



Committee for Justice

OFFICIAL REPORT (Hansard)

Police Pension Regulations (Career Average
Revalued Earnings): Department of Justice

14 January 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)

Mr Stewart Dickson

Mr Sammy Douglas

Mr Tom Elliott

Mr Paul Frew

Mr Seán Lynch

Mr Sean Lyner
Mr Alban Maginnes

Mr Alban Maginnies Mr Patsy McGlone

Mr Edwin Poots

Witnesses:

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Ms Rosemary Crawford Department of Justice
Ms Antonia Hoskins Department of Justice
Ms Lorraine Montgomery Department of Justice

The Chairperson (Mr Ross): I welcome Rosemary Crawford, deputy director of policing policy and strategy division; Lorraine Montgomery, policing policy and strategy division; and Antonia Hoskins, police powers and human resources policy branch. They are all from the Department. The session is being recorded by Hansard, and, as before, the transcript will be published on the Committee's website in due course. Please brief the Committee, and then we will ask questions.

Ms Rosemary Crawford (Department of Justice): I welcome the opportunity to brief the Committee on the proposed changes to the police pension scheme as you consider the SL1 today. Given that members will have had sight of papers setting out the detail, I will keep my introductory remarks brief to allow discussion.

I would like at the outset to note that reform of the police pension scheme is part of a UK-wide government decision to reform all public service pension schemes. This was supported by the Executive in March 2012, when it was agreed that all public service pension schemes in Northern Ireland should adopt a career average model.

We understand and fully appreciate that not all members of the scheme will welcome this change, but it is in line with the Public Service Pension Act (Northern Ireland) 2014, endorsed by the Assembly. Reform is inevitable; people are living longer, so there is a need to ensure that pension schemes can cope with the resulting increase in demand. It is also widely acknowledged that final salary pension schemes place a huge burden on the taxpayer and can unfairly favour high earners.

It may be helpful if I briefly rehearse some of the background to this issue. I and my colleagues will be happy to answer any questions the Committee may have. In March 2011, Lord Hutton, having chaired an independent commission, published a report on public service pension reform. He concluded that scheme designs were not sufficiently robust to ensure the sustainability of public service pensions, and recommended changes to make these schemes simpler, more transparent and fairer to those on low and moderate earnings.

One year later, in March 2012, the Northern Ireland Executive accepted these recommendations and agreed that the proposed career average scheme model should be adopted for all public service pension schemes, including the police. The Executive agreed to adopt this approach for each of the different public service pension schemes, in line with their equivalent schemes in Great Britain, and not to adopt different approaches for Northern Ireland. The 2015 police pension scheme mirrors many of the provisions contained within the existing 2006 scheme. For example, ill-health retirement benefits and other ancillary benefits will reflect the 2006 scheme.

The main changes, which are consistent with changes in England and Wales, include benefits being based on career average earnings rather than final salary. The normal retirement age for all police officers will be 60, and officers will continue to enjoy a lower normal pension age compared to that in most other public service pension schemes. Officers will retain the option to retire with actuarially reduced benefits from the age of 55, or indeed to work beyond 60 with actuarial enhancement. Protections will be built in for officers who are closest to retirement. They will be entitled to remain in their current scheme beyond April 2015 for a period determined by their individual age and length of service. Any officer within 10 years of retirement will not be affected and will continue as a member of their current scheme.

A tiered system of employee contribution rates has been built in to ensure that lower-paid officers make lower contributions. The scheme addresses an anomaly so that the scheme manager may now consider withholding benefits payable to the beneficiary, where they have been convicted of an offence relating to the unlawful killing of the deceased scheme member. The regulations will introduce new scheme governance arrangements to ensure effective management and oversight.

While police pensions are not subject to negotiation, the Department has engaged with the Police Negotiating Board (PNB) since January 2012 as work to formulate the policy was progressed. Membership of the PNB included representatives of all police staff associations, as well as employer and government representatives. It is worth noting that, as a direct result of that engagement, HM Treasury agreed to a PNB proposal, put forward by the Police Federation of Northern Ireland, to extend transitional protection for all police schemes from the three and a half years initially proposed to four years.

The Department issued a number of circulars in May and November 2013 to explain to all officers the rationale for the reforms and the impact they would have. Engagement with PNB continued right up to the formal targeted consultation exercise, which was launched in July 2014, in line with the requirements of the Police (Northern Ireland) Act 1998. The consultation period was extended twice in response to requests from stakeholders, and finally concluded in November 2014. Individual officers who wished to put forward their own views were encouraged to submit those via their staff association. The Department has continued to work closely with members of the PNB to amend the draft regulations in line with the detailed technical feedback received to ensure they are fit for purpose.

