Northern Ireland Assembly

Committee for Education

# OFFICIAL REPORT (Hansard)

## Teachers' Pension Scheme Regulations (Northern Ireland) 2014: Department of Education

9 December 2014

# NORTHERN IRELAND ASSEMBLY

# Committee for Education

## Teachers' Pension Scheme Regulations (Northern Ireland) 2014: Department of Education

9 December 2014

**Members present for all or part of the proceedings:**
Miss Michelle McIlveen (Chairperson)
Mr Danny Kinahan (Deputy Chairperson)
Mr Jonathan Craig
Mr Chris Hazzard
Mr Trevor Lunn
Mr Nelson McCausland
Ms Maeve McLaughlin
Mr Robin Newton
Mrs Sandra Overend
Mr Seán Rogers

**Witnesses:**

| | |
|---|---|
| Mr Seamus Gallagher | Department of Education |
| Mrs La'Verne Montgomery | Department of Education |

**The Chairperson (Miss M McIlveen):** I welcome La'Verne Montgomery, director of education workforce development, and Seamus Gallagher from the pay remit and pensions policy team. I ask you to make your opening statement, and members will follow with questions.

**Mrs La'Verne Montgomery (Department of Education):** Thank you very much for the opportunity to brief the Committee on the SL1 for the statutory rule that will create a reformed Northern Ireland teachers' pension scheme. I covered most of the issues during our previous session on 22 October, so I will try to be brief.

As you are aware, the British Government have adopted a policy that requires significant reform of public service pensions along the lines recommended by the independent Public Service Commission. They have made it clear that, if the devolved Administration does not reform public service pensions, they will reduce the amount of money in the block grant by around £300 million a year. Clearly, this would result in a significant detrimental impact on the delivery of education and other front-line public services. Out of this approximate £300 million a year, Education could lose some £60 million. This would be on top of the reductions that we have set out in the draft Budget. It is for this reason that the Assembly passed the Public Service Pensions Act (Northern Ireland) 2014, which closes existing public service schemes, including the Northern Ireland teachers' pension scheme, and sets the parameters within which the public sector pension schemes must operate from April 2015. The Department must, therefore, bring forward these regulations to establish a new Northern Ireland teachers' pension scheme based on career average revalued earnings for the payment of pensions and other benefits to and in respect of teachers here. Key provisions also include a normal pension

age equal to state pension age, but with options for scheme members to retire earlier or later. It provides for the protection of benefits already accrued by members under the existing pension scheme and an accrual rate of one fifty-seventh.

As the regulations run to over 100 pages, I will give you a quick overview of what each part does. Part 2 contains governance provisions, including the establishment of the Northern Ireland teachers' pension scheme pension board and the Northern Ireland teachers' pension scheme advisory board. Part 3 provides for scheme membership and sets out the key concepts of eligible employment and pensionable earnings. Parts 4 and 5 set out the operation of a career average scheme. These parts provide that each member will build up a pension each year calculated as one fifty-seventh of the member's pensionable earnings. The pension is held in a pension account, and at the start of each year indexation is applied. This is currently based on the consumer prices index. Parts 6, 7 and 8 provide for the payment and calculation of pension benefits, including death grants and survivor's benefits, as well as benefits for pension credit members. Part 9 provides for the payment of contributions and part 10 for transfer values. Part 11 concerns employment records and the provision of information between the scheme and members. Schedule 1 describes eligible employment, and schedule 2 makes provision for pension flexibilities. Schedule 3 details the transitional provisions with protections for those closest to retirement, including those within ten years of their existing normal pension age on 1 April 2012. They will see no change to the age at which they can retire and no decrease in the amount of pension that they receive. Then there are those over 10 years but under 13·5 years from their existing normal pension age on 1 April 2012. They will remain under the final salary arrangements for an additional period.

