



Northern Ireland  
Assembly

Committee for Enterprise, Trade and  
Investment

# OFFICIAL REPORT (Hansard)

Credit Unions and Co-operative and  
Community Benefit Societies Bill:  
DETI Officials

16 June 2015

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Credit Unions and Co-operative and Community Benefit Societies Bill: DETI Officials

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**Members present for all or part of the proceedings:**

Mr Patsy McGlone (Chairperson)  
Mr Phil Flanagan (Deputy Chairperson)  
Mr Steven Agnew  
Mr Gordon Dunne  
Mr William Humphrey  
Mr Fearghal McKinney  
Mr Máirtín Ó Muilleoir

**Witnesses:**

Mr Keith Brown	Department of Enterprise, Trade and Investment
Mr Richard Scott	Department of Enterprise, Trade and Investment
Ms Marie Turner	Department of Enterprise, Trade and Investment

**The Chairperson (Mr McGlone):** With us today are Mr Keith Brown, head of financial capability at the Department of Enterprise, Trade and Investment (DETI); Ms Marie Turner, deputy principal in company law at DETI; and Mr Richard Scott, staff officer in company law. You are very welcome. Thanks for being with us. If you would care to make an opening statement, we will then move to questions from members.

**Mr Keith Brown (Department of Enterprise, Trade and Investment):** Thank you very much, Chair, and thank you for having us here today. It has been a bit of a long road to this point, but one thing that has been evident is that the Department, the trade bodies and the Committee have worked together very well for the good of the sector involved. The scrutiny of the Committee has genuinely developed policy on this issue. You questioned a few issues, and we had to take time to respond. I think that this is a positive example of how the system can work to benefit the sector, especially when there are quite a few negative stories about us.

I would also like to put on record a note of thanks for the hard work of my team: Marie and Richard are here today; and John is holding the fort back at Netherleigh. It is not easy bringing a Bill to the Assembly, especially when many stakeholders with competing views are involved, but I think that we now have a Bill that is much to the benefit of the sector.

The measures identified for inclusion in the proposed Bill have been developed with the benefit of having not only the trade bodies involved but individual credit unions. Industrial and provident societies also gave us their views. There was extensive pre-consultation, as you know, between June and September 2013, and we had 37 responses from a range of stakeholders, which were generally positive towards the 19 policy proposals. A number of responses displayed a difference of opinion

between two of the three main credit union trade bodies. My officials met the three trade bodies in October 2013 to explore these differences before bringing considerations to the Committee.

Five proposals were dropped at that stage: abolishing the minimum age for credit unions; introducing alternative and easier methods of dissolution; and so on. After that, when the policy proposals were brought to the Committee for pre-scrutiny, a further measure was dropped, which was that of deferred shares. Broadly speaking, the policy proposals are consistent with those put forward by the Committee in its 2009 report. As I said, it has been a long road to get here today.

In addition, we have introduced a further proposal. At present, no member of a Northern Ireland industrial and provident society may have a shareholding exceeding £20,000, except in certain limited circumstances. The Bill will, if enacted, amend this restriction, removing it entirely for non-withdrawable shares — shares that may be transferred to another member but not redeemed — but maintaining it for withdrawable shares — shares that can be redeemed. In GB, the UK Government increased the limit for withdrawable shares from £20,000 to £100,000 in 2014. Sectoral representatives have been keen to align with this position, and we agree that this would be beneficial.

Finally, I would just like to thank the sector once again for engaging with us in a positive manner. From consultation through to now, we have worked constructively together on the Bill. I do not think that it can be overstated just how important it is to make sure that our views are aligned with theirs and that the Bill brings benefit to the sector. We all value the contribution that mutuals make to our economy and society, and the Bill is not simply for the sake of legislating: it is to allow the sector to grow. It makes important changes to the law governing credit unions and industrial and provident societies by removing outdated legislation, bringing credit unions and societies here into line with their GB counterparts and enabling credit union societies to offer a wider range of options to their members.

I will take questions now, Chair.

**The Chairperson (Mr McGlone):** Thanks very much, Mr Brown. Before we get into the detail, I would like publicly to record the Committee's thanks to your staff, who have been here on a fair number of occasions, for their help and guidance in seeing us through this very important legislation for those of us who are members of a credit union, as I am. Perhaps I should declare an interest at that point.

**Mr Humphrey:** Chair, I declare membership of a credit union as well. Sorry, I should have done so at the start.

**The Chairperson (Mr McGlone):** That is grand, William.

I know that most of the detail has been tied down, but there are one or two wee items. Proposal 12, clause 6, is to relax the rules on application by credit unions of surplus funds. Are you sure that this would not jeopardise or in any way place members' money at risk?

**Mr Richard Scott (Department of Enterprise, Trade and Investment):** One of the safeguards that already exists in the Credit Unions (Northern Ireland) Order 1985, the pre-existing legislation that we are amending, will be retained, which is that no more than 10% of surplus funds can be applied towards such measures. That safeguard will be kept, even though the minimum 3% dividend hurdle is being removed.

**The Chairperson (Mr McGlone):** OK, thanks for that.

**Mr Dunne:** Thanks very much for coming in this morning. Proposal 8, clause 3, is to allow credit unions to offer interest-bearing shares. Do you see that as being of significant benefit to credit unions in the future?

**Ms Marie Turner (Department of Enterprise, Trade and Investment):** Allowing credit unions to offer interest-bearing shares puts them on a more even keel with building societies. It means that someone investing in shares in the credit union can see from the outset what return they will get on their savings, rather than waiting to get a dividend.

