



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Primary Legislation Required for Continued
Mitigation of Social Sector Size Criteria:

Ms Deirdre Hargey MLA,
Minister for Communities

13 February 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Paula Bradley (Chairperson)
Ms Kellie Armstrong (Deputy Chairperson)
Mr Andy Allen
Mr Jonathan Buckley
Mr Mark Durkan
Ms Sinéad Ennis
Mr Robin Newton
Ms Carál Ní Chuilín

Witnesses:

Ms Anne McCleary
Ms Deirdre Hargey

Department for Communities
Minister for Communities

The Chairperson (Ms P Bradley): Minister Hargey, I welcome you to the Committee for the first time. I should explain that you are here, as per Standing Order 42(3) on special scheduling requirements for public Bills, to explain to the Committee the reasons for accelerated passage for a Bill to extend the mitigation measures for the social size criteria, the consequences of accelerated passage not being granted and any steps you have taken or will take to ensure that the use of accelerated passage is minimised in future. I invite you, Minister, to make your statement.

Ms Deirdre Hargey (Minister for Communities): First, thanks very much for allowing me to come here today. I want to start by apologising to the Committee that the announcement on the Executive paper that went out was not communicated with the Committee before a public statement was made. I accept that, and it will not happen again. There will be a letter to the Committee to that effect.

First, I will explain why this needs accelerated passage. A lot of members around the table work on these issues daily and deal with people who are impacted by them. My Department currently delivers a range of mitigation measures, including to those affected by the bedroom tax. As you all know, there has been a campaign by the Cliff Edge Coalition, which was mentioned earlier, about the cliff edge that people face on 31 March this year, and, on the restoration of the institutions, urgent action was needed to extend that current scheme beyond 31 March. The only way that that would have been possible was through the accelerated passage process.

When I came in as a Minister, one of my priorities was to be acutely aware of the need to extend the current mitigations, particularly around the bedroom tax, because of the impact that that would have and to ensure that there was no break in payments to people who would be affected by this. My Executive colleagues around the table agreed to that and to the allocation of funding for the bedroom

tax mitigation, and, to ensure that my Department had the authority to continue making the payments, we needed to approve a change to the Welfare Reform (NI) Order 2015. At the same meeting, the Executive agreed the preparation of a draft Bill, with the necessary changes to take effect. They also agreed that that Bill should be presented through the accelerated passage procedure to avoid that cliff edge of 31 March.

We do not take these decisions lightly, but we are in a situation where 38,000 households and families would have been impacted. We have seen the impact of this across the water in the rise of debt and homelessness. Obviously, I was keen to ensure that I avoided that. I believe that the use of accelerated passage procedure is an assurance that vulnerable families will not lose out and, particularly, not lose any money — they are already on low incomes — and will not be faced with uncertainty around their mitigation. The important point was that we gave that assurance as an Assembly, as an Executive and me, as a Minister, to ensure that we did not see increased rent arrears or hardship for the families who need mitigation most.

The estimated expenditure of mitigating the bedroom tax in the next financial year and beyond is £23 million. If the Bill were to be delayed and if we did not use this method of accelerated passage, £2 million a month in critical financial support would be lost. As I said, that would impact on 38,000 households.

There are extenuating circumstances. This is not a method that I am keen to use, because it is important to respect the Committee's scrutiny role and the Assembly Chamber itself because you are elected representatives across the North who engage with communities and know the issues, and that has to help formulate policies and legislation as we move forward. I completely respect the role that the Committee will have in the time ahead.

You all know that the policy came from the welfare mitigation scheme and recommendations that Professor Eileen Evason created back in 2016. Through the process of taking forward these urgent procedures, I engaged again with Professor Eileen Evason, Kevin Higgins, the Cliff Edge Coalition and Les Allamby in the Human Rights Commission. I thought that it was important that I did that in the first week of coming in to the post. That was about ensuring that this essential financial support was extended. In 2018-19, 73,000 people received mitigation payments of up to £62.1 million, and that included the £21.3 million paid to the 38,000 families affected by the bedroom tax.

