Northern Ireland Assembly

Committee for Enterprise, Trade and Investment

# OFFICIAL REPORT (Hansard)

## Credit Unions and Co-operative and Community Benefit Societies Bill: Ulster Federation of Credit Unions

30 June 2015

# NORTHERN IRELAND ASSEMBLY

# Committee for Enterprise, Trade and Investment

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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
Mr Gordon Dunne
Ms Megan Fearon
Mr Paul Frew
Mr William Humphrey
Mr Máirtín Ó Muilleoir

**Witnesses:**

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|---|---|
| Mr David Dowey | Ulster Federation of Credit Unions |
| Mr Gordon Smyth | Ulster Federation of Credit Unions |

**The Chairperson (Mr McGlone):** With us here today we have Mr David Dowey, chairman, and Mr Gordon Smyth, the business development manager, of the Ulster Federation of Credit Unions. You are both very welcome. I thank your organisation, too, in a similar vein to the last one for its level of cooperation. It is very useful when we have the practitioners here who really know what they are talking about and can help us as we work through the legislative process. Please convey our thanks back to your membership.

As before, if you want to make your opening comments, we will then take you through a few of those points of clarification. You are already aware of what they are.

**Mr David Dowey (Ulster Federation of Credit Unions):** Thank you, Chairman. We are cognisant of the fact that you have just had our Irish League of Credit Unions colleagues giving evidence and explanations before us. We are not as mature an organisation as the Irish League, as you will appreciate.

I will just give you a little bit of a history of the federation. It was formed in 1995. It had been in existence before that and was affiliated to a credit-union organisation in England. It had been a member of the National Federation of Credit Unions. Prior to 1995, the credit unions formed a Northern Ireland branch of this association and played a prominent role in it. It became apparent that credit unions in Northern Ireland needed better service and administration and that this could be better delivered by ourselves based in Northern Ireland.

Since then, we have been providing a service to our members. Our main aim as an organisation has been to be more professional in our approach and outlook and to help our member credit unions to do the same. This has taken on even more importance following the Government's decision to make credit unions in Northern Ireland the responsibility of the Bank of England through the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA). Again, my colleague Brian McCrory touched on that at the end of his presentation.

The federation has recently undertaken a series of training events aimed at directors of credit unions, with particular emphasis on what is referred to as the "CREDS rules", which are devised by the PRA and the FCA. It has become obvious to our federation that it needs to place more emphasis on the training needs of our credit unions, those who run them, staff and volunteers who operate within them. To that end, and based partly on feedback from the recent corporate governance training, the federation intends to publish a training plan. Essentially, Chairman, we were very concerned, following the introduction of a lot of regulation, as you heard Brian mention, from both the PRA and the FCA, that a lot of our credit unions were not fit for purpose in the sense that they were not governing themselves properly in accordance with regulations. Between January and March 2015, we embarked on a training programme on corporate governance to train all our directors of all our credit unions, some 427, in the proper way to conduct their business in line with the requirements of the regulators. We intend to continue with that.

Brian also touched on something else of importance, which is the way in which we consider loans for approval. There is a sea change coming as far as that is concerned. We intend to deliver training to our credit unions on that basis as well.

The federation takes its responsibilities to its members extremely seriously. It has previously set out its future development in the five-year development plan, which is available online. Really, we have a strategic five-year plan, which fits very neatly with the legislation because, as you know, we were lobbying for changes to the legislation. We are very happy to be able to present today to answer questions from the Committee.

**The Chairperson (Mr McGlone):** Thank you. Just as I asked previously, with regard to the proposal for clause 5, the facility to allow credit unions to charge more for copies of their rules, when this came up previously, the Committee had recommended, as suggested by you, that provision should be included in subordinate legislation to increase, in line with inflation, the amount which can be charged for a copy of the credit union rules. The Department obviously agreed to that. Just for the record; you are obviously happy enough with that?

**Mr Dowey:** Absolutely, Chairman. We have no issue with that at all. We welcome the inclusion of that in the Bill.

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

**Mr Dowey:** We are, Chairman. We know that deferred shares are an instrument which is used in the rest of the UK, but we cannot see any particular need for it in Northern Ireland and we are more than content that it has not been included in the Bill.

