Northern Ireland Assembly

Committee for Enterprise, Trade and Investment

OFFICIAL REPORT (Hansard)

Credit Unions and Co-operative and Community Benefit Societies Bill: Irish League of Credit Unions

30 June 2015

NORTHERN IRELAND ASSEMBLY

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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 Adrian Cochrane-Watson
Ms Megan Fearon
Mr William Humphrey
Mr Máirtín Ó Muilleoir

Witnesses:

Mr Martin Fisher	Irish League of Credit Unions
Mr Brian McCrory	Irish League of Credit Unions
Ms Breege-Anne Murphy	Irish League of Credit Unions

The Chairperson (Mr McGlone): Briefing the Committee today are Mr Brian McCrory, the president of the Irish League of Credit Unions; Ms Breege-Anne Murphy, its interim head of legal and HR; and Mr Martin Fisher, its regulatory and legal officer. You are all very welcome. It is good to see you — some of you for the first time. Brian, I ask you to make a few comments, welcoming or otherwise. I place on record our thanks to you and the Irish League of Credit Unions, as I do to the Ulster Federation of Credit Unions, for your work and cooperation throughout. You made everything much easier, including our work with departmental officials.

Mr Brian McCrory (Irish League of Credit Unions): Thank you, Patsy. My opening comments will effectively be my closing comments. They will be very brief. If you have any questions, feel free to ask them. I have with me Breege-Anne Murphy, who has since been confirmed as our head of legal and secretariat, and Martin Fisher, our regulatory and legal officer in Northern Ireland.

On behalf of the Irish League of Credit Unions, I thank the Committee for the opportunity to meet it today, following the publication of the Credit Unions and Co-operative and Community Benefit Societies Bill, initially called the Credit Unions and Industrial and Provident Societies Bill. We are very appreciative of the interest that the Committee has shown to date in the new legislation for credit unions. As we mentioned in previous appearances before the Committee, the Bill has been very long awaited, and we are pleased that it has finally been introduced in the Assembly. We hope that it will have a speedy passage to enactment.

The Bill will modernise existing legislation and the framework within which credit unions in Northern Ireland operate. It will allow credit unions to offer enhanced services to their members and prospective members — services that have not been available to them to date. The key provisions for

us are the ability to open new accounts for corporate members and to offer interest-bearing shares, and we are pleased that those have been included in the Bill. Broadly speaking, we are satisfied with the contents of the Bill, and we are anxious to see it enacted in a timely manner.

As the Committee is aware, we have some concerns with the manner in which unincorporated members are being dealt with under the legislation. However, to progress matters, we agreed to accept the current formula of words in the Bill and welcome the commitment from the Department of Enterprise, Trade and Investment to revisit the matter in the future. We engaged with Treasury representatives on the issue as recently as last week, and we believe that they may look into it again. Perhaps, then, given the commitment of DETI officials, that might be reconsidered at a later stage.

I reiterate our appreciation for your support for the legislation and welcome the cross-party Assembly and Committee support for the credit union movement in general. I also acknowledge the work of officials in the Department of Enterprise, Trade and Investment and thank them for their ongoing engagement with the Irish League of Credit Unions in bringing forward this important Bill for the credit union movement in Ireland.

The Chairperson (Mr McGlone): Thank you very much, Brian. There are a few things that we have to ask and put on the record.

Proposal 2, to clause 5, was to allow credit unions to charge more for providing a copy of their rules. That is not a hugely significant issue, but anyway. The Committee recommended to the Department, at the suggestion of the Irish League of Credit Unions and the Ulster Federation of Credit Unions, that provision should be made in subordinate legislation to increase in line with inflation the amount that can be charged for a copy of credit union rules. The Department agreed. I just want to check whether representatives are content that their needs are met in that regard.

Ms Breege-Anne Murphy (Irish League of Credit Unions): Yes, I think so. I understand that, in the Bill, the regulation may make changes to the amount of money that can be charged for the rules. We are satisfied with that response.

The Chairperson (Mr McGlone): That is grand. Thank you. Proposal 7, which was rejected by the Committee, was to allow credit unions to offer deferred shares. The proposal was rejected by the Committee and is not included in the legislation. Are representatives content with the Committee's position and the Department's decision to remove the proposal?