There is obviously the need for accelerated passage to amend the Order, but further regulations will come forward to extend the other existing mitigations, such as the benefit cap and others. In regulation 2(2) of the Housing Benefit (Welfare Supplementary Payment) Regulations 2017, there was a loophole that operated where, if a person was entitled to welfare supplementary payments for the bedroom tax and they were to move property or there was a change of circumstances, they would be subject to paying the bedroom tax. That would have affected 283 households, of which 147 were Housing Executive tenants, and we are aware that a small number would also have been housing association tenants. I was keen to close that loophole to ensure that nobody, due to a change of circumstances, would be impacted or have that additional financial burden placed on them. That issue has been raised by elected representatives as well as advice and advocacy and human rights groups.

The policy did not apply to those who go through the procedure known as a "management transfer". Those who did not fall under that scheme would have been impacted by that loophole. I will bring forward procedures so that any future change to regulation 2(2) will need to be made through the relevant subordinate legislation that will come with the other regs on the other areas of existing mitigation. My officials — Anne and others are here — are working on that subordinate legislation to extend the remaining mitigations to ensure that they flow beyond 31 March this year. I hope that that covers most things.

The Chairperson (Ms P Bradley): Thank you, Minister. That was a good brief. It certainly covered everything that we had asked you to cover. I absolutely agree that this is of the utmost importance, and I agree with the accelerated passage on it as well. There is no end date; what is the rationale for that?

Ms Hargey: From the engagements that I have had with the Housing Executive, Cliff Edge Coalition, advice workers on the ground and, indeed, with many communities and elected representatives, I know that the housing situation will not change. We live in a post-conflict society. We live in a religiously segregated society, and I think the mitigations were brought in because of our unique circumstances. They will not change in four years' time, and, I suppose, the engagement with Cliff Edge Coalition and others was to ensure that we did not have another cliff edge in four years. It gives

uncertainty to those 38,000 households if they feel that the mitigations are time-bound, because their circumstances and the communities in which they live will not change fundamentally in four years' time or even within a decade. I felt that it was important that we gave them certainty by continuing with the mitigations indefinitely, to give that assurance. Obviously, that legislation could change at any time at the will of the Assembly, and that is an important point.

The Chairperson (Ms P Bradley): That brings me onto the other mitigations. Is that your intention for them, or will you look at those individually?

Ms Hargey: They are being considered at the moment, as are, obviously, any future mitigations. I will bring forward recommendations in the next couple of weeks on how I hope to proceed on that. I will be at the Committee in two weeks' time, and, hopefully, I can give more definitive information.

The Chairperson (Ms P Bradley): One more question I want to ask is around the bid for the money for the extension of the mitigation schemes. Can you let us know your total bid for mitigation?

Ms Hargey: It is around £41.2 million. It is just over £23 million for the bedroom tax. Sorry, I do not have the exact figures for the other existing mitigations, but it is approximately £41.2 million for the bedroom tax and the other existing mitigations. There is a bid of about £90,000 to close the loophole for 2020-2021.

The Chairperson (Ms P Bradley): I assume that you believe that that will come through, given the collective responsibility of the Executive.

Ms Hargey: The Executive, obviously, approved this initially and gave approval for the Bill to be drafted. I met the Finance Minister yesterday. I know that he is meeting all of the Ministers on departmental priorities. Having attended the Executive awayday yesterday, I believe that Ministers around the Executive table see that it is a necessity that we protect these families and the most vulnerable from the bedroom tax.

Mr Durkan: Thank you, Minister, for coming in this morning and giving that briefing. It is good news, and it is great to hear. We certainly recognise the need for speed, and, therefore, will support the accelerated passage route, although there is a line to tread there to ensure that we are able to scrutinise thoroughly enough what is brought forward. I certainly agree with your view not to put an end date on this to avoid us coming to a cliff edge again and again. I know there had not been an agreement. Will it be the case every year that you will have to go back to Executive colleagues to look for support to continue this year on year?

