



Northern Ireland
Assembly

**COMMITTEE FOR SOCIAL
DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

**Departmental briefing on the proposed
welfare reform Bill**

28 January 2010

NORTHERN IRELAND ASSEMBLY

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SOCIAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Simon Hamilton (Chairperson)
Mr David Hilditch (Deputy Chairperson)
Mr Billy Armstrong
Mrs Mary Bradley
Mr Mickey Brady
Mr Thomas Burns
Mr Jonathan Craig
Mr Alex Easton
Ms Anna Lo
Mr Fra McCann
Ms Carál Ní Chuilín

Witnesses:

Ms Anne McCleary) Department for Social Development
Ms Margaret Sisk)

The Chairperson (Mr Hamilton):

Joining us this morning are Anne McCleary, the director of social policy and legislation division in the Department for Social Development (DSD), and Margaret Sisk, who is the deputy director. You are both very welcome.

The Welfare Reform Bill received Royal Assent in November 2009. At its meeting on 3 December 2009, the Committee received a departmental briefing on the outcome of the consultation on the equality impact assessment (EQIA) of the provisions of the proposed Bill. On 18 January 2010, the Department wrote to the Committee indicating that the Minister would not be seeking accelerated passage for the proposed welfare reform Bill.

Given the nature of the briefing, the session is being reported by Hansard. Anne, I ask you to please make some introductory remarks, and after that, I will open the floor to members for questions.

Ms Anne McCleary (Department for Social Development):

Thank you for the invitation to attend the meeting today, Chairperson. The proposed welfare reform Bill is a significant piece of legislation that will play an important role in bringing those who are out of work closer to the workplace. It mirrors the GB Welfare Reform Bill, which received Royal Assent in November, and it is important for the maintenance of parity across the social security systems in Northern Ireland and Great Britain.

As we confirmed in correspondence with the Committee Clerk on 18 January, the decision has been made not to seek accelerated passage. I understand that members are interested in knowing, among other things, the impact of purdah, what happens next and the implications for parity. Without wishing to pre-empt any questions that members may have, it may be helpful if I deal with those specific issues at the outset.

First, we do not anticipate that the period of purdah that will be associated with the Westminster elections will have an impact on the Bill. Secondly, we will move to introduce the Bill as soon as we have received Executive approval. The speed of progress will depend on the Committee and the Assembly. However, the Bill is unlikely to be passed in time to maintain parity of timing. Thirdly, depending on legislative progress, there will be disparity between Northern Ireland and Great Britain for a period of time. Margaret will be able to give you more detailed information on the more specific differences, if that would be helpful.

The Chairperson:

Thank you, Anne. The nub of the matter is that we find ourselves in a peculiar position. No

Committee would argue for accelerated passage. What is the point in having a Committee if Bills do not go through a Committee Stage? That scrutiny is an important function of Committees. I welcome being given the opportunity to have a Committee Stage, because the proposed Bill is a significant piece of legislation and because it is only right that proper attention and scrutiny is given to it.

I, and I am sure the Committee members who have been in the Assembly for longer, have been told ad infinitum that the maintenance of parity is absolutely paramount, particularly for social security legislation. The situation appears to be that timing will result in a breach of parity. That causes me some concern. I do not know how many times I have heard the Minister talk in the House about parity when amendments to pieces of legislation have been sought or moved. The argument has always been that we cannot have a breach of parity.

I received correspondence from the Minister before Christmas off the back of a debate on employment support allowance (ESA). Again, both a letter and an annex to it clearly referred to parity. Parity in that instance relates not just to the level of payment of benefit but to its administration. We even have correspondence from the Department that dates back to 2008 that states:

“Indeed without parity in the associated funding, the Northern Ireland social security system would probably be unsustainable. Any departure from parity which would endanger the continuation of this funding, needs to be the subject of long and detailed consideration.”

I am sure that other members will have similar questions to mine, but what is the extent of that breach of parity? What is its impact?