Ms B Murphy: For the most part, deferred shares are unlikely to be used by credit unions in Northern Ireland. In our submission, we say that we were happy to see the proposal in there or not in there. Therefore, because deferred shares are not likely to be used by credit unions in the North at this time, we are satisfied that it is not in there for the moment. At a later stage, if it is required, that can be revisited.

The Chairperson (Mr McGlone): That is grand.

Mr Flanagan: Thanks for the presentation. I declare an interest as a member of a credit union, like a number of other Committee members around the table.

We all see the big opportunity for organisations and corporate members to join a credit union. I know that that has been an awfully long time coming, and it is one of the biggest issues that you want to see addressed. Do you feel that the Department has done everything that it can to allow credit unions to maximise the potential benefits of having corporate members?

Mr McCrory: Perhaps not. The difficulty seemed to be legal rather than philosophical. We are still trying to work our way around the whole idea of requiring corporate members at the user end to be registered in the name of an individual and why that is required, because, in any other type of financial institution, it certainly is not. If you are a sports club, your bank account is in the name of the sports club with authorised signatories, yet credit unions are being treated differently. Breege-Anne, as a well-versed lawyer, may understand the subtle differences, but I, as a layperson, and the majority of the credit union movement and its directors are struggling to comprehend the rationale for that being in place.

Mr Flanagan: I will adopt your position, Brian. Can you explain the subtle differences for us?

Ms B Murphy: I understand that unincorporated members do not have legal personalities, so there is an argument that the account would not be in the name of an entity that does not have legal personality. As we understand it, that is the rationale that is being put forward. For example, the Irish League of Credit Unions is an unincorporated association, and we can open bank accounts in our own name. As Brian mentioned, there is a conflict between the banks, on the one hand, being allowed to open accounts in the name of an unincorporated entity, whereas, on the other hand, credit unions are seen not to be able to do it.

It also appears that the issue is around lending. What we are perceiving from the officials is, and it is true, if you are lending to an unincorporated body, there is an issue there about the ability to enter into a contract and, in turn, an enforceable loan, but, for the most part, a lot of those members are simply putting money into the account and depositing shares. On that basis, we do not see a particular issue around accepting the account in the name of the unincorporated association for the purposes of taking in deposits and shares.

On the lending side, that would have to be dealt with separately, and you would perhaps have somebody who would be individually accountable for repayment of the loan. As we said, we are anxious to get the Bill passed, because, as we mentioned, it has taken quite a long time. We received a commitment from DETI that the structure on which the accounts are opened could be relooked at. It was disappointing to us that there could not be a solution that would allow the name to be in the name of the unincorporated association.

Mr Flanagan: Working with other members around the table, it is an issue that I am keen to resolve through Committee Stage and Consideration Stage. Are there any legal impediments that would stop the Committee amending the Bill to allow that provision?

Ms B Murphy: You probably need to talk to DETI about that to find out its view on it. Our particular view is that there should not be an issue with allowing unincorporated members' accounts being opened in that name. I understand that Treasury has been in discussions with DETI about the issue, and Treasury has received some advice on that, but, as Brian mentioned, we have also been talking to Treasury, which has said that it will look into it again. Therefore, there may well be an opportunity for the Bill to be amended if there is something forthcoming from Treasury in a timely manner that would allow for an amendment to be tabled.

I understand that the GB legislation on that particular issue is formulated in the same way, so a lot of it is cut and pasted for Northern Ireland credit unions from whatever the Act was that made the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 (LRO) for GB credit unions. It could just simply be the case that, as that is what is happening in GB, we transfer it across. However, if something were to come from Treasury to DETI or the Assembly itself in a quick fashion, there would perhaps be an opportunity to do it. I think that the Bill's Second Stage is going to be heard in September. If something were to come quickly, perhaps there would be an opportunity to amend it. Of course, DETI will want to give its views on that, I imagine.

Mr Flanagan: Have you any correspondence from the Treasury that would explain to us why there is a reluctance to allow that to happen?

Ms B Murphy: We do not have any correspondence from Treasury, but I understand that DETI may have.

Mr Flanagan: That is something that we will explore with it, and, if there is, we will get everyone around the table.