**Mr Flanagan:** Thanks for the presentation and for providing us with an opportunity to better understand the role of credit unions. I am not sure whether I need to declare an interest at every agenda item or just once in the meeting.

**The Chairperson (Mr McGlone):** Just the once will do.

**Mr Flanagan:** That is good. You will have heard the discussion that I had with the Irish League of Credit Unions (ILCU) about corporate members. Are you content that there is a rationale for the Department not legislating to allow corporate members to have the name of the incorporated body, as opposed to a named individual, as the account holder?

**Mr Dowey:** We have quite a few concerns about that. I will ask my colleague Gordon Smyth to speak to that issue. We had occasion last week to speak to officials from the Treasury in London. We were

there to brief them and had quite a long conversation with them about that issue. Gordon will explain our concerns.

**Mr Gordon Smyth (Ulster Federation of Credit Unions):** We are really concerned about that area. We feel that it brings credit unions into an area where they are seen to be second-class product providers and service providers. I have come to this process late. I only joined the federation about a year ago, and a lot of this had started before then. My background is in banking. As part of that, in the past seven years of my career, I worked closed with the Irish League and Ulster Federation of Credit Unions boards, so, I have a good understanding of the sector, and there are common issues in both areas. Initially, when we saw that it was in the legislation, we welcomed it, but then we saw how it had been put forward. For example, in a local town, say in Cookstown, you might have John Thompson the butcher, and, for years, his chequebook has been John Thompson trading as Thompson's Butcher. His suppliers are used to seeing that, everything is fine and it is accepted as a business account. We are expected to open the account not in the name of John Thompson trading as Thompson's Butcher but in the name of John Thompson. That sends out the wrong signal to the marketplace. It suggests to his suppliers that he cannot get a proper bank account and therefore has ended up in the credit union. There is still a public perception that credit unions are not as good as banks, and nothing could be further from the truth. Credit unions have a key role to play in supporting the SME sector in Northern Ireland. We still lend money on the basis of a relationship and on the basis of common sense, and we will not rule someone out because a credit score says that they are not worthy of consideration. The local people still make the decision, and that is the ethos of credit unions. People are there to help each other at a local level, and we feel that this is the wrong way forward. Banks can open accounts in the name of the organisation and so should credit unions.

**Mr Flanagan:** In your lengthy discussions with officials from the Treasury, was there any explanation as to why this is not happening? Is it a DETI problem or a Treasury rule?

**Mr Smyth:** We met with DETI first, and that was the first time that this came up as a briefing. We were told that it was based very much on advice from Treasury. Our concern at that stage was that Treasury had been poorly advised to form the opinion that it had, and we felt — I think that the Irish League shared the view — that there was a lack of understanding in London of what the credit union sector in Northern Ireland had achieved. We met Treasury last week and had a full and frank discussion with its representatives. It was a very receptive discussion on both sides, and they understood where we were coming from and agreed with everything that we said. It may be too late in the day to change this, but if there is anything that you can do to facilitate that change, it would be greatly appreciated.

**Mr Dowey:** Can I add something to that? It appears that the Treasury was being advised by an all-party committee of MPs that, in turn, is advised by one of the major trade bodies in England, the Association of British Credit Unions Limited (ABCUL). It provides the secretariat to that organisation and provides a reception party in Westminster in June every year. We are concerned that the advice from that all-party committee is based on the experiences in England rather than the experiences in Ireland, which is a much more mature credit union organisation. We made that clear to the Treasury officials, and they accepted what we were saying and will have further discussions with us about that. Our concern is simply that, if the right information is not being conveyed through those committees and organisations back to you, how can you possibly make good legislation? We made that point to them.

**Mr Flanagan:** Officials from DETI appeared before us a fortnight ago to discuss the proposed Bill. I asked them whose name will appear on the account, whether it will be that of the corporate organisation or of the individual. They did not give us a reason why the name of the business could not appear on the account. Were you following what they said?

**Mr Smyth:** Sorry, what was the last wee bit of that?

**Mr Flanagan:** Did you hear what they said in response to the questions that I put to them?

**Mr Smyth:** No.

**Mr Flanagan:** It might be useful for us to send a copy of the Hansard report of the meeting to yourselves to see if you can respond. I hear that there is an indication from Treasury that, because it is not the case in England, we should not do it here. We all appreciate that the credit union movement

here is much more developed than it is in England, Scotland or Wales, and we should not be holding the credit unions here back just because they are not that developed over there.