Ultimately, it does not matter to me whether our statute book is different from another; what matters is the impact that that might have on the recipients of benefits. That is what we have been told for years, and that is what all of us are, or should be, concerned about. Given that the most efficient Committee Stage ever and the quickest possible passage through the House would not give enough time, why was accelerated passage not sought? Furthermore, what discussion has the Department for Social Development had with the Department for Work and Pensions (DWP) and/or others in Whitehall about the impact of the breach of parity?

Ms McCleary:

You are right. There will be a period during which there will be a degree of disparity, because there will be disparity of timing. However, once the Bill receives Royal Assent, the situation will return to one of parity, subject to whatever happens in the legislative process. The proposed Bill is important, and it will make a difference to people.

I am sure that members are more familiar than I am with how the Bill would have an impact on people who receive benefit and who are concerned about what will happen next. The purpose of the Bill is to help those people to move closer to the workplace. It will also simplify the benefits system and introduce provisions that provide enforcement powers on child maintenance arrears. Given its importance, the Bill must be given detailed consideration.

Margaret Sisk will provide the Committee with more precise details of the impact of what will, it is hoped, be a short period of disparity. We are looking at all the implications of the Bill, which we will introduce as soon as it receives the Executive's approval.

Ms Margaret Sisk (Department for Social Development):

It is clear to us, and probably to the Committee, that there is no possibility of meeting the April 2010 deadlines that have been set in the GB Act. I will run through what will become operational in April 2010.

The first changes that will come into operation in Great Britain in April 2010 will be in areas of what I call protections for people. Those are the measures that I spoke to Anna Lo about when I addressed the Committee previously. They include provisions to remove the requirement for lone parents who are on income support or ESA and who have children under the age of one to have a work-focused interview. That requirement will be removed in Great Britain from April 2010.

Victims of domestic violence or who have been under threat of domestic violence in the previous six months will be able to claim, or continue to claim, jobseeker's allowance without being subject to the conditionality of the jobseeker's regime for 13 weeks, in addition to the 11 weeks that are allowed at present.

From April 2010, the Act will allow the "availability of childcare" or:

“the person’s physical or mental health or condition”

to be considered in deciding whether a person has good cause for failing to undertake a mandatory activity for the purpose of jobseeker’s allowance or employment and support allowance. That is also due to be introduced in April 2010, but we will not be able to meet that date.

In preparing a jobseeker’s agreement, someone’s personal adviser must have regard to the impact of that jobseeker’s agreement on the well-being of any child. That protection will also come into effect in April 2010, but we will not be able to mirror it straight away.

Other things will tighten conditionality. One is the abolition of adult dependency increases for carers allowance and maternity allowance. They will be abolished for new claims from April 2010. There are also various sanctions against people who have been violent, people who have committed benefit fraud and people who have failed to attend. In Britain, those sanctions come into operation in April 2010, so we will be unable to match those dates.

As Anne said, it is our intention to introduce those provisions as fast as we can, but that will depend on the length of time that it takes for the Bill to proceed through the Committee and the Assembly.

The Chairperson:

Proposed changes to the Bill will affect people who are visually impaired. Is that impacted in any way?

Ms Sisk:

No. That is not due to become operational until 2011, so we should be OK on that. There is another set of dates in October, and if we cannot manage to get the Bill through by then, an impact could be felt. People will be able to make advanced claims in October 2010 to allow enough time to process their application for 2011. If we do not manage the October date, it is possible that there will be an impact. At this stage, we are not suggesting that we cannot do that.

The Chairperson:

I am probably more concerned now, having heard that list. Given all that, why was accelerated passage not sought? This could open the floodgates, and goodness only knows what could happen then. What discussions have you had with DWP, the Treasury or anyone else to tell them that you will be in breach of parity and that there will be consequences? There may be no consequences, but there could be. There is a consequence to the constant argument that parity is most important. You can make a fantastic argument about why something should be changed, but when the old bludgeon of parity is brought out, the argument is over. That argument has gone, and there could be an impact on the passage of the Bill through the House.