In early December, the Committee considered an update on the results of the consultation. The main thrust of the feedback received was technical in nature in respect of the draft regulations, and that has been taken forward in conjunction with stakeholders. Understandably, responses from staff associations were somewhat negative, as they expressed concern about the impact of the reforms on their members.

To conclude, in considering this SL1 I hope that Members will be assured that the proposed reforms are consistent with the Executive's will for the reform of all public service pensions in Northern Ireland. These reforms are necessary and will ensure that police officers have access to affordable and sustainable pensions that are among the very best available. The Committee will have noted the financial implications set out in the SL1. The Department is working hard to ensure the new scheme is in place by 31 March 2015 to avoid any potential penalty that could be imposed on the Executive by HM Treasury.

I hope that that has been helpful, and I am happy to take any questions.

The Chairperson (Mr Ross): Just remind us of the cost to the Executive if the changes do not go ahead.

Ms Crawford: The estimated cost of the Treasury penalty is in the region of £60 million.

The Chairperson (Mr Ross): If the changes go ahead, are there anticipated savings to the DOJ budget in future years?

Ms Crawford: No, the changes are being introduced in line with the reforms of all of the public service pension schemes; there are no anticipated savings to the DOJ budget as a result of the reforms.

The Chairperson (Mr Ross): OK. You mentioned that the decision was taken to adopt the same approach in Northern Ireland as elsewhere in the UK. I have heard from some of the representations that have been made to me by individual serving police officers — the Police Federation has taken this view as well — that there are unique circumstances in Northern Ireland, not just some of the policing issues that officers have to deal with but some of the equipment they are wearing and things like that. How does the Department propose to take those issues into account?

Ms Crawford: One of the issues was ensuring that there is consistency between the two schemes in relation not just to the police but to any public-sector scheme and its GB equivalent. In relation to the police, the prime driver was to ensure the interoperability between the two schemes so that officers can move easily between one scheme and another.

Mr Lynch: Reading through this, does the Department accept that some PSNI personnel feel that there should be a single scheme for them and that this has created disappointment among some PSNI personnel?

Ms Crawford: In the feedback that we received from dissatisfied officers, their focus has been primarily on the process by which we engaged in consultation with them. The consultation process that we followed was entirely in line with the 1998 Police Act and the 2014 Pensions Act. However, the concerns that we heard from officers were about consultation as opposed to any substantive concerns about the provisions themselves.

Mr Lynch: Yes. Would you accept that, even under the proposed scheme, the exemption that firemen were granted should apply to the PSNI?

Ms Crawford: The Department of Justice has no responsibility for the Fire Service pension scheme. However, my understanding is that the exception that was introduced for the Fire Service was the result of an amendment tabled during an Assembly debate. It was an issue that the Assembly debated, voted on and agreed. As a result, that exemption was put in place for firefighters.

Mr Lynch: Would the Department accept that there should be a similar exemption for the PSNI?

Ms Crawford: Throughout the process, that was not a proposal that was put forward to us; it was not something that we were asked to consider.

Mr A Maginnes: Thank you very much for your outline. The Department is taking the view that the equality issues raised about the consultation process, and general or specific issues that arise in relation to the whole business of pensions for the police, do not arise in this instance. I do not understand that for one minute. Please explain.

Ms Crawford: Certainly. The Department of Finance and Personnel has the core policy lead for all public-service pension schemes, and it is very much of the view that there will not be a differentiated adverse impact on any of the section 75 groups. In spite of that, the Department of Justice undertook an equality screening exercise. The result of that aligned with that view that there would not be an adverse impact on any of the section 75 groups. The reforms will impact equally on all officers affected.

Mr A Maginnes: Is that true? Take the people who have been recruited to the PSNI since 2001; was that the operative date?

Ms Crawford: Yes, under the Patten reforms.

Mr A Maginness: You had an influx of women, Catholics and older officers who served in the RUC who then came across to the PSNI. Those older officers benefited from the previous scheme. However, under this scheme, younger officers and the different categories that I have outlined will not benefit. That seems to me to be a serious inequality of treatment, and I do not understand why the Department does not deal with it in that way. I have to say, just by way of comment, that it is creating problems in the Police Service that might fester and that it is ill judged for the Department not to address them.