Taking the argument on financial support for credit unions, the credit unions in England are getting that support because they are not that advanced. You are not getting funding because you are advanced, but now it appears that you are being hamstrung because you are advanced. There seems to be a bit of a contradiction in terms there.

From what I have heard, you had a discussion with Treasury, but I do still not see a legal impediment as to why this cannot happen.

**Mr Smyth:** There is not one. Obviously, the legal opinion that they got differs from what I just said, but if the banks could do it here, they must have been able to get past the legal side of things. I did not see your question and the Department's answer, but we had a detailed exchange of emails at the time and kept coming back to a brick wall, with them saying, "This is what Treasury have told us we have to do." They seem to be very focused on the lending aspect.

**Mr Flanagan:** On the what? The lending?

**Mr Smyth:** Yes, lending side. It seems that their concern was not so much that the butcher would open an account but that he would borrow money. The thinking was that, whilst the banks in Northern Ireland would be big enough to absorb any loss, a similar loss could have a serious impact on a credit union. The credit union is a locally based organisation that is working to the benefit of its members. That means the members who save. When you lend the money out, you have to protect the money that members have saved, so you make sure that you lend it responsibly.

**Mr Flanagan:** Is the perception that the credit unions would not be big enough to do it coming from Treasury or DETI?

**Mr Smyth:** It seems to be coming from Treasury. They seem to be very much driving it. That is the point that we made to Treasury last week. They were saying that it was good to get some positive feedback, and we said, "You have to understand the impact of the advice you give today, because, while you think you are giving advice, the Department thinks that that is what it must do." There does not seem to be the right way of challenging the Treasury advice to say, "OK. Thanks for sharing that with us, but we know what the credit unions are capable of doing here."

**Mr Flanagan:** Have they any understanding of how big credit unions are here? There are credit unions in my area that are lending more than £10 million to consumers. They do not appreciate —

**Mr Dowey:** We do not think that they do. That is why, with our colleagues in the Irish League of Credit Unions, we have been lobbying fairly strongly across the water. We meet with all the other trade bodies, and it is quite clear to us that the organisations in Northern Ireland, and the rest of Ireland obviously, are much more mature and advanced in their operation than they are in England. They are struggling in England and Wales, not so much in Scotland, and the Treasury is being advised by trade bodies that operate in that forum. Consequently, they are bringing their experience to the fore, which is the not the experience that we have here. So, we are a bit concerned about that.

We met with the legislation drafters about three or four months back, and we discussed the whole issue of corporate membership with them. We reluctantly agreed to have that particular issue put into the Bill, because we were told that if we did not agree, it would not be a provision in the Bill at all until this issue was resolved. That would have meant putting it back to a future Bill, which could be three or four years away. With that in mind, we agreed to have it put into the Bill, or, let us put it this way, we did not resist it. However, we still have our concerns, as we have articulated today.

**Mr Smyth:** It would be fair to say that the two representatives that we met from Treasury had an understanding of the strength of the Irish League of Credit Unions and the Ulster Federation of Credit Unions and the sector in general in Northern Ireland. The issue seemed to be with the legal advice that they had received. It seemed to be the legal advice that was causing the problem: they seemed to think there was a significant risk. That was probably influenced by the experience of credit unions across the water. They mentioned that nine had failed within the last 12 months.

**Mr Flanagan:** Would you want to see the Committee explore making that amendment to the legislation?

**Mr Smyth:** Do you mean to change it so that we could open the accounts in the same way as the banks?

**Mr Flanagan:** Yes.

**Mr Smyth:** Very much so, because not being able to do that sends out totally the wrong message. Public perception is everything in Northern Ireland. If you have been trading in a small country town for years, and you suddenly go from paying your suppliers from a business account to paying them from a personal account, it send out the wrong signals.

**Mr Flanagan:** What sort of impact would it have for individuals who registered their companies as limited companies? Would it be a serious barrier to them not to open a credit union account because there would be no legal separation between their assets and those of their company?

**Mr Smyth:** A legal company is a legal entity in its own right. If I understand the situation correctly, the partnership and sole trader issues seem to the main areas of concern because they were not a legal entity. That in itself raises a lot more issues.