Ms Hargey: For the bedroom tax element?

Mr Durkan: Yes, and the other mitigations.

Ms Hargey: No. Once it is built in, there is the approval that there would not be an end date on it, so it would need a legislative change to take that out.

Mr Durkan: I just wondered about the money.

Ms Hargey: Obviously, there will be the financial bids. That will be determined year on year, but there will be no end date in the legislation.

Mr Durkan: I am delighted to hear that the existing loophole is being closed. What about those who have already fallen through that loophole? Did you say that it was 280-something people? Will they be awarded retrospectively an entitlement to mitigations? I think that a study — we maybe had this from the Cliff Edge Coalition — showed that those who had lost their mitigations saw their arrears quadruple in the first few months.

Ms Anne McCleary (Department for Communities): We would have to look at that, but I do not think so. I would prefer to check. I do not want to misinform the Committee, but I do not think that rent retrospection is possible.

Mr Durkan: It would be pretty difficult to award them the mitigation payment retrospectively, but they could retrospectively be awarded the entitlement to mitigation so that, from the date on which this passes, they will not still be penalised.

Ms McCleary: I assume so, but I would prefer to check that.

Ms Armstrong: Thank you very much, Minister. Welcome to the Committee. This is a cross-party agreement; we had it in the New Decade, New Approach agreement. I am delighted to see it coming through. I had a terrible fear that the legislation was not going to make it in time and that there would have been that gap, which would have meant that we would have been chasing our tails, with people not realising that they needed to pay bedroom tax and all of the issues that that would have caused. I am delighted. Accelerated passage, as we all know, is not the way that we would want to do it, but time is of the essence.

You mentioned the money. You have spoken to the Finance Minister, and the Executive have agreed to that. My concern is, if the Department for Work and Pensions (DWP) were to change the allocations or amounts required, how that would impact on future budgets. At the moment, we can do only a single-year Budget; hopefully, we will get to multiple-year ones. What protections will be in place so that the amount that you get in future for the mitigation can keep going? I do not mean annually. If DWP were to change that at any stage during the year or anything like that, can we afford that so that people will not get hit?

Ms Hargey: We have not had any indication that there will be any changes. For me, as Minister, and, I believe, the Executive, it is fundamental that we protect the most vulnerable. 'New Decade, New Approach' talks about being a more compassionate society. We have seen the devastating impact of the bedroom tax in England in a rise in arrears and homelessness. I think that, particularly because of our unique circumstances, it will be protected in the time ahead. The cost of not doing that is key. Think of the impact if we were to see a vast increase in homelessness of 38,000 families and the debt that those families would be in. They are probably some of the lowest-income families that we have.

Ms Armstrong: We are talking about just the social sector size criteria, so we will hear from you again. Obviously, it ties in with other aspects of legislation and other things in the deal that look at housing, our housing stock and so on. I am delighted to see this coming in at the moment, but there is a big job for you and all of us to support you with in that.

Ms Ní Chuilín: Tá fáilte romhat to the Committee. Anne is an owl hand, like me.

Ms McCleary: Nice to see you again.

Ms Ní Chuilín: You have not changed, Anne.

Eventually, we got cross-party support to protect the most vulnerable people. That is good news. Another cross-party-support result for us all is 'New Decade, New Approach'. Some of the asks that we raised as part of the Programme for Government negotiations and discussions have been reflected in that, which is helpful. I suspect that other legislation will need to pass through accelerated passage for us to meet those commitments. We need to look at that and bring those forward to get you the support as soon as possible because they will have a direct impact on the people we represent. It is good news.

Mark raised the question that I had about retrospective entitlements. I hate the term "those who fell through the cracks", but, for the people who were not covered, it will be helpful. It is also helpful that we have even an estimated figure of what the budget will be, because, if you listen to DWP, you hear a lot of scaremongering. We brought in the mitigations in the first place because we wanted to do something different, and we protected people as best we could.

