies includes museums and Assembly offices. I can supply a full list of those bodies if that would be of interest to members. As to the money that the pension scheme handles, last year the scheme paid out just over £232 million in pension and lump-sum payments. That gives you a feel for the amounts of money that the pension scheme deals with.

As I have said, the pensions issue is complex. In presenting you with this information, I add the caveat that this is very much a high-level overview. There is a lot of more detailed information that I can provide members with if they are interested. There is also a lot of information on the pensions website, which I can refer you to.

The principal Civil Service pension scheme Northern Ireland and its associated schemes are statutory pension provisions that were established by virtue of the Superannuation (Northern Ireland) Order 1972. However, the scheme's provisions changed in 2002. Until then, things

were actually relatively simple, and we had only one pension scheme, which became known as “classic”. In 2002, things changed, and different schemes, which are now known as “classic plus” and “premium”, were introduced. In 2007, we had yet another change when another scheme called “nuvos” was introduced. Those schemes have different contribution rates and benefits. Again, I can provide members with more detail on that if they wish. Suffice it to say that all those pension schemes, with the exception of nuvos, are final-salary pension schemes. The position for new entrants from 2007 is that they can join only nuvos, which is a career-average pension scheme — that is the key difference — and has a retirement age of 65. Again, I can provide more details on that if members are interested.

The compensation scheme — again, this is very much a high-level overview — determines the amount of compensation and early pension benefits paid to staff who face either voluntary or compulsory redundancy. In the Civil Service, the compensation scheme is determined by length of service and age of the individual. Under the current provision, compensation payments are generally limited to a maximum of three years’ pay. As for who pays for that, all compensation payments and enhanced pension entitlements are recharged to the employers, who then reimburse the pension scheme. The compensation scheme payments are a charge against the employers’ departmental expenditure limits.

Turning to our links with GB, occupational pension policy in Northern Ireland is a transferred matter. However, in practice and to date, all public service pension schemes in Northern Ireland have generally mirrored GB schemes. That has been for financial, historical and employment portability reasons. It is almost as if there has been an article of faith in our approach to that link with GB, and that has provided for ease of administration. Her Majesty’s Treasury has maintained overall responsibility for public sector pensions policy for the UK.

I will move on to the changes and what is happening in GB, about which there has been lot of press coverage. As explained, to date, we have maintained parity with GB generally on public sector pensions. The change in the Superannuation Bill is specifically about the principal Civil Service pension scheme. However, I think that it is helpful for members to have a little understanding of the sequence of events in GB and the current position with GB legislation and the pending legal challenges. Again, this is very much a condensed overview.

The powers conferred in Northern Ireland by the 1972 Order enable the Department of

Finance and Personnel to amend pension and compensation schemes in the Northern Ireland Civil Service (NICS) without the need for primary legislation. The position in GB is identical in that the powers conferred by the Superannuation Act 1972 enable Ministers for the Civil Service in GB to make, maintain and administer pension and compensation schemes for staff in the Home Civil Service by secondary legislation.

The Superannuation Act 2010 in Great Britain was developed against the backdrop of protracted negotiations between the Cabinet Office and the Home Civil Service trade unions. Those negotiations were aimed at reaching agreement on a new compensation scheme for the Home Civil Service. Those changes were driven, in part, by the need to remove age as a reference point and to reduce the overall cost of the compensation scheme to the public purse. The previous Labour Government introduced a new compensation scheme for the Home Civil Service in February 2010. That was opposed by the Public and Commercial Services Union (PCS), which is the largest Home Civil Service union and is generally supported by the Northern Ireland Public Service Alliance (NIPSA) in Northern Ireland. The PCS opposed the terms of the new scheme and mounted a legal challenge against its implementation. The scheme was implemented without union consent, as was required by the terms set out in the 1972 Act. The challenge mounted by the unions was successful and the new scheme was quashed by a High Court decision in May 2010.

Subsequently, in December 2010, a number of amendments to the 1972 Act were introduced by the coalition Government in GB. An amendment was made to remove the need for union consent to what was termed “detrimental change” to the compensation scheme. In addition, the Cabinet Office introduced a new compensation scheme for the Home Civil Service and gave effect to it as of 22 December 2010. Matters became a little bit complicated, because the coalition Government introduced and, on the same day, repealed caps on the new compensation scheme, the terms of which were 12 months for compulsory redundancy and 15 months for voluntary redundancy. I will return to that point later.

