Northern Ireland Assembly

Committee for Social Development

# OFFICIAL REPORT (Hansard)

## Pension Schemes Bill — Equality Impact Assessment Consultation: Department for Social Development

30 April 2015

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**
Mr Alex Maskey (Chairperson)
Mr Jim Allister
Mr Roy Beggs
Ms Paula Bradley
Mrs Dolores Kelly
Mr Fra McCann
Mr Gary Middleton

**Witnesses:**

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|---|---|
| Mr Gerry McCann | Department for Social Development |
| Ms Gillian McMaster | Department for Social Development |
| Ms Doreen Roy | Department for Social Development |

**The Chairperson (Mr Maskey):** I formally welcome Gerry McCann, Doreen Roy and Gillian McMaster from the Department for Social Development to the Committee. I invite you to make an opening statement.

**Mr Gerry McCann (Department for Social Development):** Good morning, everybody. We are back once again for a briefing on another pensions Bill. We have prepared a very short statement, which will be delivered by Doreen. Afterwards, we will take any questions that the Committee might have.

**Ms Doreen Roy (Department for Social Development):** Thank you for the opportunity to brief you on the proposed Pension Schemes Bill and the associated equality impact assessment (EQIA). You will recall that we provided the Committee with a briefing on the Westminster Bill, now the Pension Schemes Act 2015. Members will therefore hopefully be broadly familiar with the proposals. However, we are conscious that we are in the midst of a period of significant change for pensions, so it may be helpful if we provide some background and set the Bill in context.

In his 2014 Budget, the Chancellor announced significant changes to how individuals can access their pension savings. The Taxation of Pensions Act 2014 made the necessary substantive changes to tax law to facilitate the increased flexibilities. On 8 January, the Committee was briefed on the legislative consent motion for provisions in the Pension Schemes Act 2015 relating to the pension flexibilities, which were introduced from 6 April. The 2015 Act ensures that pension law is compatible with those flexibilities.

Members were recently heavily involved in scrutinising the Pensions Bill, which is scheduled to complete its passage through the Assembly on 11 May, and the measures to introduce a new state

pension system. The aim is that people will have a clear understanding of what they can expect by way of state pension as a firm foundation for saving for retirement. Saving for retirement is complemented by the automatic enrolment of workers into a private pension that is being rolled out across the UK. It is a partnership between the employer, the worker and government, all of whom will contribute to the worker's pension. The Pension Schemes Bill marks the next stage in the process, primarily by facilitating different models of private pensions, with the aim of providing better outcomes for scheme members than the current defined contribution (DC) schemes. Hopefully, that sets some context for how the Bill fits into the wider pensions landscape.

I will now deal with some of the reasons for the proposed changes. As outlined in the written briefing to Committee members, the current system of private pensions is dominated by two models. Money purchase schemes, commonly referred to as "defined contribution schemes", offer no certainty over the benefit to be paid in retirement. Non-money purchase schemes, commonly referred to as "defined benefit (DB) schemes", traditionally offer salary-related pension benefits that provide certainty about what will be paid in retirement. In money purchase schemes, the risk is borne by the scheme member. In non-money purchase schemes, the risk is borne by the employer, who remains liable for scheme funding shortfalls.

There has been a steady decline in the number of non-money purchase schemes, and many others have been closed to new members, as employers turn away from what they see as an open-ended risk, exacerbated by increasing longevity. The Bill aims to facilitate different models of private pension schemes, which will provide better outcomes for members than the current defined contribution schemes and allow for greater risk-sharing between members and scheme providers. The Bill therefore contains proposals to establish a new legislative framework for private pensions.

If you are content, I will run through the main proposals.

**The Chairperson (Mr Maskey):** Please.

**Ms Roy:** Part 1 of the Bill relates to categories of pension scheme. It contains provisions to introduce new definitions into the legislative framework for private pensions, establishing three mutually exclusive categories of scheme type, based on the different types of promise offered to members during the accumulation phase about their pension savings when they come to access them.

In the defined benefit scheme, the member has a full pensions promise about the rate of retirement income that they will receive for life from a fixed normal pension age. The shared-risk scheme — also known as "defined ambition" — contains a promise about some of the retirement benefits, whether as income or a lump sum. The defined contribution scheme has no promise about the benefit outcome. In the case of a scheme not fitting exclusively into one of those definitions, regulations must provide for a scheme to be treated as two or more separate schemes, each falling within a category. Regulations may also be made to provide for any other circumstances in which a scheme is to be treated as two or more separate schemes. They may also set out further details about requirements of and exceptions for defined benefit schemes.