Ms McCleary:

Any decision on accelerated passage should not be taken lightly; it will have been a finely balanced decision. The Bill is a parity piece of legislation, meaning that it has little scope for variation from the Welfare Reform Bill, which, as you know, received Royal Assent in November. However, bearing that in mind, we are always mindful of the important role of the Committee. That is why we are where we are.

The Chairperson:

Perhaps you cannot answer this question, but was the Minister advised to seek accelerated passage?

Ms McCleary:

That is one matter that comes under the description of advice to the Minister.

The Chairperson:

I understand that. I had to put the question, but I knew the answer. What communication have you had with DWP?

Ms McCleary:

We have been in touch with DWP, so it is aware of the situation.

The Chairperson:

Has it expressed a view?

Ms McCleary:

No. I will be having meetings with DWP next week or the following week, and we will discuss this in more detail.

The Chairperson:

The Committee will be keen to know the outcome of those discussions.

I have hogged enough of the time, so I invite members to ask questions.

Ms Ní Chuilín:

Chairperson, some of your questions covered what I want to know, especially where advice is concerned. The other area about which we have concerns — we are on record as having these worries — relates to the nuances on parity. My understanding is that parity is like for like. We are not getting like for like, and lone parents in particular are getting far from like for like.

Ms McCleary:

I was just going to mention that. Parity is about achieving the same result as far as possible. In the past, we have had to take into account the different scenarios that exist in some areas of Northern Ireland, such as issues relating to the administrative withdrawal of passports and drug issues. Therefore, the two will not always be exactly the same, but, hopefully, the end result will be the same.

Ms Ní Chuilín:

Given the concerns that have been raised, will people lose out on benefits as a result of the proposed Bill?

Ms McCleary:

No.

Ms Ní Chuilín:

Even if the welfare reform Bill were enacted tomorrow, could the Department and the Minister still implement it with local nuances and operational flexibility?

Ms McCleary:

Yes.

Ms Ní Chuilín:

The report on the administration of disability living allowance (DLA) is a good example of working in that way. Has any consideration been given in the proposed welfare reform Bill to lone parents, particularly on the criteria for ESA? I ask that because we will not have the same flexibility in the availability of affordable childcare.

Ms McCleary:

People have been asking about that recently, and we have told the Committee in the past that we have to take into account the fact that there is limited availability of affordable childcare. That will be taken into account for lone parents.

Ms Ní Chuilín:

Will that be considered under the category of good cause?

Ms McCleary:

Yes. The unavailability of childcare is a good cause.

Mr Craig:

I am intrigued by the fact that we have not sought accelerated passage on the parity issue. It is the first time that that has happened since the Committee started in this term. What can we change in the proposed Bill without destroying the parity issue? If we cannot influence or change anything, what is the point in the Bill going through the Committee Stage? That argument has always been used for seeking accelerated passage.

Ms McCleary:

As I said, this is a particularly important Bill, and I do not think that it is for us to pre-empt the Committee's views.

Mr Craig:

To what extent can we change something that must mirror legislation in the rest of the UK? It is a sensible question.

Ms McCleary:

I am not saying that it is not a sensible question. However, you have to look at the individual case and take a view on it. It is not possible to make a sweeping statement about it.

Mr Craig:

Can we change any of the fundamentals of the proposed Bill? I do not believe that we can. The issue of whether we should have accelerated passage is open to question, because, when it comes to working it out, you can make recommendations on the abolition of income support for lone parents and of child support, but, ultimately, the Minister will have made recommendations on the matter anyway. Given the level of correspondence that everybody has had, we will all come to the one conclusion, but I still come back to the question in my mind: why are we going to look at the proposed Bill in detail when we know that very little tinkering can be done with it?

Ms Sisk:

Clearly, the Department would be concerned about how the proposed Bill would be implemented if certain parts of it were changed. Therefore, as Anne said, we would have to look at each item that the Committee wanted to change and consider whether it would have a serious impact. As the Chairperson rightly said, we are concerned that the funding that comes for social security from the Treasury is predicated on us trying to keep the two systems the same. Therefore, we would always have to be very aware of that.