You are aware that the Department has consulted extensively on the reformed scheme with key stakeholders, mainly through the teachers' superannuation consultative committee (TSCC), and has also completed two formal consultations. These regulations make the main provisions necessary for a reformed scheme, and making them now allows sufficient time for registration of the new scheme, completion of the system development and an opportunity to take steps to ensure that members and employers understand the changes. However, this is not the end of the process by any means. The Department has just completed a consultation on the Teachers' Pension Scheme (Transitional and Consequential) Provisions Regulations 2014, which is subject to affirmative resolution, and is currently consulting on amendments to teachers' superannuation regulations. In addition, it will be necessary to make subordinate legislation amending the statutory rule before it comes into operation, to set the future rate for employers' contributions under the Northern Ireland teachers' pension scheme. This will make appropriate provision for the employers' cost cap specified in section 12 of the Public Service Pensions Act (Northern Ireland) 2014.

We are aware that this is a very complex issue. We have had a previous session, and I am very happy to engage with you again today. Again, we thank you for the opportunity. Both Seamus and I are happy to answer any questions.

**The Chairperson (Miss M McIlveen):** Thank you very much. As you said, the proposed changes are quite significant and very complex. A lot of the feedback we have received has been on the complexity and just how well that has been communicated. Could you tell us how you have engaged to date?

**Mrs Montgomery:** Our main engagement with stakeholders is through the teachers' superannuation consultative committee. Over the last 18 months, we have met monthly. Membership of the teachers' superannuation consultative committee, which we chair, is made up of DE officials, representatives of employers, the five teaching unions, the universities and colleges union, the Department for Employment and Learning, and employers in further education. Effectively, that is our main form of engagement. In the past, we met on a quarterly basis, but we increased that to monthly 18 months ago because of the major reforms. All the stakeholders involved have been very keen, and attendance at the meetings has been regular. We have been keen that the same people from each organisation come along so that they build up their knowledge and experience of pensions, particularly of the Northern Ireland teachers' pension scheme. In the past, we have found that, when those involved and representing organisations are not really steeped in the information and the background, they really struggle because of the complexity. Formerly, the teachers' negotiating committee, particularly the employers' side, struggled to obtain sufficient representation at the TSCC. They have had numerous debates around the management side of the table in the teachers' negotiating committee to ensure that the best representatives are there. At this stage, the chief executive of the North Eastern Education and Library Board is represented on the TSCC, as is the Council for Catholic Maintained Schools (CCMS). They bring the knowledge and experience that they have built up over the last number of months.

**The Chairperson (Miss M McIlveen):** Can I just ask about the timescale for the regulations to be in place?

**Mrs Montgomery:** That depends on how today goes. We are keen for the regulations to be laid as quickly as possible. We have shared an advanced copy with the Department of Finance and Personnel and hope that it is in a position to approve the regulations. We hope that we could have the regulations in place by the end of this week or next week.

**The Chairperson (Miss M McIlveen):** Is there a deadline that you need to meet by which time the regulations have to be in place?

**Mrs Montgomery:** They have to be in place for April 2015. That is our absolute deadline, but obviously we want them to be in place before that so that we can up the engagement. We have planned engagement directly with members. Until now, the engagement has been mainly through their representatives and through the public consultation, but we have planned engagements across the Province with members directly. We are keen not to engage too early. We want to ensure that the regulations are in place before that level of engagement takes place.

**The Chairperson (Miss M McIlveen):** Were the regulations not to be in place, would there be a cost?

**Mrs Montgomery:** Yes. From public sector pensions overall, there would be a cost from Treasury of approximately £300 million. The Education share of that would be approximately £60 million.

**The Chairperson (Miss M McIlveen):** The Committee had concerns, as did the unions, about the inflexibility of the scheme and the difficulties and challenges that that would pose for a young teacher going into post. He or she would have to make pension decisions that would affect them 40 years after taking up their new role. Will there be any sense of flexibility moving forward with this?

**Mrs Montgomery:** We have talked about the flexibilities in relation to the transitional arrangements. Your specific issue, Chair, is about new teachers or younger teachers coming in, and there are decisions that have to be taken within six months of joining the scheme. Seamus, will you give some detail on that, please?