Mr McCrory: That would be very helpful.

Ms B Murphy: That would be useful. If there were an opportunity to amend it, we would support it. However, at the outset, the way in which it was drafted meant that we wanted the matter to be dealt with and to get the Bill into the Assembly, so we were agreeable to accepting it at the time. However, if there is a further opportunity to amend it, of course, that will be welcomed.

Mr Flanagan: I am hopeful. We will try our best to go down that road if we can.

The Chairperson (Mr McGlone): OK. You have clarified what I was going to ask. You are happy enough with the Bill, but, if it could be amended by the Committee on that particular point, you would welcome that, too.

Mr McCrory: Very much so.

Mr Humphrey: Thank you very much for attending this morning. I will ask some questions about clause 3, which deals with credit unions and the offer of interest-bearing shares. What are the main advantages of that to credit unions and their members?

Ms B Murphy: In the first instance, it offers a different form of taking in money for the credit union. It helps the credit union with asset-liability management, and that is the huge benefit that we see for deposits. The credit union can pick the deposit interest rate at the start of the year and work around that, whereas shares are only subject to a dividend. All shares are then entitled to the same dividend, whereas, with deposits, you can balance your asset management a bit better. That is the main benefit that we see. In the Republic of Ireland, we have deposits in credit unions currently. We have always had them, and they used to be fairly popular, but increasingly they are less so. People are more inclined to put money into shares. However, it is an extra tool in credit unions' armour for their asset-liability management. That is why it would be beneficial.

Mr McCrory: It is also a model that exists across the credit union world: the acceptance of deposit. Based on the principle that the credit union is a smaller form of financial institution, it should really be enabled to undertake and partake in any of the financial activities and offer of services to members.

Mr Humphrey: Sorry, Chair. I should have declared an interest as a member of Court Credit Union in Belfast before I started.

The Chairperson (Mr McGlone): I, too, am a member of a credit union.

Mr Humphrey: What level of interest do representatives believe there will be?

Mr McCrory: That will be determined by market performance at any one time. In the same way as a bank sets the interest rate at which a deposit account will be guaranteed over a one-year period, a credit union will have to reflect a cognisance of the business environment and then take money on deposit with the promise of a return, based on its business analysis and forecasting. It will need to be competitive to begin with, in order to attract any significant amount of funds. Again, if it is overly competitive, it will signify that there is potentially a higher degree of risk.

Mr Humphrey: In your experience as an organisation, can you say whether that currently applies in the Republic? Have you seen it in operation there?

Ms B Murphy: It does.

Mr Humphrey: What you have just said is how it flows in the Republic.

Ms B Murphy: It flows in the Republic and in other legislative contexts in the European community, such as in Poland, and much further afield around the world. It is not a unique phenomenon.

Mr Humphrey: Are there any concerns about the two-tier membership of credit unions?

Ms B Murphy: Will you clarify what you mean by "two-tier membership"?

Mr Humphrey: Does the Irish League of Credit Unions have concerns about two-tier membership?

Ms B Murphy: Do you mean because some people take deposits and —

Mr Humphrey: Yes.

Ms B Murphy: No, not really, because, in general terms, the member will have to have shares in the credit union account anyway in order to be a member of the credit union and have voting rights, and

so on. In all instances, you would have to be a member and have shares before you would be entitled to take out deposits. Our experience in the Republic of Ireland is that we do not see that kind of two-tier system operating. It is one share, one vote, so you will still have the same amount of voting power in your credit union. As long as you have the minimum shareholding in your account, you are entitled to one vote. Regardless of how many deposits you hold, you and the person beside you who may not have any deposits in your credit union will have an equal say. On a democratic basis, there is not that kind of two-tier-membership concern that we would have.

Mr McCrory: It introduces for members a further opportunity to help them plan for their future, inasmuch as, if they have funds on deposit, they are guaranteed a particular return, whereas the return on the share dividend will be based on the overall performance of the entity itself, which can fluctuate from year to year. A deposit with a guaranteed return is predictable and can be incorporated into a member's financial planning.

Mr Humphrey: Thank you very much for the role that you play in society. I know that many people value and trust credit unions, whereas their trust in other institutions may have been eroded in the past few years.