Accelerated passage is absolutely not the preferred option for anybody. People recognise that. We are back now after three years of suspension. I ask that we look at other aspects of legislation that will need accelerated passage in order to ensure that we are not breaking with issues — not so much with parity — for example, with regard to the Office for National Statistics (ONS). It is in the new deal — 'New Decade, New Approach' — it gets called something else every day. You will need our support on that, so the quicker we get sight of it, the better. I am happy if we can get clarification of that, Anne. That would be really good.

Ms Hargey: On that issue, the first priority for me was to ensure that, in bringing this in, I closed the loophole going forward. When we met with the Cliff Edge Coalition and others, they raised the issue of retrospection, so it is something that we are looking at. Obviously, it just might not come in time to avoid the cliff edge of 31 March, but we are looking at it intently for families who will feel the impact. We are waiting to see the Cabinet reshuffle. We do not know who will be in position to bring in future changes or policies and the impact that they might have on people here. In the coming weeks, I will lay out plans to look at other areas of protection. As you said in your opening comments, that does not always have a huge budget.

Ms Ní Chuilín: Exactly.

Ms Hargey: There are changes that we can make. It is important that we listen to the suggestions and views at this table, because, obviously, you will engage with people on a broad basis. The important point in 'New Decade, New Approach' was around co-design and engagement with those who are being impacted on at the grassroots and with organisations that work and represent on their behalf. I am keen to engage on that, moving forward, and maybe even look at how the Committee could play a role in that as well. I am open to looking at options.

There will be issues with regard to ONS. When I met the Chairperson and Deputy Chairperson, some of those issues were discussed. Maybe we could find a way in which I could communicate when those issues will move forward. Obviously, they have been put in the legislative programme — the ONS issue and others — before the summer recess. If I can get a more definitive timeline as to when that will go to the Executive, I can inform the Committee of that, and we can get the ball rolling.

The Chairperson (Ms P Bradley): Just to add to what Carál said, I certainly understand and we do as a Committee that there are things that really need accelerated passage, because they will make a difference to many people's real lives. I cannot disagree with that at all. All that we are really asking for is "sight of" as soon as possible in order for us to take a look at some of those things. I am not saying that we will come back to say, "No, definitely not. We cannot agree with any of that", but it gives us the time for scrutiny. Even if it is a short period of scrutiny, it allows the Committee to fulfil its role. We absolutely understand that, for many issues, there has to be accelerated passage, because we are dealing with people's lives. I am not against it per se.

Mr Allen: Thank you, Minister, for your overview and coming to brief us at the Committee. As you have heard from members around the room, we have common ground on these issues, and we will work constructively to address them. However, I have concern about the lack of social housing and the current stock, which others have mentioned. What forward planning is the Department doing? I have come across many individuals who have wanted to downsize, but there is no provision or support for that in the current housing selection scheme. If possible, can you give an overview of the work that the Department will undertake to better support those who wish to downsize?

Ms Hargey: We are just moving through looking at that issue. We had a planning morning on Tuesday to look at the revitalisation of the housing stock and the Housing Executive and to look at legislating on the ONS issue, because that will even unlock some of the potential for co-ownership and other areas. I will bring forward plans soon and will present them to the Committee to look at the housing stock and how we move people, while trying to project forward with regard to population changes. Obviously, we have an increasing older population, and that has an impact on how people live their life and where they choose to live. We are keenly aware of the pressures, for example, of the increased number of people who are in housing stress. Some of them are in smaller units. I will bring forward plans in due course and share those with the Committee.

It might even be worthwhile having a dedicated discussion on the wider topic of housing and on what we need to do in the time ahead. There will be some big challenges for the future of the Housing Executive. I will bring forward recommendations on the allocation scheme. We will maybe have a broad conversation with the Committee that touches on all those topics, because changing one thing has an impact on the other. We need a number of instruments to deal with the big housing challenges that we have.

The Chairperson (Ms P Bradley): I know that we will hear next from the deputy secretary who has responsibility for this, so I am sure that she will get a few questions on it.