**Mr Seamus Gallagher (Department of Education):** You are probably referring to the decision on whether to exercise the option of an actuarial buyout within six months of joining the scheme. We anticipate that, of the large bulk of people who will join the scheme on 1 April 2015, those who are further advanced in their career will be the main people to take up that option. There are other flexibilities in the scheme that provide younger teachers with the option to decide, year-on-year, whether to accrue additional pension. They can change the accrual rate for one year only, which means that they are not making a long-term financial commitment. There is also the option for teachers to buy additional amounts of pension in blocks of £250. That, combined with the option to buy out your actuarial reduction, is limited by HMRC to £6,000. That will increase year-on-year.

So, the whole thing is particularly complex, and it is particularly complex to keep monitoring the £6,000 limit when there are so many options. At the minute, we propose only to allow the buyout of actuarial reduction within six months of joining the scheme, but we will keep that under review. That has proven a particularly complex option to work out. The actuary and Treasury are still in discussion on how it would work and what factors would apply. They are both coming back with a view that allowing members to exercise that option throughout their career would cost more, because there are a whole lot of variables in it, and if you can cherry-pick when you take part in it, the cost of the scheme is more, so the cost to all members then increases.

As I said, to get the thing up and running, we are allowing six months. The scheme will take a while to bed in, and invariably, over the first year or two, we will find things that are not working how we intended them to and are not providing the members with what they need, and we will change them.

**The Chairperson (Miss M McIlveen):** If you are a new teacher, you are going to be overwhelmed by your new environment and your new position, rather than thinking as far ahead as your pension. That is probably going to be the last thing on your mind, unless you are getting very clear advice from union representatives in the school.

**Mrs Montgomery:** We have been monitoring the level of opt-outs as changes have been made to employee contributions over the last number of years. We have not seen an increase, although we, the employers, and the unions are very conscious of the possibility. We are keen to ensure that a teacher asking for advice from their employer, union or the Department finds us all singing from the same hymn sheet. Obviously, no one is qualified to give advice. That is something for an independent financial adviser. Certainly, the advice that the unions, the employers and the Department are giving is that this is the best option for teachers in their retirement. It is therefore important that we all sing from the one hymn sheet. I am not underestimating the fundamental opposition of the unions to pension reform. I do not want to give the wrong impression, but they have worked very closely with us over the last number of years to ensure that the deal is as good as possible for their members and the members of the scheme.

**The Chairperson (Miss M McIlveen):** I want to ask about your equality impact assessment (EQIA). You acknowledge in your papers that there are gaps in your data. It would appear that the information you have on teachers is very light. How do you plan to rectify that?

**Mrs Montgomery:** There is an issue. It is really the employers who are responsible for gathering data on equality issues. The Department runs the teachers' payroll on behalf of the majority of employers. The information is not gathered by the employers, but it could be through the payroll. We are now in the process of procuring a new payroll system for the education sector, which will encompass both teaching and non-teaching staff. The issue will be addressed by the management of information through the new system. The establishment of the Education Authority will bring employees of the five education and library boards under one employer. It is envisaged that that will make the gathering and management of information, particularly information relating to equality, much easier. In combination with the new system, it should mean that we have more information on equality in the next four to five years.

**The Chairperson (Miss M McIlveen):** It seems odd that you do not have that information, considering the legislation that we have in Northern Ireland, the focus on equality and the number of EQIAs that take place. Even yet, you talk about it being four to five years before you collate that information. It seems odd.

**Mrs Montgomery:** It has not been at the forefront of the information that employers have gathered about their workforce. In our most recent session about the non-teaching workforce, we talked about the complexities of gathering information and having a uniform approach. The Education Authority will make that task easier, but I realise that the time frame is still longer- rather than medium-term.

**The Chairperson (Miss M McIlveen):** Does that not essentially make any EQIA that you do on employment matters flawed?

**Mrs Montgomery:** It certainly means that we do not have a full picture of our workforce. We have based our findings on the information that we do have, such as age and gender profile. There are, however, gaps in the information, and we acknowledge that. It is something that we are working on with the employers. We believe that the procurement of the new payroll system will go some way to addressing the issue.