Mr Agnew: Thank you for the information so far. I declare an interest as a member of a credit union. I want to ask about proposal 12, to clause 6, which is to do with investment in community development. Are you content that the provisions in clause 6 are sufficient to protect members' money from risk?

Ms B Murphy: That is something that we requested be considered as part of the Bill. One of the social purposes of credit unions, as well as providing services to their members, is to contribute back to the community. In the current environment, given the way in which credit unions are formulated, they would not be permitted to make any contribution for social or charitable purposes unless they have declared a 3% dividend. A 3% dividend, in the past number of years, has just not been realistic, and it was completely excessive for most credit unions to reach. It was nowhere near possible for most institutions to reach 3%.

We found that credit unions were unable to make any kind of social or charitable donation, for example, to the local community or to local clubs or schools in the form of sponsorship — that type of thing — because they had not reached the 3% dividend, which was unrealistic. That is one of the provisions that we asked to be removed. At the same time, there is still that saving provision that only 10% can be put towards that purpose, so we do not see it as being of any concern to members. Of course, the credit unions are there to serve their members. If they are not paying a dividend but are throwing money at unnecessary purposes, the members will soon tell them at the AGM. We therefore do not believe that it is of any concern that safeguards are being removed in that case.

Mr Agnew: The other side of the coin is the 10% limit. Does that allow you sufficient scope to invest surplus funds in the community?

Ms B Murphy: This is not so much an investment as a contribution to —

Mr Agnew: Yes, it is a contribution.

Ms B Murphy: It is probably balanced overall. Brian may wish to comment about investments in general terms. That may be slightly outside the scope of the Committee's deliberations, but it may be worth flagging up for the record.

Mr McCrory: It is tangential and not covered by the scope of the Bill. It does not really address the core issue for us. This is about the distribution of the surplus and the investment of the surplus. Scale and capacity mean that that will only ever be on a smaller scale into local parts of the social economy. As a collective in Northern Ireland, we have a huge ability to invest in socially beneficial infrastructure projects, whether those be housing projects or whatever. We have made a number of approaches to the Assembly, right back to the collapse of the Northern Ireland co-ownership scheme and a number of other projects in between. We have been prevented from doing so, either by regulation, the Treasury or whomever. We have not been allowed to do it or to accept it.

Our last desire is to become wholesale collection agencies of ordinary citizens' money, which we pass on to banks, which then lend it to you. That is just wrong. The people of this jurisdiction have

accumulated their savings. We want to see those being reinvested for a socially beneficial purpose for the benefit of those very same citizens. The Bill does not cover that — it is outside its scope — but that has been our biggest effort over a number of years. It has not been addressed. In fact, there are levels of frustrations out there, and probably among you as well. Somehow or other, we have to put a fence around this and enable that development.

Mr Agnew: You mentioned the credit union movement as a whole. In order that I can clearly understand the problem, I want to ask whether the problem is not being able to use surpluses collectively for bigger projects or not being able to invest for return. I am not clear.

Mr McCrory: No, there are a number of different issues. We can create a central investment vehicle in Northern Ireland that Northern Ireland credit unions put into and for which there will be a guarantee. We can only ever put money into guarantees. Given the rates for money at the minute, it is a capital guarantee. That has been the impediment to Treasury allowing you to do that. You need to look more creatively at how such a vision might be realised.

Mr Agnew: Therefore, is the issue that you are not really given any scope for risk? Is that where —

Mr McCrory: We have no scope for risk, nor do we seek scope for risk. I imagine that, when the banking fraternity offers money for particular projects, there is hardly any degree of risk attached. However, there will be significant rewards for that sector. We are not looking for significant rewards, but nor are we looking for significant risk. We simply want to use the accumulated surplus, which runs into hundreds of millions of pounds, for the benefit of people around Northern Ireland.

Mr Ó Muilleoir: Apologies. I was out dealing with other matters that sometimes pop up at this time of the year here. I am sorry that I missed your presentation, but I am familiar with some of the work that you do. I am a great fan and admirer of the work that you do. I do not want to claim a conflict of interest: I would not have as much money in the credit union as Steven *[Laughter.]* , but I do have a few bob.