**Mr Dunne:** Do you think that having that facility will be a big advantage to credit unions?

**Ms Turner:** I think that it will attract savers who know that, if they invest their money in a building society or bank, they will get a certain return, whereas, if they invest in a credit union, they have to wait until the end of the year to see what their dividend will be. I can see it attracting savers who want to know, from the outset, what their return will be.

**Mr Dunne:** Do you feel that credit unions are enthused about the proposal, or might they not avail themselves of the facility?

**Ms Turner:** The majority of consultation responses were in favour of it, which is why we included it in the Bill.

**Mr Dunne:** You think that it is well worthwhile, then.

**Ms Turner:** Yes.

**Mr Dunne:** Great, thanks very much.

**Mr Flanagan:** Thanks for the presentation. I, too, declare an interest as a member of a credit union.

The Committee has looked at clause 1 for a long time. From what we have seen, it is clear that the Department has tried to make some progress on this. However, there are problems in dealing with some of the issues. Historically, one of the big issues with credit unions was that they could not allow partners to hold the same account, nor could they allow corporate members or voluntary organisations to hold accounts. That is one of the big opportunities for growth that we see with credit unions. We are very grateful that it is contained in the proposed legislation.

What about the mechanism for how that will work? We are looking at a situation in which a corporate or voluntary organisation will not be allowed to hold an account in the name of that organisation; it will have to be held in the name of an individual. That may well present problems for governance, the transferring of rights and liabilities and so on. Have you any possible solution to that, or have you exhausted every avenue?

**Mr Brown:** This issue has probably been the most difficult, and taken the longest, to resolve. The team worked really well with Treasury, the Financial Conduct Authority, the Prudential Regulation Authority, the Department for Business, Innovation and Skills and the Financial Services Compensation Scheme to try to bring us to where we are today. It is fair to say that this is not something that they were terribly keen on in GB, but we wished to do it because our credit unions see the advantages in it. The position at the moment will work. I understand that there are issues about it being in someone's personal capacity, but that is a matter for, for example, the voluntary organisation or the corporate body, which will have that contained in the rules. It is also up to the credit union offering the service how it sets it out in its rules. We think that this is probably the most effective, and possibly the only, way that we could put this into practice in legislation.

**Mr Flanagan:** Is there any scope for potential changes in the future to rectify that situation?

**Mr Brown:** We made a commitment in February, when we met the Irish League of Credit Unions and the Ulster Federation of Credit Unions that, although this is where we are at present, we would continue to press bodies across the water and, if necessary, and if trade bodies thought that it would be useful, set up meetings. We would certainly accompany them to those to try to move this forward as much as possible.

One of our main issues is that what we are pressing for is unique to Northern Ireland. When we spoke to the Financial Services Compensation Scheme, for example, it did not see there being as big a risk as perhaps others thought. We certainly commit to working with both trade bodies to try to bring this to as close —

**Mr Flanagan:** What is the problem?

**Ms Turner:** The problem is that unincorporated associations do not have a legal personality in law. They cannot, for example, borrow money or hold land, and that is risky for credit unions. Say, a credit union lends money to a sports club, which is, of course, unincorporated, and the club defaults on that

loan, an unincorporated association cannot be sued to repay the money. So, unless a named individual is the account holder, it could be extremely risky for credit unions.

**Mr Brown:** This way provides some assurance for credit unions, in that an individual can be pursued through the courts.

**Mr Flanagan:** It will still be less attractive for sporting clubs and voluntary organisations to avail themselves of finance from a credit union compared with a traditional high street bank. We have been trying to increase the attractiveness of credit unions as a viable source of funding for those types of organisation. If we are to be left with a situation in which there are still barriers, it is not the perfect solution that we envisaged.

**Mr Brown:** Unfortunately, it is a balancing act between protecting credit unions and creating the incentive. In this case, it is not so much a barrier for, for example, a community organisation or a sports club that will always have a treasurer in a position of responsibility. A sports organisation can have its own rules to safeguard how the treasurer acts with money. If a sports club approached a credit union and the account was in a person's name, it could have a second named person, and so on. I agree that it is not perfect, but it is possibly the best solution.

**Mr Flanagan:** In that scenario, you have a treasurer or an honorary trustee who is the named person. However, the corporate governance in an awful lot of sporting organisations stipulates that such a position can be held for a maximum period of, say, five years, but the term of the loan might be longer. Will the legislation allow the credit union or the body taking out the loan to transfer the role of named person to the new post holder?

**Mr Scott:** As drafted, all rights, shares, liabilities and responsibilities will transfer from person A to person B. It was originally envisaged that one account would have to close and another open, as happens in GB. Over the last few months, we tried to find an alternative way to try to ease those administrative concerns. Hence the transfer, which should make the process much more straightforward and easier.

**Mr Flanagan:** Will the transfer require a lot of paperwork and bureaucracy, or is it a straightforward process?

**Mr Scott:** It is, by and large, left up to the credit unions. We have stipulated in the order that they have to set out in their registered rules how they will carry out the checks, so it is, by and large, in their hands. Obviously, that is subject to oversight by the regulatory body, but we have not stipulated precisely any step-by-step guide or how they have to go about it.

**The Chairperson (Mr McGlone):** Members do not require any further clarification, so thank you very much indeed for your time. Our best wishes and thanks go to the rest of your colleagues and the team that supported you.