Part 2 concerns collective benefits and defines collective benefits that may be provided by pension schemes. Collective benefits are provided on the basis of allowing the scheme's assets to be used in a way that pools risks across the membership. It does not offer a specific pension promise on the level of benefit payable, but there will be a target benefit. To provide scheme members with some confidence about what they might expect from the scheme, the target must be achievable within a specified probability range. Examples of collective arrangements can be found operating in the Netherlands, Denmark and parts of Canada, where evidence suggests that, when governed appropriately, they can provide a greater degree of stability in pension outcomes than individual defined contribution schemes. Part 2 also contains a series of regulation-making powers relating to the governance of schemes providing collective benefits. Requirements may be set out in secondary legislation on scheme reporting, the payment of benefits, benefit targets and valuation.

Part 3 relates to general changes to legislation about pension schemes. It contains a number of changes to existing pensions legislation as a consequence of the new scheme definitions set out in Part 1 and to the provisions about collective benefits in Part 2. The aim is to ensure that current legislative requirements relating to governance and administration apply in the appropriate way to the new scheme categories. Part 3 contains new powers to make regulations; for example, setting out conditions to be met for a pensions promise to be obtained from a third-party and imposing a duty on managers to act in the best interests of members when making specified decisions about collective benefits or shared-risk schemes.

It makes provision for the preservation and revaluation of benefits where a person leaves the scheme early. It also exempts collective benefits and pensions of a specified description from indexation requirements. It also enables the Department to issue statutory guidance on the disclosure of information about schemes and includes provision dealing with pension-sharing and normal benefit age.

Part 4 deals with general provisions. It contains matters relating to the application of the Bill and regulations made under it, including powers to make consequential amendments and to commence provisions by order. It also makes general provision about regulations under the Bill. Subject to Executive approval, we anticipate bringing forward an Assembly Bill shortly.

I will now deal specifically with the equality impact assessment. We have provided members with a summary of the impacts. We received one response, from the Commissioner for Older People for Northern Ireland, and we have provided members with a copy. Our analysis suggests that the creation of a new legislative landscape, which offers greater choice over the types of pension schemes that can be offered and allows for greater risk-sharing, is expected to have a mainly positive impact on each of the section 75 groups. However, the introduction of collective benefits could potentially, depending on scheme design, have an adverse differential impact on younger workers, in so far as there may be a measure of risk transfer from older to younger scheme members. However, where that is the case, we expect that to reduce over time as they move closer to pension age.

Additionally, the Bill will contain regulation-making powers to restrict significant amounts of intergenerational risk transfer; for example, by requiring schemes to remain well funded or to take specified actions to tackle a deficit, and so on. The Commissioner for Older People acknowledged that savings to private pensions have been decreasing in recent decades and was supportive of the Bill's objectives, recognising the need to encourage greater risk-sharing in private pension arrangements. The commissioner's response highlighted the need for shared-risk pension products to be transparent about how risk is split between the provider and the buyer.

As outlined earlier, the Bill includes provisions to require that certain decisions on shared-risk schemes and collective benefits be made in the best interests of members. It also includes various regulation-making powers to ensure robust governance of schemes and transparency for scheme members. Those provisions should be sufficient to alleviate the concerns raised by the commissioner.

In conclusion, Chairman, I think that it is fair to say that, although its aim is reasonably straightforward, the Bill is somewhat technical. We will do our best to answer any questions that members may have.

**The Chairperson (Mr Maskey):** OK, Doreen. I will ask a couple of questions. You referred a few minutes ago to bringing forward an Assembly Bill, subject to Executive approval. I am not sure what I missed there. What does that mean? Is it an Assembly Bill on this or —

**Mr G McCann:** Yes. That is why we are here: to speak about the Pension Schemes Bill. We cannot go to the Executive until we know your views on the EQIA. It is only when we have those that we can move forward.

**The Chairperson (Mr Maskey):** Thanks for that. I was thinking that there was something else coming down the line.

**Mr G McCann:** No. It is just for the Pension Schemes Bill. We cannot proceed until you tell us your views on the EQIA.