Ms Crawford: With the reform of any pension scheme, public sector or otherwise, it is a fact that a greater impact will be felt by younger, newer members of the scheme because more of their service will be in the new scheme. There is a slight additional complication for the Police Service and this pension scheme in that the Patten reforms were introduced to address other imbalances in the police force at that time. So, while there may be a slight disproportionate impact at this stage, given the timing of the reforms, I think that it would be expected that, as the workforce and its composition adjust to reflect the wider community more closely, that impact would be balanced.

Mr A Maginness: I do not understand how that happens. It is disappointing that the Department has not taken that particular approach. Has there been engagement between the Department and the Equality Commission on the matter?

Ms Crawford: Yes. We have had conversations with the Equality Commission. I believe that it had sight of our screening exercise; if not, it certainly will have shortly. We have engaged with it. The screening exercise will be published on the Department's website, so it will be open to scrutiny.

Mr A Maginness: Are you saying that — I do want to misrepresent you — the Equality Commission is content with the Department's approach?

Ms Crawford: I cannot speak on behalf of the Equality Commission, but —

Mr A Maginness: No, but —

Ms Crawford: It is aware of what we have been doing and the approach taken by DFP to wider public-sector reforms, and it has not raised any concerns with us.

Mr A Maginness: With regard to the question that Mr Lynch asked about the Fire Service, my understanding was that it was the date of retirement — correct me if I am wrong, Chair — that was adjusted for the Fire Service, which means that staff can continue on and receive a fuller benefit from the pension without penalty if they retire early, say, at 55 — I think that that is the age — and there would not be a reduction in the amount of pension that they received.

Ms Crawford: The normal retirement age for police officers under the scheme would be 60. While we do not have responsibility for the Fire Service scheme, as I understand it, the amendment agreed by the Assembly was that fire officers could retire between the ages of 55 and 60.

Mr A Maginness: Yes, without penalty.

Ms Crawford: To the best of my knowledge.

Mr A Maginness: Under the scheme that you propose, police officers can retire between the ages of 55 and 60, but there is a penalty. If I am a police officer and I retire when I am 55 years old, I lose some 5% per annum. I lose a quarter of my pension by retiring five years early.

Ms Crawford: As I understand it, that is the case with any of the public-service pension schemes if you retire before the normal retirement age for that scheme. There are arrangements whereby you could have an actuarial reduction. Equally, you could stay beyond that date and have an actuarial enhancement. However, it is worth pointing out that DOJ is not putting forward these proposals: all we are doing is simply giving effect to the will of the Assembly and what was agreed by it. These are not DOJ proposals.

Mr A Maginness: Yes. I understand that. The DOJ has not shown any eagerness to explore an alternative.

Ms Crawford: I am not sure that that is a fair criticism. We have been engaging with the staff associations since January 2012 through the Police Negotiating Board (PNB), which includes representatives of the three staff associations. There has been a huge amount of consultation at the PNB, where pensions specifically were discussed. There were at least 30 meetings where that was explored. We have genuinely considered any suggestions that were put to us.

Mr A Maginness: I think that there is a division of opinion in the Police Service about the quality of the engagement between the Police Federation and the Department. My understanding is that there is strong discontent in the PSNI about this scheme, primarily among younger officers. I believe that it must be articulated by us as MLAs. I do not know what can be done about it, but I think that it is causing problems with morale in the PSNI. The PSNI is a police service under severe stress at this moment because of the activities of paramilitaries. I do not think that that is a fair situation to allow police officers to be in. I put that point very strongly and bluntly to you.

Ms Crawford: If I can make a general point first: there is quite a lot of dissatisfaction amongst members of public-service pension schemes in general. None of us, ourselves included as civil servants, welcomes the changes, as they will have a direct impact on the benefits that we receive. That is felt right across the public sector. As I said, there has been a huge amount of consultation between the Department and relevant stakeholders. From what we have been hearing from individual officers and the associations, the sense of dissatisfaction that I get is among a small number of officers as opposed to throughout the force.

I take your point: some of the concern has been about how the Police Federation has perhaps represented their interests. However, that is an internal matter for the Police Federation; it would be quite wrong for the Department to get in amongst that relationship. The Police Federation is not a government-funded body; it is appointed under regulations specifically to represent the interests of police officers. Every member of the police force is a member of the association; they are appointed automatically on joining the force. They elect their office-bearers, so that is an internal issue for the federation. It would be quite wrong for the Department to intervene in that relationship.

Mr A Maginness: No. I understand that, and I would not expect the Department to do that. That is a very fair point that you make.

I have one final point, Chair. Thank you for your indulgence. It is the issue of the retirement age and the penalties that would apply if you retired early between the ages of 55 and 60. Has that issue been thoroughly articulated by the Police Federation in discussions with the Department of Justice?