**The Chairperson (Miss M McIlveen):** I would like to think that the timescales would be somewhat reduced.

**Mrs Montgomery:** The procurement and implementation of the new system will certainly take place within that timescale, but we could look at what could be done with the existing system. I can bring that back to the employers.

**Mr Rogers:** Thank you, La'Verne and Seamus. You are very welcome.

I have heard the word "review" and that everybody is on the same page, but, despite the concerns of the Committee and the unions, there have been no changes to the scheme whatsoever. Is the commitment to review built into the rule?

**Mr Gallagher:** There is a commitment built into the Act for the Department of Finance and Personnel to carry out a review after two years. They intend to do that and have been in discussions with the unions at a central level as to how it might be done.

**Mr Rogers:** I have another question for La'Verne. At the beginning, you said that if this did not happen it could cost the Department of Education £60 million plus. What are the costs associated with the implementation of the new scheme? You mentioned a pension board, an advisory board and so on.

**Mrs Montgomery:** Under the governance arrangements, it is envisaged that the teachers' superannuation consultative committee would become the advisory board. The terms of reference for the TSCC are very similar to those envisaged for the advisory board, so that is effectively already in existence. The board would be something new. The membership of the board includes an independent chair. We are hopeful that, early in the new year, we will advertise for the independent chair for the pension board. There will also be a pension specialist on the board, two representatives from the Department of Education — likely to be our finance director or his representative and me — four employer representatives and four member representatives. The post of chair would not be remunerated, in the sense that it would not be salaried, but there would be a daily rate payable to the post holder. The other members would receive expenses and subsistence only.

**Mr Rogers:** What are the projected costs for the next financial year?

**Mr Gallagher:** They are estimated at less than £20,000.

**Mr Lunn:** Is the ultimate guarantor for this scheme the Treasury, the Department of Finance, or a mixture of both?

**Mr Gallagher:** The Department of Finance, to which the Treasury stands as ultimate guarantor, obviously. It is not a matter now of what happens if we do not do it. This scheme will close from 1 April. It was closed by the Public Service Pensions (Northern Ireland) Act 2014. If we do not do it, we do not have a scheme for teachers on 1 April. It is not just about the money.

**Mr Lunn:** Well, it has a lot to do with the money. I see some very stark figures here. The annual expenditure on pension benefits for 2013-14, presumably under the teachers' scheme, amounted to £357 million, yet contributions were only £198 million. Has that been a trend in recent years?

**Mr Gallagher:** It has been like that for many years, which is probably what was behind the independent review.

**Mr Lunn:** So the ultimate guarantor has a case to make here.

**Mrs Montgomery:** Certainly, one of the catalysts for the independent review was the fact that more money is going out in pension benefits than is being brought in. Coupled with the valuation of employer contributions and changing the scheme itself, that should hopefully contribute to bringing it more into balance.

**Mr Lunn:** If it was a funded scheme, you would see ups and downs according to investment performance and so on. The one I am familiar with is our own here. You might see good years and bad years, but not normally particularly good and bad. That figure is unsustainable. I am not making the case for accepting what you are telling us to do, but it is serious.

If the Assembly decided to accept it but to try to make amendments to it, in the way we did with welfare reform — it is a bad example — would that £5 million a month or £60 million a year be subject to alteration, or would it just apply anyway? Is that a fine or a penalty?

**Mrs Montgomery:** Effectively, that is the envelope within which we have to make the changes. The scheme is set up so that we can make those changes and reap those benefits. If we make changes to the scheme, they have to be within that same envelope. If they were not, there would be a penalty from Treasury.

**Mr Lunn:** I see a mention of a fund that the Minister of Finance set up to try to mitigate the effects of education and health pensions. Did that come into it as well? Is that there to mitigate the effects of not accepting this?

**Mrs Montgomery:** That is a separate matter altogether. I referred to it earlier in relation to the changes that need to be made to set the future rate of the employers' contributions and make appropriate provision for the employers' cost cap. The Executive have decided to hold money centrally for that purpose.

**Mr Lunn:** I have to go and ask a question for oral answer, Chair, I am sorry. If you are still here in 15 minutes, I will return to this. Sorry about that.