The operation of the Social Security Agency is an issue that we have raised on several occasions. The agency is very dependent on computer systems that are run from Great Britain. The systems are set up to run in the same way across the UK, so we have to be careful about that.

That is not to say that there are not some Northern Ireland differences that we could take account of, as we have done on the issue of lone parents. Anne mentioned that Northern Ireland will not be involved in the administrative withdrawal of passports, for example. The proposed Bill has no impact on either of those matters. Therefore, we will have to look at individual clauses of the proposed Bill and hear the Committee's concerns about them. If there were something that we could do that would not undermine those matters, we would be open to it. It is difficult to say what those are; we will have to wait and assess the Committee's interest.

The Chairperson:

When the Minister writes to us, as she did in December — indeed, she wrote to every Assembly Member — she tells us that parity means that we have to have the same IT system. However, it is difficult for us, given the history of the use of the parity argument, to see how there is, as Mr Craig said, any realistic scope for this Committee to successfully suggest amendments. We have been unable to do so in the past, have not wanted to or have not been able to. It is very difficult to say; that is the point.

Mr Craig:

I am intrigued, Chairperson.

Mr Burns:

I do not know where we are going. We were always being told that the computer system worked across the United Kingdom, which meant that people could go from one region to another and their benefits would stay the same.

The Chairperson:

The point about the IT system is always being made to illustrate its utter inflexibility. It is, in practice, the right thing to do, but it also highlights the complete inflexibility that exists at the other end when dealing with rates and administration.

Mr Burns:

What would be the cost of any difference to the programming of the computer system? What would happen if it were to be changed? Would that create a balance?

The Chairperson:

That only underscores the point that there is no scope to do anything.

Mr Burns:

I do not know what we are at here.

The Chairperson:

Neither do I.

Mr Burns:

I would have thought that we would have strict parity unless there were very good reasons for not doing so.

The Chairperson:

Even for a brief period.

Mr Burns:

Yes.

Mr Craig:

Thomas summed up the question that is left in my mind. We have so little scope to change some of those provisions. Some members will have huge difficulties with fundamental issues. However, if we are unable to implement changes at that level, we must question why we are looking at the issue at all. It is imponderable.

Ms Lo:

In a way, I welcome the fact that we can scrutinise the Bill, because the Minister and many MLAs have been lobbied about the change of status of lone parents in particular. We can take time to examine the provisions of the Bill that are of particular concern to individual members, such as childcare. It is right that the Minister should consider the comments that communities have made.

I am surprised, however, that it has taken us so long to reach this stage. Three of us are the longest-serving members of the Committee — has Jonathan been here from the beginning? I remember discussing the proposed welfare reform Bill in the Committee in the first few months of this mandate. That was two years ago.

Ms McCleary:

It has taken a long time to get to this stage.

Ms Lo:

It has been a long time. I recall saying at the time that it was a very important Bill.

Ms Sisk:

That was the previous Welfare Reform Bill. There was one in 2008; you are perhaps thinking about it. This is the second Bill. The first Bill was passed after the Assembly was reinstated. That Bill has been enacted.

Ms Lo:

Why is it taking us so long to catch up?

Ms McCleary:

It is a very complicated Bill that has lots of provisions. A lot of changes have been made. We are following the GB Act, so we had to wait until that Bill had completed its passage. We then had to look at the EQIA when we sought the approval of the Secretary of State. We are where we are, so hopefully, we will be introducing the Bill soon.

Ms Lo:

Roughly what is the time lag between April 2010 when the provisions of the Act are implemented

Ms McCleary:

It will all depend on when we receive Executive approval to introduce the Bill, but I hope that that will not be too far away. As we said, there is another important date for us in September. The timing is subject to the Assembly's legislative process, in which the Committee plays a significant part. We would hope to have the proposed Bill through by then.