Ms Crawford: It has. The capacity for an actuarially reduced pension to go before the normal pension age of your scheme is common right across public-service pension schemes. It may be worth mentioning that there are some specific benefits that the police will enjoy here that other public servants will not, in that police officers will be able to retire with full benefits at the age of 60. Across the other public-service pension schemes, that is now linked to state pension age. For example, under the new arrangements for the Civil Service pension scheme, civil servants will not be able to retire with full benefits until they reach state pension age, which for many people is now 66 and is continuing to rise.

So, there are some protections and benefits built into this scheme for police officers to avail themselves of. Other examples relate to the transitional protections that have been built in for the police. Under those arrangements, they can access transitional arrangements from the age of 34; civil servants cannot access them until the age of 46 and a half. So there are benefits. Do not get me wrong: I fully appreciate that, because this is a reduction in their benefits, no member of a public-service pension scheme will be happy; however, for the police, some specific protections have been built in, and they are actually getting a reasonable deal compared to others.

Mr A Maginness: My final question is this: if one were to amend the proposed scheme, is it possible to amend it through these regulations?

Ms Crawford: The SL1 that you are considering today is the Department's effort to give effect to what was agreed in the Assembly. I assume that, for that to change, it would need to go back to the Assembly.

Mr A Maginness: Therefore if we were to accept the view expressed by police officers that there should be some easement on the retirement age, that would require primary legislation.

Ms Crawford: The regulations that we are seeking to give effect to are a direct result of the Public Service Pensions Act (Northern Ireland) 2014 that was agreed in the Assembly. We are simply doing the subordinate legislation to give effect to that.

Mr A Maginness: OK. Thank you very much, Chair.

Mr Douglas: On a point of order, Chairperson. A member of my family is a member of the PSNI, so I want to declare that.

Thank you very much for your presentation. You mentioned a figure of £60 million, I think.

Ms Crawford: Sixty million pounds is the penalty.

Mr Douglas: What does that mean? I understand Alban's concerns. It is a bit like welfare reform: we all had concerns, but we realised that, every year, we would be penalised hundreds of millions of pounds. Is that £60 million a one-off fine?

Ms Crawford: I am looking to our expert on this who tells me that it is not. I will bring Antonia in on that in a second. You are right to draw the comparison with welfare reform. The legislation that is being given effect to here is UK-wide government policy in relation to public-service pensions, so we are taking forward what was agreed in the Assembly to give effect to that. In that way, it is very similar to the issues around welfare reform. In the same sense, it is the Treasury that will impose the penalty on the Executive if we do not have this legislation, and all the arrangements around the scheme, in place by 1 April.

Mr Douglas: It is estimated at £60 million, but could that rise?

Ms Antonia Hoskins (Department of Justice): DFP has written to all Ministers to advise them that if there is a shortfall in their schemes, they will be responsible for it. DFP has intimated that that will increase over time. So, it could increase beyond —

Mr Douglas: Beyond £60 million?

Ms Hoskins: Considerably more.

The Chairperson (Mr Ross): Would the cost be met by DOJ rather than by the Executive as a whole?

Ms Crawford: No. It would be a penalty on the Executive.

Ms Hoskins: The penalty would be on the Executive.

Mr Douglas: We would have to pay it out of our block grant.

Ms Crawford: Yes, exactly.

Ms Hoskins: That is an annual transaction. The DFP Minister has written to each Minister saying said that DFP will not meet the cost; the cost will come from whichever Department is responsible for the shortfall. It will come from the DOJ budget.

Mr Elliott: Thanks for the presentation. Rosemary, I think that you said that police pensions, under this piece of subordinate legislation, are not subject to negotiation.

Ms Crawford: Yes, that is right.

Mr Elliott: Why did you enter into negotiations about them, then?

Ms Crawford: We entered into discussions with the staff associations. Before bringing forward any regulations we automatically consult with the three staff association bodies. There is also a requirement in the Police (Northern Ireland) Act 1998 that, if changes are to be made to a whole raft of police terms and conditions, one of which is pensions, the Police Negotiation Board would be involved as the policy proposals developed.

Mr Elliott: Would it have been better to carry out those negotiations or discussions when the main piece of legislation was going through as opposed to whenever this subordinate legislation was going through because you effectively could not do anything about it at that stage?

Ms Crawford: The discussions started some time ago, in January 2012. When we knew that this was on the horizon, we entered into early discussions with all the members of the Police Negotiating Board. That has been ongoing, long before the final legislation had been agreed in the Assembly.