The current terms of the GB compensation scheme — these are broad terms only — which came into effect on 22 December 2010, limit the maximum compensation payment payable to members to 21 months for voluntary redundancy and 12 months for compulsory redundancy. Under our current rules, speaking very broadly, members are entitled to a maximum of three years’ pay, so there is a difference.

The changes that have been introduced in GB are also subject to legal challenge. In March 2011, the PCS and the Prison Officers' Association (POA) launched a fresh legal challenge against the imposition of the new scheme that had been introduced by the coalition Government in December 2010. The unions in GB are seeking a judicial review on the basis that the manner in which the scheme has been implemented to cut benefits — benefits that, the unions argue, are based on civil servants' accrued service — is in breach of the European Convention on Human Rights. A date for a hearing in the High Court has yet to be set.

What does that mean for us in Northern Ireland, and what challenges and choices do we face? To date, the approach has been to maintain parity, and we have a decision to make on that. Any departure from the GB provisions will have financial implications for employers in Northern Ireland. As I said, any payments for people who are leaving are attributed to Departments' budgets. Although we have a separate legislative basis, and we could depart from the GB approach, we have broadly reflected, in our own legislation, changes in GB pension legislation. Whether that approach is maintained is a matter for our Executive to determine.

We have been keeping a watching brief on developments regarding the pending legal challenges and the various changes. The view that we have reached is that we need to bring forward legislation. In doing so, I am conscious that we still face uncertainty. I am also extremely aware that pensions are a very sensitive issue with the unions and with staff, who are concerned about the wider changes in pension reform following the Hutton report.

I will now turn to the specifics of the compensation scheme. If the result of the latest legal challenge is unsuccessful and the new compensation scheme for the Home Civil Service stands, the Department of Finance and Personnel will, at present, be unable to implement an equivalent and less generous scheme for the NICS without the consent of the NICS trade unions, as is currently required under article 4(3) of the 1972 Order. However, should the unions' legal challenge succeed, it is likely that the Cabinet Office will reintroduce the capping provisions to which I referred earlier, which were introduced by secondary legislation in December 2010 to limit the amount of compensation payments to 12 months' earnings for compulsory severance and 15 months' earnings for voluntary severance. If the Cabinet Office did reintroduce the limits on the amount of compensation benefits payable, there would be a requirement to introduce equivalent legislation in Northern Ireland to maintain parity.

In summary, we are faced with three possible scenarios. The key point is that each of those would require an amendment to our 1972 Order if we are to maintain parity. I attempted to set out the three possible scenarios in the paper that was provided to the Committee.

The first possible scenario is that the position in GB remains as it is at present and the legal challenge to the new GB compensation scheme is unsuccessful. In those circumstances, the 1972 Order would be amended by primary legislation through the proposed Superannuation Bill to remove the need for union consent to reduce compensation payments. It is important to note that that amendment would also insert new requirements and require the Department to make an official report to the Northern Ireland Assembly on the consultation that had taken place with trade unions prior to any detrimental change being made to the Civil Service compensation scheme in Northern Ireland. The report would be required to include full details of the consultation that took place, the steps taken in connection with that consultation with a view to reaching agreement with the trade unions, and whether such agreement had been reached. The Civil Service compensation scheme in Northern Ireland could then be amended accordingly by secondary legislation that took the form of a scheme amendment.

The second possible scenario is that the union is successful in its legal challenge to the terms of the new compensation scheme in GB during the course of the passage of the proposed Superannuation Bill in the Assembly, and the Cabinet Office decides to reinsert the capping provisions in the Superannuation Act 2010, the changes that it made in December 2010. In those circumstances, we would arrange to table an amendment to the Superannuation Bill to insert similar capping provisions for Northern Ireland in addition to the removal of the need for union consent to reduce compensation payments. There would be no need for secondary legislation in this scenario.

The third possible scenario is that the Northern Ireland Superannuation Bill becomes law and the 1972 Order is amended to remove the need for union consent to reduce compensation payments. If the unions were successful in their legal challenge and the Cabinet Office subsequently reinstated the capping provisions in the Superannuation Act 2010, further legislation would be required to insert similar capping provisions for Northern Ireland.