Say you have a local GAA club or rugby club or whatever it happens to be, and instead of opening the account in the name of the local club, you open it in the name of Gordon Smyth. That surely raises tax implications for Gordon Smyth because there is suddenly a lot of money, and where did he get that from?

If the bank that that money is placed with fails, the financial services compensation scheme, as I understand it, will issue a cheque for the total amount in that account to Gordon Smyth. There is the potential there for fraud. It is a minefield that does not need to be there.

**Mr Flanagan:** So, the problem does not apply to limited companies?

**Mr Dowey:** No. It applies to unincorporated entities, which is what those people would be.

**Mr Flanagan:** But limited companies would be able to open a credit union account.

**Mr Dowey:** Limited companies seem OK, but, again, the same principle applies in terms of confidence.

**Mr Flanagan:** OK, so a limited company's name would not appear on the account of the credit union.

**Mr Dowey:** No, it would still be in the name of an individual.

**Mr Smyth:** It is recognised as a legal entity in its own right.

**Mr Dowey:** It is, but it is still in the name of an individual.

**Mr Flanagan:** OK, thanks for that.

**The Chairperson (Mr McGlone):** That was helpful. It may be helpful for the Committee to hear from those Treasury officials, one on one, at some stage. Can we decide on that now as a Committee? This issue is becoming more and more relevant. Are we agreed that we do that?

**Mr Cochrane-Watson:** David, if a limited company wanted to set up an account with yourselves, would it be A Watson Ltd or A Watson?

**Mr Dowey:** A Watson.

**Mr Cochrane-Watson:** Even with a limited company, it would be just an individual's name.

**The Chairperson (Mr McGlone):** It would depend on what the company's name is.

**Mr Smyth:** We are not just 100% sure on that, and apologies for that. It is something that came down the line at us very late. My understanding, and this is from a banking perspective, is that a limited company is a legal entity in its own right. Therefore, my understanding is that they could open an account.

**Mr Cochrane-Watson:** That would be A Watson.

**Mr Smyth:** It would be A Watson Limited, but I might have got that wrong, so I do not want to mislead the Committee.

**Mr Dowey:** There is no clear answer to that from our perspective. Our understanding is that it is in the name of an individual — a partner in the company. There are then questions around how you transfer the account if the partnership ceases or changes. There were also issues about how we would go about doing that.

**The Chairperson (Mr McGlone):** OK, thank you for that. So, we are agreed that we hear from the relevant Treasury officials on this?

*Members indicated assent.*

**The Chairperson (Mr McGlone):** OK, thank you.

**Mr Humphrey:** Thank you very much, gentlemen, for your presentation. You will have heard the questions that I put to your Irish League colleagues. What are the advantages of clause 3 to credit unions and their members?

**Mr Dowey:** Are you speaking about interest-bearing shares?

**Mr Humphrey:** Yes.

**Mr Dowey:** As I said at the beginning, we are not as mature an organisation as the Irish League, so the advantages are not as obvious to our members. Interest-bearing shares put us in an awkward position in that traditionally we were able to draw a clear distinction between ourselves and the banks in that we were always able to tell our people or anyone who wanted to know that credit unions are owned by their members. Each member of a credit union has one share. No matter how much money you have in the credit union, you are entitled to one vote, so you have one share.

The introduction of interest-bearing shares tends to muddy that water. We were able to say that banks are driven by profit because they have shareholders to whom they are responsible and have to pay interest, whereas a credit union is owned by its members, and therefore we just pay a dividend based on how well the credit union did during the year.

The introduction of interest-bearing shares will not be well taken up by credit unions in Northern Ireland, certainly not in the federation. Our credit unions tend to be ultra-conservative as far as that is concerned, and I cannot see them wanting to implement that.

**Mr Humphrey:** I suppose that that leads into the next question on the level of interest that there would be. Do you think that it would be quite limited?

**Mr Dowey:** Again, when this was being discussed in a number of forums throughout Northern Ireland for the Ulster Federation of Credit Unions, there was no appetite at all for this. It is there, and we appreciate the fact that it mirrors, to a certain extent, the situation in the rest of the UK. That is fine. We have no objection to it being there, but I do not think that there will be an awful lot of uptake from Ulster Federation credit unions.