Mr Elliott: At that very early stage, what was the response from the organisations that you consulted?

Ms Crawford: I will have to defer to colleagues who were here at that time.

Ms Lorraine Montgomery (Department of Justice): The engagement was very informal, but it would have explored possibilities around individuals being able to retire early. It also worked with forces in England and Wales to consider what challenges there might be for parity across the water. Quite a few technical issues were raised in recent meetings as work developed on drafting the regulations to ensure that they are fit for purpose and that there are no unintended consequences in the drafting.

Mr Elliott: When it comes to the principle of the pension issue, there is no huge benefit in having detailed negotiations now, because the principle is there. You said that it was very informal at the early stage. I am just wondering why it was not more formalised then and why there was not more consultation with those who would be affected.

Ms Montgomery: Although we say it was informal, it was conducted under the auspices of the Police Negotiating Board, which includes forces across the UK, staff representatives, employer representatives, such as the police and crime commissioners, and representatives of our own Policing Board. Formal meetings took place quarterly, but there was informal engagement at those meetings to get into the issues that the representative bodies had on behalf of their staff.

Mr Elliott: Did the Police Federation and others specifically ask for more flexibility in the pension schemes than there is currently?

Ms Montgomery: I will clarify that with Antonia, who represented us at those meetings, but I believe that the answer is yes. I will let her give the detail.

Ms Hoskins: Very early on, when it was looking at the transitional provisions and the fact that most other schemes have three and a half years — I do not know of any that has four — the federation was emphatic that it wanted four years; it wanted to extend it a little bit further. In the back of its mind was the feeling that some officers felt that they had lost out with the severance issue, which is going back in history, and it was sure that it was not going to lose out again with this. However, everybody agreed to the extension, because it is, obviously, giving a benefit to them. Again, it is taking into consideration the special circumstances that the police have.

Ms Crawford: It might be worth mentioning again that these are the implications for public-service pensions across the piece. I genuinely do not believe that an awful lot of the people affected by the reforms welcome them and are pleased. Unions, staff associations and others have sought to engage in consultation and have tried to make changes, but, at the end of the day, we have the legislation that was agreed by the Assembly, and this is the DOJ putting it in place for the Police Service.

Mr Elliott: Rosemary, you said earlier that there was not substantive concern about the scheme and that it was more about the consultation process. That is not what officers have told me. They have

concerns not only about the process of the consultation but also about the scheme. I understand that it is a wider public-service scheme.

Ms Crawford: A number of officers have engaged with us. We have received just over 540 letters. Many are template letters saying exactly the same thing; nevertheless, we read each of them. To put that in context, the individuals who wrote to us represent 7% of the officers who will be affected. The concerns raised in the letters were about equality and consistency with the departmental equality scheme process. They said that they wanted to be consulted individually. So, it was about process rather than anything that would make us want to go back, look at the regulations and think that something was wrong. That was not what was fed through in the correspondence with us.

Mr Elliott: One final thing, Chair: Alban Maginness challenged you about whether you had looked at an alternative. Am I right in saying that there is no alternative, unless you change the Act?

Ms Crawford: I do not believe that it is for the DOJ to look for an alternative. Through the regulations, we are giving effect to the decision of the Assembly.

Mr Elliott: So, the only opportunity to change it or to make an alternative is through an amendment to the Act.

Ms Crawford: I believe so, but, if that is wrong, I will correct it and advise you.

Mr Poots: Police officers engaged in front-line services can face very challenging physical work, and reference was made to the Fire Service. You may not want a 50-year-old to carry you down three flights of stairs or climb down a ladder three floors up in the middle of the night. What can you offer police officers who are not as physically fit as they were 10 or 20 years previously who come into that category?

Ms Crawford: I am not sure that it would be in the Department's gift to offer anything.

Mr Poots: What can the PSNI do? A comparison was made with the Fire Service. I think that the Fire Service had very limited options in terms of desk or other duties. What can the PSNI do to offer alternative work to police officers, other than being out on the front line?

Ms Crawford: I appreciate your point, but that is an operational matter for the Chief Constable. It is up to him who gets allocated where, how he uses the resource available to him, and how individual officers are allocated duties.

Mr Poots: I was not asking what it would do for individuals; I was asking what scope there was to provide alternative sources of work — police duties that do not involve engaging in —

Ms Crawford: Again, that is not a question that I am in a position to answer or, indeed, should seek to answer. It is an operational matter for the Chief Constable.

The Chairperson (Mr Ross): There are no more questions. Thank you.