In summary, as regards the recommended way forward, there is the question: why change

now? Indeed, I may have pre-empted a member's question. We have kept a watching brief, and officials have taken the view that now is the time to begin to bring forward legislation to enable us to maintain parity. That is why we propose to amend our Order at this time. I appreciate that this is a complex area. As I have attempted to explain, whatever the outcome of the position in GB, we will need primary legislation to amend our 1972 Order to address the issue of union consent and to introduce the new requirements to enable us to report on the new consultation arrangements with the union that we propose should be put in place.

That is a very brief overview of what I appreciate is a complex area. I am happy to provide members with further details on any aspect of pensions that is of interest to them. I am also happy to take any questions that members may have. Thank you for listening.

The Chairperson:

Thank you very much. As you say, it is a complex area, although you pre-empted our discussion with the simple question of: why? There have been legal challenges, and there are further legal challenges in the offing. The reality is that parity in pay at the lower and middle grades of the Civil Service has already been broken. The Finance Minister has indicated that he is looking at Senior Civil Service pay grades in respect of local economic conditions and breaking parity. Why is the Department rushing in to stick with parity in the area of pensions and compensation when it is already moving away from parity in pay? It is a simple enough question.

There has been an ongoing engagement with the unions in Britain. Has there been any engagement between the Department and the unions here? This is a transferred matter, and we are not required to follow parity. You have outlined a lot of the complexities that have dogged the coalition Government's attempt to move in that direction. The simple question is: why, when we can make our own arrangements and are already considering our own arrangements for pay, do we want to follow the coalition Government's arrangements on pensions and compensation?

Mrs G Nesbitt:

It is something that, historically, we have always done, and it has served us well in the past. There are consequences, and it will be for the Executive to decide whether we maintain parity on pensions. Members will be aware that this is one aspect of pensions. There is a lot going on in the whole area of pension reform, so there are bigger questions, and maintaining parity on pensions is but one aspect of it. Parity is a wider issue.

The reason that we maintain parity has, historically, been for ease of administration, because the area of pensions is very complex, and I do not want to minimise the cost of setting up our own pension arrangements. It has also served us well as regards portability of pensions, with ease of movement for people who want to transfer their pension from one part of employment to another. I have not had any strong sense from the unions that they wish Northern Ireland to have its own pension arrangement in place, but I add the caveat that I have not had any formal engagement with the unions on that. However, in my dealings with the unions over the years, I have never sensed any wish on their behalf for us to depart from parity.

It has been understood that there would be a cost to setting up our own arrangement. We could, because we have our own legislation. It would be a matter for the Executive to decide on. If we do depart and put in place something different, there will be a consequence. To put it very simply, if we decide to have a better public sector pension than we have at present, or the same one — which is better than the compensation scheme in GB — we will have to pay for it out of the public purse. That is the choice that we would have to make in relation to public expenditure in Northern Ireland. I am using “we” in the generic sense.

The Chairperson:

The unions may have a different perspective if the court case in Britain is lost.

Mrs G Nesbitt:

They may have, but, on the general issue of parity, the unions have tended to be at least silently supportive. I have never sensed any strong view from the unions that we should break parity with GB. It has been understood that that is the stance that we have maintained, not just on Civil Service pension schemes but on public sector schemes generally.

The Chairperson:

I am sure that we will hear evidence from the unions at some stage in the process.

Mr Hussey:

I have a couple of questions. At the outset, you clearly identified that there are currently four pension schemes in operation: classic, classic plus, classic premium and nuvos. If somebody is promoted within the Civil Service, do they stay in their original pension scheme or do they have

to move to another scheme?

Mrs G Nesbitt:

No, they stay in the scheme.

Mr Hussey:

OK. So I take it that, in technical terms, the original 2002 scheme would have been one of the best available, because it was the older-style, final-salary scheme that would have provided a lump sum and perhaps a two-thirds pension or half-pension on retirement?

Mrs G Nesbitt:

I will defer to my colleague, who has more technical information.

Mr Kieran Hargan (Department of Finance and Personnel):

I think that you are referring to the 1972 scheme, which is more beneficial to members because, as you say, it provides the final-salary element, whereas the 2007 arrangements involve a career average, so there is no guaranteed lump sum at the end of the scheme. The 1972 scheme is the more beneficial one.

Mr Hussey:

Is the 1972 scheme based on the best of the final three years?

Mr Hargan:

It is indeed.