Ms Sisk:

We need to get it through by the summer recess to match the October date. Clearly, once the Assembly goes into recess, it would be too late to leave it until September. We are in your hands now.

The Chairperson:

I am not entirely sure that that is fair. The Committee will deal with this in its own way, and we are restricted in the time that we have to seek an extension to the Committee Stage. I am not going to accept the hospital pass that it is on our toes. We have not created the scenario where there will be a breach of parity.

Ms McCleary:

We are not suggesting that.

The Chairperson:

A decision that the Minister, not this Committee, made has resulted in a breach of parity. This Committee will efficiently and effectively do its work, and we will not in any way hold anything up unduly. We understand — unlike some others, it would appear — the potential implications of a breach of parity. The Committee will do its job as it is entitled and has to do, but in no way will we be held responsible for a breach of parity.

Ms Lo:

The issue is not about the benefit levels for lone parents. They will not lose out because of the delay. They may not gain anything, but the status quo will at least be maintained.

Ms Sisk:

Hopefully, the delay should not make any difference.

Ms Lo:

If we are going to depart from practice in England, the definition of and procedure for lone parent will determine whether those people can continue to stay on income support.

Ms Sisk:

No. The lone parent provision, or the extension of more conditionality to lone parents, will happen much further down the line than April 2010. It will not have any short-term impact on lone parents at all. Various safeguards will be introduced in England in April 2010, but those are for people who are already subject to the jobseeker's and employment and support allowance regimes. It is not about a tightening of the conditionality on lone parents. That is at least two years away in England, or perhaps even longer. The delay will not have any increased impact at all.

Mr Brady:

I agree with Jonathan's argument; it is rational in what you can do. You mentioned how important the Bill is. It is a landmark Bill, in that it represents the biggest change since 1948. To

me, a lot of it is a rehash of what has been done over the years. There is nothing new about it; the provisions are the same but are in a different format. Many parts of the Bill are prescriptive, and we should be able to debate and possibly change those elements.

The argument on parity is about the desirability of having two systems that are run in parallel or in synch with one another; it is not set in stone. The argument from the Treasury is that if the Assembly decided to pay more, it would come out of our Budget. We would save money that would then go back to them. It is a very one-sided argument, and that must be realised.

I mentioned that the Bill is a rehash. For instance, community care grants are similar to the old single payments in that specific retailers were involved, and they made a very good living in the 1970s and 1980s out of single parents. The Secretary of State could instruct people to go to particular retailers to spend their community care grants. It would almost put some retailers in a better position than others, particularly where white goods and that kind of product are concerned. We can talk a lot and expend a lot of energy arguing about it, but unless the whole issue of parity is addressed, *[Inaudible]*. Since my first day on this Committee, the argument has been used that you cannot get away from parity and accelerated passage because of all the changes that would be introduced, such as the introduction of the ESA. However, we are now being told that it can be changed if it is convenient for the Minister and the Department. That argument needs to be looked at.

Ms McCleary:

I do not think that anyone is suggesting that we are moving away from parity and from the doctrine of parity. What we are talking about is, hopefully, a short period of what I call disparity, but after that, we will return to parity.

Mr Brady:

With respect, that argument was predicated on the notion that parity is a good thing. I do not necessarily think that it is, because, as has been mentioned, there are many anomalies in childcare provision and so forth that simply do not exist here.

Ms McCleary:

We have been able to take those factors into account and still maintain parity, so that is not necessarily a contradiction.

Mr Brady:

The legislation on childcare in particular has been in place in England and Wales since 2006. It will be another year or two before it will be introduced here, so if parity is going to be like with like, that simply cannot happen. It is a different argument perhaps, but it needs to be looked at.

Ms McCleary:

As you know, one of the key aspects of parity is the fact that a significant amount of money comes to Northern Ireland from the Treasury. I cannot remember the figure off the top of my head, but the amount that Northern Ireland receives in benefit far exceeds —

Ms Sisk:

It is £2.6 billion.