**Mr Humphrey:** You were asked about the two-tier thing with your membership. Given what you said in your introduction about the timeline and the development, do you think that there is a possibility of a two-tier system coming out of this?

**Mr Dowey:** No, we do anticipate that, to be perfectly honest. As I said, we are not as maturely developed as the Irish League, and it may suffer some difficulty with it. At the moment, it is not posing any great problem to the Ulster Federation of Credit Unions, and I cannot see it in the future.

**Mr Humphrey:** Originally, you were against the proposal in clause 4 but then altered your position. Can you give me a bit of background?

**Mr Dowey:** Is that on the attachment of shares?

**Mr Humphrey:** It is on amending provisions on the attachment of shares.

**Mr Dowey:** We do not have any particular issue with this. There was some discussion with the Ulster Federation of Credit Unions membership about whether we should support this, but, following its discussions, it does not have any particular issue around this. The only thing that I will say is that I have a note here about secured loans. It says that:

> *"The credit union must state the duration of the loan that the borrower is permitted to withdraw shares where the borrower's shareholding is less than the borrower's total liability".*

That is a fairly standard thing already among credit unions in their loans policy. Most of our credit unions have it written in that, if you borrow from the credit union, whether you are a corporate member or an ordinary member, your shares offer security against the loan, and you cannot withdraw shares until the loan is less than the value of the shares. The only part that you can then withdraw is the difference. The inclusion of that is quite acceptable to us as far as that is concerned.

**Mr Humphrey:** As I said to your colleagues from the Irish League, thank you very much for the role that you play in our community.

**Mr Agnew:** Thank you, gentlemen. Just so that we can put your position on the record, I will be asking you essentially the same questions that I asked the Irish League. In relation to surpluses going into community development, are you content that there is sufficient protection for members from risk?

**Mr Dowey:** I will say a little about that and then ask Gordon to say a little more about it. We are, and we welcome the opportunity to be able to do that. We had discussions with the Irish League about this, and, as you heard Brian McCrory describe, the Irish League has massive surpluses. Our surpluses are not as big, obviously, but, if there were an opportunity or a way of collectively investing more funds for the public good, we would be more than happy to work with our colleagues in the Irish League to do that. Our credit unions, because of the youthfulness of their operation, are still experiencing growth, mostly. We have one or two that are not and are having difficulty getting money out on loan, so we would welcome the opportunity for those credit unions to be able to invest in community operations, with the relevant safeguards.

**Mr Smyth:** I suppose that the biggest factor that is restricting our ability to do that in the way that we would like is the restriction on investment return of funds that currently has been applied by the regulators. For many years, the local credit unions worked very closely with their banks. The banks developed a suite of products that enabled them to invest funds to maximise the return for their members. That created the surplus at the end of the year. Very often, people were investing funds over five years, and you gradually had a rolling portfolio of investments that did mature every year, but, effectively, you were getting five-year rates. The PRA decided that that was not acceptable and that the maximum term that you could invest for was one year. This has had a significant impact on credit unions throughout Northern Ireland, particularly the smaller ones, many of which are affiliated to the Ulster Federation, because, effectively, a significant source of income has disappeared. As a consequence, many are struggling.

We have raised this with the PRA, and, a year ago, the PRA promised us that it recognised that the situation in Northern Ireland was different and that it was going to take steps to change that. We now find, one year later, having been told there would be change by the end of last year, that the current consultation paper will try to address the matter but that it might be the beginning of next year before implementation. That will be another year of credit unions struggling with low interest rates. If you are sitting with £4 million or £5 million in the bank, you are getting less than 0·5%, whereas, before, you could have invested the money over a five-year term and had 4% guaranteed, and the capital was guaranteed. So, it has been a real issue for us.

**Mr Agnew:** Again, just for the record, are you content with the limit being set at 10%?

**Mr Dowey:** The Ulster Federation is content with that at the moment. Obviously, not being as mature as the Irish League, we do not have as big a capital fund in surplus funds, but we are reasonably content, and we have no particular issue.

**The Chairperson (Mr McGlone):** Thank you very much. Gentlemen, that concludes our evidence session. Our sincere thanks to you both and your respective organisations for your cooperation, which made this a lot smoother and better informed than it might otherwise have been.