Mr Hussey:

I should have declared a little technical knowledge on this. I was a financial advisor for a while, so I know a bit about it.

The current scheme in Northern Ireland is the scheme that already exists for people who are made redundant. It is this higher scheme that currently applies.

Mrs G Nesbitt:

Yes.

Mr Hussey:

We have not been influenced by what is happening in GB at the minute. If the GB case with the unions is lost, the Government are going to bring another case in GB. We will then have to decide whether to follow that. I presume that, if we do, and a case is decided in a court in GB, that same law will apply here.

Mrs G Nesbitt:

Just to be really clear, we have to decide whether we want to maintain parity with GB. We have our own legislative basis. To date, we have kept a watching brief on the legal challenges in GB to see whether cases are won or lost. GB has a plan, and, under changes made in December 2010, there is a fallback position that it will revert to if this legal challenge is lost. That is what will become law if they lose this legal challenge, which is a worst-case scenario for the benefits payable under the compensation scheme. I suspect that that is what the GB scheme will revert to. That does not mean that we are bound to follow that. However, if we maintain parity, the consequence of that is that we would. That is why we have kept a watching brief to date. That is what we tend to do so that we do not introduce a change and then have to change it again. We had hoped that the legal challenges would be dispensed with by now and that we would have a judgement, but the matter has taken longer than we originally thought, given that the changes came into place in December 2010. We are keeping a watching brief. The outcome of the legal challenge will determine what happens in GB and, in turn, we will be required to make a decision as to what we do around our legislative basis in Northern Ireland.

Mr Hussey:

We are sitting at the minute with a “What if?” scenario. Everything is “What if?” and “dependent on”.

Mrs G Nesbitt:

Yes, and, to elaborate, that is why I have attempted to outline what the scenarios mean. No disrespect to members, but this is a really complex area, and I have tried to outline the scenarios, what the consequences could be for us in Northern Ireland and what action we could take.

Mr Hussey:

I was about to say that it is a very complex area, and you have certainly simplified it as best you

can. There are an awful lot of possibilities. I thank you for your presentation.

Mr McLaughlin:

Thank you very much. I appreciate that you have sought to reduce the information down to a digestible document. It was a fair enough effort, but, through no fault of yours, it has not been entirely successful. I think that there is an information deficit. I do not want to be swamped with information, but to simply tell us that the legal challenge was successful does not actually help us. I would like to know what was challenged and what the legal process found. That has a direct impact on what we might decide to do.

I would like to know whether parity is anything more than custom and practice. Is parity a policy of the Executive, or do we look at options when changes are proposed? It is interesting that the Westminster Ministers ran into legal difficulties with this issue. I question whether this was an ideologically driven initiative. Is it a cost-saving exercise? If someone asked me that question, I could not answer it on a factual basis.

So, I would like the impacts of the proposed changes presented in tabular form, and I would like to be able to judge whether it is a modernisation of an existing system that is proportionate and that reflects the economic reality or whether it is a cost-saving exercise. What are the collateral implications for the Executive? We do not have that information either. I would like discussion on approaching the issue in a way that maybe reflects our own experience and might, in fact, be helpful to other devolved Assemblies and, for that matter, the Westminster authorities. With all due respect to the presentation, my impression is of a tunnel vision that says that, rather than using our own experience to decide how best to respect the role of trade unions and the rights of civil servants, parity determines how we react when policy changes in Westminster. I do not have any of that information to help to contribute to any decision, and I think that we should press strongly to fill that information gap.

Mrs G Nesbitt:

I can respond with initial comments. I am happy to give you more information.

Mr McLaughlin:

I would like it in writing so that I can have a look at it and consider it.

Mrs G Nesbitt:

Do you want me to respond?

Mr McLaughlin:

Of course; that is always helpful.

Mrs G Nesbitt:

The legal challenge in May 2010 was quite simple. The Labour Government at that time had secured the agreement of, I think, five out of six unions. There was a Council of Civil Service Unions at that time, and one union disagreed. So, it was nearly there. The legal challenge was very straightforward because the terms of the Superannuation Act in GB at that time, the 1972 Act, were very clear that a detrimental change, as it was termed, could not be introduced without the agreement of the union. That was the essence of the legal challenge. So, in one sense, it was no surprise that the unions won the legal challenge. That was the basis of the legal challenge in a nutshell. I can get you more information on that.