**The Chairperson (Mr Maskey):** OK. Thank you for that.

I have a couple of wee queries. You referred to a range of things, including collective benefits, benefit targets, ambitions, guidelines and secondary legislation. What kinds of protections are there? I understand that there are different schemes and that some of them may carry more risk. What is the minimum protection that people are guaranteed to ensure that they have a pension at the end of the day?

**Mr G McCann:** First, they may be protected through a shared-risk scheme, for example. In that scheme, members know that they will get a certain amount or that a certain pot will be guaranteed to them. However, they will not know what their full amount might be. There will be some guarantees inside of it. Secondly, there is the old-fashioned DB scheme, as it is called, where people have a full pensions promise. Therefore, they know exactly what they are going to get. The third kind is what we have at the moment, which is a DC scheme. Members of that scheme have no idea of what they will get at the end. The whole point of the Bill is to see what we can do to help have the system of a shared-risk scheme, where the member has more guarantees than under a scheme that is purely DC but the employer is not saddled with the shortfalls.

**The Chairperson (Mr Maskey):** Thanks for that.

**Mr Allister:** Is the Bill following legislation already enacted at Westminster?

**Mr G McCann:** Yes.

**Mr Allister:** Therefore, a new Government are unlikely to change input that has been set.

**Mr G McCann:** I cannot say with any certainty, but I would not expect them to. Both main parties at Westminster were fairly supportive of the legislation.

**Mrs D Kelly:** My question is not about anything of a technical nature. It is about an issue that is raised quite frequently in my constituency office. Many public-sector workers in particular do not understand the significance of changes to pensions. How will the information be distilled into simple messages to help people understand their responsibilities and to address the concerns that they have raised?

**Mr G McCann:** The Bill itself will not really apply to the public sector.

**Mrs D Kelly:** Not of itself, but will it apply right across?

**Mr G McCann:** The public-sector schemes have their own Act. I think that your party was quite heavily involved in the Bill as it went through. All of that is set down under separate law. What we are doing here for the three types of scheme that we are setting up here will not apply to the public sector.

**Mrs D Kelly:** It is all for the private sector.

**Mr G McCann:** The public sector has its own set of laws, which will carry on.

**Mrs D Kelly:** Therefore, it is just for the private sector. Who then is responsible for informing the employees of the implications of the legislation on the part of employers?

**Mr G McCann:** Part of what we will take on through the Bill is a series of powers for us to make regulations. In those regulations, we will set out who has to do what or whose job it is, as well as what they have to let the scheme member know. All of that should be set out. As I say, it will be set out in the regulations, which will come to you, but those are some way down the line.

**Mr Beggs:** Thank you for your presentation. The Commissioner for Older People said that she was looking for added guarantees that individuals will be properly informed about the changes, to give them knowledge of their situation and of how it will affect them in the future. Rather than simply wait until the regulations come along, have you even outlined any ideas? Can you give us some indication of what you are planning?

**Mr G McCann:** When the Bill is going through the House, we shall go through it with you in detail. For example, some of the things that will have to be made clear to members are the element of risk they face in a shared-risked scheme and the target benefit. It is what the scheme has to set each year. The scheme has to set what it is aiming to pay out at the end of the process. A scheme actuary will then have to look at that and at the scheme assets, at the scheme funding and at how many people are in the scheme overall to see whether it is able to that. All those things will be made clear to the members so that they know that their scheme is on target to deliver at least some degree of certainty. If you are asking whether anybody who is a member of a shared-risk scheme will know exactly what

they will get, the answer is no, because that is why it is called a shared-risk scheme. There will still be an element of risk.

**Mr Beggs:** In the past, we have heard in the news about various companies almost raiding company pensions and using them for their own commercial purposes. There was then a deficit in the pension scheme. Will these changes prevent that type of thing happening in future?

**Mr G McCann:** Even at the moment, the chances of an employer being able to raid, as you put it, a scheme are quite small. It goes back to the 1990s, when we had a number of major scandals. Since then, the scope for the employer to take money out of a fund has been very tightly controlled. As we move forward with all of this, we are aiming to achieve a balance between making sure that we have schemes that will work for the membership and schemes that will not be very complex to operate. We do not want the employer to say, "Hold on. I can't be bothered with all these rules and regulations". As I say, we are trying to walk a fine line.