Mr Newton: I welcome the Minister. This was not a hard one to agree in the Executive. There was fairly common ground right across, and it is a problem that everyone has recognised. You have agreement on the £23 million through to 2022-23: am I right?

Ms Hargey: Yes, as part of the Budget process.

Mr Newton: You indicated that you will meet the Minister in Westminster.

Ms Hargey: No, sorry. I met the Finance Minister yesterday.

Mr Newton: OK, sorry. Have you any plans to meet the —? You indicated that there was a reshuffle.

Ms Hargey: No, I was saying that there is talk of a reshuffle in the Cabinet.

Mr Newton: I think that there is a reshuffle.

Ms Hargey: Obviously, we will have to see what the outcome of that reshuffle is. We know that there may have been moves in advance when, for example, Amber Rudd was there. Obviously, she is no longer there, and we do not know what impact that will have on DWP. Once we know what the new Cabinet will or will not look like, there will be engagement.

Mr Newton: OK. Can you share with us what your representation is likely to be to the Minister in this area?

Ms Hargey: Not yet. I can bring that back to you. Obviously, I already have issues pending, such as welfare reform in total. When the British Prime Minister was here a few weeks ago, I raised the issue of the impact that welfare changes had had. I feel that it is a cruel policy that impacts on the most vulnerable. In some ways, our hands are tied on some of the issues because of the block grant and the Budget. My role is to defend the most vulnerable and to speak up against welfare cuts and changes. Obviously, we will work in a pragmatic way to do what we can to protect the most vulnerable. We will look at a range of things that can be done here and through changes made via DWP. There is ongoing engagement between departmental staff and staff in DWP. We do not have a clear agenda yet; we will wait to see what the reshuffle looks like.

The Chairperson (Ms P Bradley): OK, members? Does anybody else want to come in?

Mr Durkan: I have one wee question. We were talking about the financial resources required to do this, and the Minister rightly identified the cost of not doing it, both financial and social. You were able, if we do not go down the accelerated passage route, to quantify how much the support would cost. I think you said that it would be a couple of million pounds.

Ms Hargey: Yes. Two million pounds.

Mr Durkan: Are you able to identify how much crucial support money will be or might be lost as a result of not treating the other mitigations in the same way and in the same time frame?

Ms Hargey: The other existing mitigations?

Mr Durkan: Yes.

Ms Hargey: There would be a cost. I do not have those costs to hand here today, but we can share them. The intent is to bring in the regulations at the same time as this mitigation so that they all run on. Obviously, it does not go through the same process. That is why we moved on the bedroom element first. I know that it has been a concern publicly when people have seen us move on the bedroom tax element. We are moving at the same time on the regulations; they are being amended. Obviously, closing that loophole is part of the regulations to fully ensure that that is all done by 31 March.

Ms Ní Chuilín: Can I ask a small question? If there are discussions with, for example, the British Cabinet Office or even DWP on the housing element in particular, can you ask, given that big announcements were made about infrastructure and housing, what Barnett consequential we will get? That will have an impact on your block grant as well. You made a decision — it is the right one —

to protect people from your own budget. We need to make sure that any announcements there are reflected here, despite the fact that we are doing our own thing in terms of protections. I suspect that, given the next presentation and the ones thereafter on housing, obviously, you may get people calling for additional homes, but what you will not get is agreement on where they should be and what they should look like. It is important that we get the full picture, if possible.

The Chairperson (Ms P Bradley): OK. Thank you.

Mr Allen: Just further to that, Carál raises a good point. There was an announcement last week about workers in blue-light services — our nurses and doctors — getting support to buy homes. Could we maybe explore that one with the relevant Ministers across the water as well and see if there are any Barnett consequential due to us to provide similar assistance?

Ms Hargey: We can have a look at that, yes. I was not aware of that, but we will pick that up.

The Chairperson (Ms P Bradley): OK, members. Finally, does anyone else want to come in? No? OK. Thank you, Minister, very much, and I look forward to seeing you on 27 February.