Mr McLaughlin:

That seems fairly obvious and is what I assumed had happened. I do not understand why the Government pressed on when they knew that they would lose. So, what is the game plan? There has to be a game plan.

Mrs G Nesbitt:

Their game plan then followed from the sequence of events in December 2010, when the Government changed the terms of the Superannuation Act to remove the requirement for the agreement of the unions. That was the coalition Government's response.

Mr McLaughlin:

Of course, that will now trigger another legal challenge.

Mrs G Nesbitt:

That has now triggered another legal challenge.

Mr McLaughlin:

We would like to see the detail of that judgement.

Mrs G Nesbitt:

That judgement has not happened.

Mr Hargan:

The new challenge is on the basis that pension or compensation is judged as property under human rights. That is the line that the PCS union is taking. So, the outcome remains to be seen.

Mr McLaughlin:

I do not necessarily want to be negative about the initiative at this stage, because I do not know enough about it. However, at the heart of it is the question: why now?

Mrs G Nesbitt:

We will certainly get you more information about the nature of the current legal challenge. Would you like more information about the previous legal challenge in May 2010 as well?

Mr McLaughlin:

Yes, at least a précis of it so that we can understand the points of principle that have been established. That will be reviewed in the subsequent legal challenge, but we need chapter and verse on that.

Mrs G Nesbitt:

Two points are driving the changes, and I am happy to get members more detail. The first is the response to age discrimination legislation. As I say, at the minute, the reference points in our scheme are length of service and age. So, one of the reasons that the Government in GB introduced the change was in response to age discrimination legislation and to remove age as a reference point in determining compensation payments. The other thing that is driving it is a reduction in the cost to the public purse. Again, I can get members more information on that, and I can provide more information on parity as well. I am happy to do that.

Mr McLaughlin:

What will be the impact of the changes if they are subsequently approved? Will we have any chance to hear from the trade union side? Is it in the Committee's forward work programme? I suspect that, after today's session, we will hear from them.

The Chairperson:

I suggested as much in my remarks. I am sure that we will. This is a very early consultation, and there are a lot of unresolved issues, including legal issues. As part of our consideration, we will want to hear arguments from various interested parties, including the unions.

Mrs G Nesbitt:

The unions are certainly aware of our intentions.

Mr McLaughlin:

Thanks for your indulgence, Chair. Finally, can we take another approach, not necessarily a blue-sky one? We have devolved powers, and there are options, although we might decide not to implement them. However, I think that it is better to consider all our options rather than simple parity, otherwise we may be missing a trick. If a different approach has been considered, I would like information on it. If not, I am surprised, and I would like to see one considered in future.

Mr Hargan:

I will give members a quick example of what is available under the new GB scheme and what the equivalent would be here. Take, for example, a civil servant who earns a salary of £25,000 a year. Under our scheme in Northern Ireland, it is possible for them to receive up to three years' salary. So, they could receive up to £75,000. In GB, the maximum is limited to 21 months' salary, which would equate to £43,750. So, a person on the same salary there would receive over £31,000 less than a person on an equivalent salary in Northern Ireland. Those are the comparative figures.

Mr McLaughlin:

Is there a retrospective element to that?

Mrs G Nesbitt:

No. That is under the change that came into effect on 22 December 2010 in GB.

Mr Humphrey:

Thank you for your presentation, Grace. I have a couple of questions, one of which Kieran has just answered. I want clarity on a couple of issues. You mentioned deferred members. What is a

deferred member? Is that someone who was in the Civil Service but who has left its employ?

Mrs G Nesbitt:

Yes.

Mr Humphrey:

Obviously, then, nothing is triggered until that person reaches retirement age.

Mr Hargan:

That is right.

Mr Humphrey:

Kieran made the point about three years' pay for redundancy. Is that regardless of whether redundancy is voluntary or compulsory?

Mr Hargan:

That would be for voluntary redundancy. The terms for people volunteering to leave are more generous than the terms for people who say, "No, I am not going" and whose employer then makes them redundant on a compulsory basis. You will find that the majority of people in the Civil Service volunteer to go because the package is more beneficial. I do not know the reason, but, of course, if people volunteer to go, it looks better for the employer because it does not have to pay them off.

Mr Humphrey:

What is the scenario for someone who is made redundant on a compulsory basis?