**The Chairperson (Mr Maskey):** No other members have indicated that they wish to speak.

We need to get to the core of the purpose of the meeting, which is the Committee's response to your briefing on the EQIA consultation. You said earlier that the new legislative framework could introduce some unfairness for younger people.

**Mr G McCann:** When I talk about the system, I imply a collective benefit. It works on the idea that all the assets in a scheme are pooled. For example, Gillian and I might be part of a scheme. I am slightly older. When I come to pension age, the stock market may not be doing that well at that point, but, to make sure that I get the pension that I hoped that I would get, money will be taken out of the asset pool to pay me. Gillian, who still has some years to go, cannot be sure what the scheme will look like in a further 30 years, or whatever.

**The Chairperson (Mr Maskey):** Perhaps 30-plus years. *[Laughter.]*

**Mr G McCann:** I know that I am walking on very dangerous ground here.

That is what we mean when we say that there is an element of risk, but that risk has been moved from me to Gillian. However, to make sure that that is not a major factor, a scheme will have to take into account that it will have to have its funds in overall balance. We see it having to operate inside a certain range. For example, the fund should be within 89% to 140% of the amount of money that it needs to pay people. It will allow for times when the scheme's stocks and shares are not doing that well. However, it will still have to stay within a certain range of funding to make sure that the risk, which will be passed on to the like of Gillian, is not that huge.

**The Chairperson (Mr Maskey):** I am trying to find where I read this earlier. There will perhaps be regulations to make sure that all of that happens.

**Mr G McCann:** Yes, there will be.

**The Chairperson (Mr Maskey):** Funds will be monitored, and so on.

**Mr G McCann:** Yes. Part of it will be to move forward all the existing rules on monitoring, but those will all have to fit for the new models that we are speaking of. We already have a fairly comprehensive system out there to use. Our aim is not to bring in new sets of hurdles for people to have to jump over but to make sure that the new models can work and, at the same time, make sure that the rights of other members are safeguarded as best we can.

**The Chairperson (Mr Maskey):** I just want to satisfy the Committee on the EQIA business. Roy mentioned making sure that people are not raiding assets. You said that there may be some risk based on age but that things will be very strictly monitored.

**Mr G McCann:** With all those things, we will aim to make sure that all the funds are safeguarded as best we can.

The major risk with all these things is the stock market, which can go up and down. However, it should be considered over time, and the whole point about a pensions product is that it is a product

that should be there for 40, 50, 60 or 70 years. Therefore, it should have time to be able to cope with troughs and peaks.

**The Chairperson (Mr Maskey):** And adjust.

**Mr G McCann:** In a sense, it can adjust.

**The Chairperson (Mr Maskey):** The other wee category that you refer to is ethnic minority groups. I was a bit surprised by that as it relates to the outworking of the EQIA. You are basically saying that ethnic minority groups may be more likely to be on lower pension incomes overall. You are flagging up the point that there is a potential problem there but that it is not really a problem.

**Mr G McCann:** No, it is not really a problem. On the EQIA, as you can see, we have worked our way through everything, including gender and religion, and have followed all the various categories. All that we were doing was having a look at each of the various categories and saying that those are the outcomes at the moment. However, we are not able to see anything in this that will not help people from an ethnic background either, so it is not as if there is any issue. It is just what we do: we are trying to see what it means for the various groupings.

**The Chairperson (Mr Maskey):** In fairness, you did. I raised the point with you because you have clearly gone through all the categories, and there is no issue with any of them bar two, which are age and ethnic minorities.

**Mr G McCann:** Again, what we are putting in here should help ethnic minorities as well. As we look at it the moment, the number of people from ethnic minorities who are in schemes is proportionately smaller when you look across the whole of the population. That is all that we are saying.

**The Chairperson (Mr Maskey):** Are members content that we have taken a briefing from the Department on the EQIA and are content with what we have heard?

*Members indicated assent.*

**The Chairperson (Mr Maskey):** That is all that you need, Gerry.

**Mr G McCann:** The Committee can move ahead now with the Bill. We will see it shortly, hopefully.

**The Chairperson (Mr Maskey):** Gerry, thank you. Gillian and Doreen, thanks very much for coming here this morning and helping us in our deliberations.