I will ask a more general question. Of course, you are right: any community that has a credit union at its heart is a strong community. The more flexibility that we allow you to engage in community and economic development seems to me to be sensible. I will ask you a question as someone who is at the coalface of dealing with communities and community confidence. Do you detect among your members, as we deal with the wider economy here, a confidence about the future of the economy here? Are people borrowing? I suppose that that is the question. Is there a way in which you can make that possible? As we know, interest rates are so low in banks that there is no great incentive to put your money into them. In a credit union, people invest in a different way. They invest because they know that they can draw down and that they are investing with their neighbours. Is there any way in which you can encourage more borrowing? You are not allowed to use that money for other projects, and, obviously, borrowing is central to your role. We want to get the economy moving and increase confidence. Is that something that you have a view on? Are you always trying to get people to borrow money?

Mr McCrory: It is rare to find a credit union matter on which I do not have a view. *[Laughter.]* You are right. We share an awful lot of international research from the United States, Canada and Australia on the decline in the requirement for people to borrow. Over the past seven years, people have been rowing back from borrowing. The uncertainty here in the North is certainly reflected in borrowing patterns, not just in the credit union sector but in the banking sector. The demand for lending is on the slide all the time. That having been said, lending tripled or quadrupled during the boom period, so borrowing levels are moving back to where they might or should have been. We have huge surpluses of cash. Yes, we do want to lend in a prudent way, but other factors are coming into play with regulation as well. Traditionally, we would have had no problem at all in servicing the needs of, let us say, an unemployed person who came looking for a loan for a washing machine or a person of long-standing membership who has never missed a payment. It was character-based lending. The pressure is coming on because of regulation, bureaucracy and guys in suits who have never felt any form of financial need. Members will probably have to meet credit-search criteria.

Probably the best financial manager whom I know is actually a single mum in a different jurisdiction. She knows where every penny comes from and where it goes. Quite a number of our members are at that end of the spectrum, but, equally, quite a number are at the other. We have funds to lend. We are open to lending, but the qualifications and criteria that are being imposed or that are expected of us in order to lend money are growing almost daily. It will be Martin's job to keep a handle on it. At

one stage, we had a consultation paper perhaps once a year. We now have at least one, if not two, a month. They come in the form of the most recent one that we had, which started off as a three-line recommendation yet issued as a 600-page document.

The Chairperson (Mr McGlone): Sorry, Brian. Whom are those coming from?

Mr McCrory: That most recent one came from the Prudential Regulation Authority and the Financial Conduct Authority (FCA).

Ms B Murphy: Chiefly the regulators.

Mr McCrory: At the boardroom table of the Prudential Regulation Authority in England, which is a subset of the Bank of England but independent, that was an attempt to ameliorate the conditions for the approved-persons regime; in other words, the conditions that you have to satisfy to be able to fulfil a particular function in the credit union. Fair play to the guy, who was Oxbridge and all the rest. He came up with a very simple solution, wrote it down in three lines and said, "What do you think of this?" We replied, "That is workable". He sent it off to the lawyers, but, when it came back, it was 300 pages. We then sent it to the FCA, which added another 300 pages. That went out to credit union voluntary directors for comment. You can imagine what some of the comments might have been.

The Chairperson (Mr McGlone): If they had the time to.

Mr McCrory: It is completely inappropriate. This is outside of the scope of what I am meant to be talking about, but it is also the experience of twin-peak regulation, which is proving to be more onerous than had been promised or expected.

The Chairperson (Mr McGlone): I allowed a wee bit of time for you to get through that to answer Máirtín's point. Just to get back to what we have before us today —

Mr Ó Muilleoir: Chair, I am a member of the Antigonish Credit Union, which has its roots in Nova Scotia. I will just mention that declaration of interest.

The Chairperson (Mr McGlone): That is OK. Back then to the Bill. Máirtín, had you a particular line that you want to —

Mr Ó Muilleoir: No, I think that that is food for thought for the next session about how we achieve those changes that you say would really bring about a sea change and make a real difference to your work. I am content, Chair.

The Chairperson (Mr McGlone): OK. Thank you. I think that we have covered everything. Thanks very much indeed for your time and cooperation, and pass on our thanks to your membership also.

Mr McCrory: Thank you.