Mr Hargan:

Under the new GB terms, there is quite a difference.

Mr Humphrey:

I mean in Northern Ireland.

Mr Hargan:

It is complex. It depends on your length of service and your age, which is factored into our terms.

The example that I gave was the maximum that someone could achieve under compulsory redundancy arrangements. However, for voluntary arrangements, it depends on your age. You could not say that there is a rule of thumb for everyone. It depends on a number of factors.

Mr Humphrey:

So, someone who takes voluntary redundancy in Northern Ireland is better off than their equivalent in GB by 15 months' salary.

Mr Hargan:

They would be, yes, because they would get 36 months' salary. That is the maximum. Not everyone would get that because the figure is based on length of service, and age is taken into account in our scheme as well.

Mrs G Nesbitt:

Chair, if it is helpful, when we give you the written submission on cost, we could include some scenarios comparing the two schemes. That may give you some more information.

Mr Humphrey:

It would very much help.

Mrs G Nesbitt:

That may put some meat on the bones, as it were.

Mr Humphrey:

Finally, you talked about the cost of setting up our own scheme as opposed to using the UK-wide scheme. Surely such an arrangement is not realistic in cost terms, especially in the current economic climate? Would those costs not be prohibitive?

Mrs G Nesbitt:

It would be up to our Executive to direct officials as to the policy intent. I would not want to minimise the extra work that that would entail, because significant work goes into that area. That is because pensions a very complex area. We would also have to look at the benefits that would be achieved through departing from the maintaining of parity with GB.

It would be interesting to hear what the trade union views are on this, as I am aware that the whole idea of pension reform is not popular with staff or the unions; that much is apparent. However, I have been asked what the reasons are for this change, and the compensation scheme specifically was about age and cost. The Executive have to make the decision on the priorities for expenditure in Northern Ireland and how much we want to spend on a compensation scheme. That is not for me, as an official, to comment on, but I do not want to minimise the cost and the work involved in that.

Again, if we are putting in place a more generous scheme, we have to consider whether there is benefit in doing that and whether that is what we should be doing for our staff. I am wearing two hats here, because I am a member of the scheme. We need to consider whether we should have other priorities. Those are matters for the Executive to comment on.

Mr Humphrey:

I do not think that the ordinary man on the street would understand why we should have a scheme that is unique to Northern Ireland if the costs and the opportunity costs are significantly higher. I do not think that people should be expected to understand it. I do not understand it, given that we are being asked to make considerable savings across government. Why would we even contemplate having a scheme in Northern Ireland if there are considerable cost implications that would mean money from the public purse not being spent on the delivery of front line services?

Mrs G Nesbitt:

You may be right. It may be helpful to say that civil servants in Scotland and Wales do not have their own legislation; they are part of the GB scheme. This is the only devolved Administration that has a separate legislative basis for Civil Servants.

Ms Ruane:

I want to make a couple of comments. I echo what Mitchel is saying in that I think we need further information, and I look forward to receiving that.

Mrs G Nesbitt:

We are happy to supply that.

Ms Ruane:

You mentioned the portability of pensions. I know that there have been discussions at the North/South Ministerial Council about obstacles to mobility between the North and South. Has anything been factored in here? Are there any implications for the portability of pensions North and South?

The other brief comment I would like to make is again about prejudice. We must listen to the trade unions, and we will await further information from you, but our practice has been one of general consultation and working with trade unions. Comments about there having been no consultation worry me. We are in a new situation here in the North. We want consultation at different levels on all different aspects of policy, and it worries me if we are moving away from that.

The other issue is about whether a new scheme would cost money to set up. We hear presumptions that it may, but it would be useful to hear about costs of setting up those schemes. Have other schemes been set up in other areas, be they public service or Civil Service? Rather than having your opinion that it would cost us more, it would be useful to have some information on that.

I am also looking at the area of end-year flexibility. I know it is a different area of work, but the Finance Department is setting up a new scheme for end-year flexibility. Let us not just presume that a new scheme is a problem. Give us all the information, so that we can make an informed judgement, rather than push us down the road of parity without information.