Ms McCleary:

It far exceeds the amount that we pay in. Therefore, if parity were to go and we were to fund a social security system for ourselves, there would be major issues. You have already spent some time this morning discussing how money would be spent, and I am quite sure that the discussion would be even sharper if we had to throw social security benefits into the mix.

Mr Brady:

With respect, the argument that they are giving us a lot of money but we cannot raise our own money comes into play; therefore, a balance has to be struck. I do not wish to turn this into a mantra, but even though a lot of money is coming in for social security benefits, we have the worst pension system in the developed world. That needs to be looked at. A lot of money is coming in, but it is spread very widely. People on benefits are not well off. A lot of money is coming in because we have different conditions, particularly if we consider the historical unemployment levels in certain areas, for example. Therefore, other issues are involved that also need to be looked at. It sounds like a lot of money, but when it is spread out and income support or ESA are considered, it is not really a lot of money. More than £1 million in pension credit has not been claimed, and to me, not enough effort has been made, particularly by the Department, to ensure that people get their entitlements.

Ms McCleary:

I know that various divisions in the Department have embarked on campaigns to try to increase benefit uptake. However, there is no doubt that there is greater need in Northern Ireland.

Mr Brady:

In my area, from December 1987 to April 1988, we were able to raise £2 million in unclaimed benefits, particularly in single payments. It took approximately 15 people to do that; therefore, I sometimes wonder why the Department cannot do it with the resources that it has available.

Ms Sisk:

If the Department were to do that, all that money would come directly to us from the Treasury, not from the Northern Ireland Budget. I do not think that there is any real argument that Northern Ireland would benefit from that. We would be incapable of funding the system ourselves.

Mr Brady:

I absolutely agree, but the point is that if you pay more, you raise it out of your own money, but if you pay less —

Ms Sisk:

Do you mean raise the rate as opposed to the total amount? If we were to raise the rate, we would have to pay for it.

Mr Brady:

It is a very imbalanced way of doing things. We could talk about this for a long time.

The Chairperson:

We could, but we are not going to do it now.

Mrs M Bradley:

Mickey said quite a bit of what was going through my head. We have to consider the issue seriously. Margaret, you said that the lone parent element will not come into effect until —

Ms Sisk:

The increase in conditions for lone parents of younger children will not come into effect straight

away either here or in Britain. In Britain, pilot schemes will be established to ascertain how the work-focused interviews and so forth will work with parents of younger children. It will not come into effect nationally until at least two years from now, and it will not have been introduced in Northern Ireland before then anyway.

Mrs M Bradley:

It would be quite impossible for young parents here to find childcare anyway. A lot of them do not have parents of their own to take responsibility for looking after their children on their behalf. The lone parent must be considered, as must the child. The age of one is quite a young age for a parent to leave a young child. That concerns me greatly.

Mr Brady:

In two years they will be three-year-olds.

Mrs M Bradley:

I am concerned about the age of the child who will be left. The parent will not have had enough time to bond with their child when they have to put it into childcare, if they can find it, or when they ask their own parent to take on the responsibility. Lots of parents just cannot do that.

The Chairperson:

Thank you very much for your time. We will speak to you again about this issue.

Ms Sisk:

I suspect so.

The Chairperson:

In one respect, having a Committee Stage is good in that allows us to delve into the Bill and to ask why it is so late and what changes we can make to it anyway. However, we will deal with it as expeditiously and effectively as we can.

Mr Brady:

Perhaps we should join all the pensioners on the streets.

Ms Lo:

Should we also write to the Executive to say that we really want the Bill to be approved quickly and that we need their approval?

The Chairperson:

That is a matter for the Minister; it would not be appropriate for us to correspond with the Executive. I suggest that we write to the Department raising some of the issues that were brought up today and ask it to set out the feedback from the Department about the pensions. We should also write to the Minister to ask her to set out the reasons for the period of disparity. Perhaps the best way to proceed is for us to make it clear that we will do our bit as effectively and efficiently as we possibly can and hope that she will do what she can to ensure that no time is lost. .