**Mr Craig:** La'Verne, I read through that with interest. I notice that you did an equality impact assessment but you did not do a full equality impact on it. Is there any reason for that?

**Mrs Montgomery:** We did go out for a full 12-week public consultation on the EQIA.

**Mr Craig:** So you did the full EQIA.

**Mr Gallagher:** We did a full EQIA. The consultation period was, I think, only eight weeks, because of the time frame in which we needed to make the regulations.

**Mr Craig:** You are allowed to reduce it to eight weeks under those circumstances. Was any adverse impact discovered in that?

**Mrs Montgomery:** The changes are being made and are impacting on everyone equally.

**Mr Gallagher:** There is adverse impact to the extent that there are more females than males in the teaching workforce, so more females are affected, but that is simply because of the make-up of the workforce rather than it being worse for females than for males. It applies equally badly to both of them.

**Mr Craig:** Does that also apply to the age brackets? There are some ages protected from the changes, are there not?

**Mr Gallagher:** Yes, there are some ages protected, and there would be an element of age discrimination in those protections. However, it is justifiable, in that the people who are protected have less time to adjust and plan for their future. Those guarantees were given centrally for that very reason — that those people in the transitional bands —

**Mr Craig:** Given by —

**Mr Gallagher:** Government centrally — Treasury. They are built into the Pensions Act, so we have no choice but to make those protections.

**Mrs Montgomery:** It is an acknowledgement that people are further along with their career and had expectations built up about what their pension would look like in 10 years' time. Therefore, there are added protections. Obviously, there is an arbitrary date in there with regard to April 2012 and the person's age.

**Mr Craig:** Does that bit of legislation override the equality legislation?

**Mrs Montgomery:** It was obviously taken in the balance that that piece of legislation would be accepted. It was accepted centrally as opposed to on an individual scheme basis. It was through the Pensions Act that was passed in 2013.

**Mr Gallagher:** I do not think that the equality legislation prohibits you from doing it. It is whether or not you can justify the actions that you have taken. We feel that the actions in protecting those people closest to retirement are justifiable.

**Mr Craig:** I am not arguing with your justification; it is just that I have seen legal advice that was taken by others who said that it is very much open to challenge. I am not going to be the one challenging it, but I have seen advice taken by others. Are you aware of that?

**Mr Gallagher:** No.

**The Chairperson (Miss M McIlveen):** At the moment, most teachers retire around the age of 60, and union representatives told us that really once you get to 55 you are past it. The proposals are looking at age 68, which is quite a considerable change in the age, and there is also the general capability of how active someone is. The profile will change quite considerably once we get to 2022. Has any consideration been given to changing roles for those members of staff?

**Mrs Montgomery:** Certainly, it is something that has been discussed widely at the teachers' negotiating committee, with both management side and teachers' side acknowledging that all public service pensions are moving in the direction of normal pension age being aligned to the statutory pension age. I know that the unions have used placards where they have had teachers in their 60s doing a forward roll with their P1 class or whatever, so there is an acknowledgement that there are certain things that are more attuned to someone who is more able, let us say rather than putting an age on it. Therefore, rather than teaching in the classroom being the end of someone's career, discussions have looked at whether there may be options for working in, for example, education administration, where they would come out of the front line, as we would say, and work in a support role. There are examples of that in the Curriculum Advisory and Support Service (CASS) in the boards, where secondees come in from schools for a period and then go back to school. The inspectorate, for example, uses associate inspectors. It is really about looking at a different approach to the career pathway for a teacher. We are having discussions round the table at the teachers' negotiating committee and with the strategic forum, which is a wider group involving the unions representing both teaching and non-teaching staff.

**The Chairperson (Miss M McIlveen):** Lastly, the proposed rule refers to teachers, lecturers and those in higher education being members of the scheme. Do you have the numbers for those?

**Mr Gallagher:** In the higher education sector, which is Stranmillis and St Mary's, there are 110 members, and it is 3,457 in the further education sector.

**The Chairperson (Miss M McIlveen):** Thank you very much. No one else has indicated that they wish to speak. Thank you for your time this afternoon.