Mrs G Nesbitt:

I am happy to give you information on the costs of setting up the scheme. It will cost to set up our own scheme, if we go down that route, but I cannot give you the quantum of that. One of the other things that we can avail ourselves of at present, because we very much mirror GB, is that, if we have specific queries, we can ask for expert advice and guidance from the Cabinet Office. We do have queries and various appeal routes for people to challenge pension provisions, and that is appropriate. People can also go to the Pensions Ombudsman. If we depart from parity, that would also be lost. I am not saying that we cannot do that; I am just saying that we would have to look at that, and we would also have to set up that source of expert advice. We have that advice at present and we avail ourselves of it regularly. However, I am happy to supply you with the

cost. There will definitely be a cost, and I will attempt to give you some idea of what that would be and the consequences. Again, that would be a matter for the Executive to decide on.

Mr D Bradley:

Thank you for your presentation. You said that the main policy considerations behind this were to reduce the payments through the compensation scheme and that, because of age discrimination issues, age could no longer be the reference point for payment. What would the point of reference be for payment in the future?

Mr Hargan:

It would be based wholly on length of service. For example, under the current scheme, people over 35 years of age receive an extra one month's final pensionable earnings for every full year of reckonable service after the age of 35. Under the new scheme, that will be gone. That has gone under the GB scheme, which has a maximum of 21 months' earnings for anyone who volunteers to go. The age element has gone entirely. Theoretically, you could say that our scheme, as it exists now in Northern Ireland, is not compliant with age discrimination legislation. It is riddled with ageism. Those under the age of 35 who are being made redundant could ask why they do not get an extra one month's final salary. Our scheme is riddled with such examples, and that factor must be taken into account. Regardless of whether we maintain parity or go our own way, we will have to look at the scheme and remove the age factors.

Mr D Bradley:

So it will be based solely on length of service?

Mr Hargan:

Yes.

Mr D Bradley:

Both of you are probably members of the scheme —

Mrs G Nesbitt:

I did say that I was wearing two hats.

Mr D Bradley:

There are some 34,000 members in total, and, presumably, you probably have the best interests of those members at heart. What protections would there be in any future legislation that would reassure members of the scheme that we are not purely moving towards a situation where the compensation can be reduced gradually in the future without much reference to the interests of the members?

Mr Hargan:

The main answer is that there are none. If the legislation changes and it removes the need for trade union consent, it means that, in this case, the Department would have the power to decide what those payments should be. That is if the parity issue is maintained. It is the same for the Cabinet Office in GB, as the Minister for the Civil Service has sole discretion as to what payments should be made to home civil servants. There is no provision for reassuring members in the future. It could be changed again at a later date, and there is nothing to reassure current members that it will not.

Mrs G Nesbitt:

There are two issues. We are talking about the compensation scheme, which is about what happens when people leave through voluntary or compulsory redundancy. I am digressing a bit, but this is an important point: Following on from the Hutton report on pensions, the coalition Government have given a commitment to honour accrued rights. So there are two elements: the pension that you get when you retire, and what you have accrued if you joined a long time ago with your final-salary pension scheme under the classic scheme. Someone who joined the classic scheme will have a final salary pension scheme until whatever date the Hutton reforms become effective, when they become effective and if and when we choose to apply them in Northern Ireland. I want to make this clear. The coalition Government has said that those accrued rights will be “honoured”. That is the term used. What we are talking about specifically is the compensation scheme and what you get when you are compulsorily or voluntarily made redundant. I thought it helpful to bring out that point.

Mr Cree:

I will ask about the ageism issue, because that is the big change. I have several other questions. Are all the current schemes final-salary schemes?

Mrs G Nesbitt:

No.

Mr Cree:

Which are the final-salary schemes?

Mr Hargan:

The 2007 scheme, known as nuvos, is a career-average scheme. The 1972 scheme, which is the old scheme, and the scheme introduced for new entrants from October 2002 are final-salary schemes. The only career-average scheme is the nuvos scheme.

Mr Cree:

We have not yet got a money-purchase scheme?

Mr Hargan:

No.

Mr Cree:

Roughly how many people are involved in the 1972 scheme? That will continue until some future date. It is the most costly one.

Mr Hargan:

How many people are members of it?

Mrs G Nesbitt:

I will have to get you figures for that. It will cover the majority of staff, simply because there has not been a lot of recruitment to the Civil Service since 2007. In the update that I will provide to the Committee —

Mr Cree:

The 1972 scheme ran until 2007 or thereabouts. Most civil servants will be on that scheme.

Mrs G Nesbitt:

Yes. That applies to most of the Civil Service, or rather most of the members, for, as I say, the

scheme is not just for Civil Service staff but for staff of other bodies as well. The majority of members are on final-salary schemes.

Mr Cree:

The big thing, as you know, is that virtually no one can afford final-salary schemes any more. That is why, in the private sector, there are very few companies that can afford to pay for them.

Can I ask you to bring some information back to us? I wonder how far the situation is complicated by national agreements and taxation law, bearing in mind that it is central. We also have a problem in that our earnings are 80% of the GB average. The benefit of hindsight is a wonderful thing. Unions have a veto on the agreements, whereby changes cannot be made without their approval. That is a big step to take; and, therefore, those rebuttals, by way of legal challenge, come as no surprise at all.

It seems to me that we should make haste slowly on this one. There is no point in creating problems for ourselves, especially as the overall scene keeps changing. Does it not make sense to wait until there is a final settlement across the water, hammered out and watertight, and then go for that? We have a moving target in this.

Mrs G Nesbitt:

We do; and the progress of the Bill is also a moving target. The scenarios that I have set out enable us to make changes while the Bill is in passage. That is what we intend to do. It is a judgement call as to how long we wait. We have pointed out that, as our legislation stands, we are vulnerable. That is a real concern for us. It is a judgement call about how long we wait; you are absolutely right about that, and I have pointed that out. As I pointed out in the scenarios, we have the opportunity to make changes and respond to the changing situation during the passage of the Bill. The view is that we need to start down that path.

Mr Cree:

My final point is about the eightieth of the final salary scheme.

Mr Hargan:

It was one eightieth of the final salary scheme in the 1972 section and one sixtieth in the premium and the classic plus in the 2002 section.

Mr Cree:

That is very nice.

Mrs G Nesbitt:

If it is helpful, we can update members with the details of the differences between the schemes.

Mr Cree:

Thank you very much.

Mr Hussey:

Is there an additional cost to members of the premium or classic plus schemes? Do they pay for the one sixtieth?

Mr Hargan:

It is 3.5% of salary, whereas the 1972 section is 1.5% of salary.

Mr Hussey:

They are paying for that?

Mr Hargan:

Yes.

The Chairperson:

There are obviously quite a lot of questions about all this. The Finance Minister is going to the Executive tomorrow to kick-start the process. This is something that the Committee will want to continue to examine in some detail. We remain to be convinced that it is not getting ahead of itself, given that it is such an important issue.

Did you say that the scheme here is more generous in certain ways, both for compensation and pension?

Mr Hargan:

No, it is just the compensation.

The Chairperson:

How does that affect parity, if there is a more advantageous compensation scheme here?

Mr Hargan:

Parity would be broken if we had a different —

The Chairperson:

But it is currently broken.

Mr Hargan:

It is currently broken, but we are looking to see whether we can bring it into line, if we get the go-ahead. However, that will be an Executive decision, as Grace said.

The Chairperson:

If we have broken parity on the lower and middle levels of pay, are we looking at issues that may break parity in relation to senior levels of pay? We do not follow parity in relation to compensation, but now we are being asked to get into a process that is about following parity.

Mrs G Nesbitt:

To clarify matters, the policy to date has been to follow parity on pensions. The reason that we have not moved on the compensation scheme is because we have kept a watching brief. Our intent has been to maintain parity, and that is normally done through secondary legislation, which would not come to the attention of the Committee. A raft of other changes has been made through secondary legislation — there have been 30 or 40 minor changes over the past few years — to maintain parity. This particular change requires primary legislation, and, because of the legal challenges, we have adopted a pragmatic, wait-and-see approach. The point at which we have to start moving has now arrived. The policy intent has been to maintain parity, and whether we continue in that manner is a matter for the Executive. It is not for me, as an official, to determine.

The Chairperson:

OK. Thank you very much. I assume that your evidence paper is not restricted, and that, were we to take evidence from others, we could share your information with them in advance of asking them questions?

Mrs G Nesbitt:

Yes, that is fine. There is nothing in that paper that has not been discussed, at least informally, with the unions. There is nothing that the unions are unaware of.

Mr McLaughlin:

I thought that you were going to tell us they were content; that would have been a first.

Mrs G Nesbitt:

Well, pensions are a difficult issue.

The Chairperson:

OK. Thank you very much.