



Public Service Pensions Bill: Committee Stage Report

Bill No 70 2012-13

RESEARCH PAPER 12/72 29 November 2012

This is a report on the Public Bill Committee stage of the *Public Service Pensions Bill*. It is designed to complement Research Paper RP 12/57, which covers in more detail the background to the Bill.

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The provisions that were subject to the most debate in Committee included: increases in the normal pension age; whether there was sufficient protection for members against changes to their benefits in future; protection for accrued rights; governance arrangements and the application of various provisions to the Local Government Pension Scheme.

The Bill is scheduled to receive its Report stage in the Commons on 4 December 2012.

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Summary

This is a report on the House of Commons Public Bill Committee stage of the [Public Service Pensions Bill](#). It is intended as a guide to the main issues debated in Committee, with the emphasis on amendments made to the Bill, proposed amendments which were pushed to a vote and issues to which the Opposition said it would return.

It is designed to complement [Research Paper RP 12/57](#), which covers in more detail the background to the Bill.

The Government made a number of amendments to the Bill. Most were either “minor and technical”, or clarified how provisions were intended to work.

No Opposition amendments were accepted. The provisions that were subject to the most debate in Committee included: increases in the normal pension age; whether there was sufficient protection for members against changes to their benefits in future; protection for accrued rights; governance arrangements and the application of various provisions to the Local Government Pension Scheme.

The Bill is scheduled to receive its Report stage in the Commons on 4 December 2012

1 Introduction

1.1 Development of reform proposals

In Budget 2010, the Chancellor, George Osborne, announced the establishment of the Independent Public Service Pensions Commission (hereafter, “the Commission”), chaired by former Labour Work and Pensions Secretary, Lord Hutton of Furness. Its terms of reference were:

To conduct a fundamental structural review of public service pension provision and to make recommendations to the Chancellor and Chief Secretary on pension arrangements that are sustainable and affordable in the long term, fair to both the public service workforce and the taxpayer and consistent with the fiscal challenges ahead, while protecting accrued rights.¹

The Commission was invited to report in two stages: to produce an interim report, considering the case for delivering savings on public service pensions within the spending review period and a final report in time for Budget 2011.²

The Commission’s Interim Report was published on 7 October 2010.³ It recommended that the most effective way for the Government to make savings in the short-term was to increase member contribution rates. Furthermore, there was a case for doing so. Lord Hutton said:

I consider there is [...] a strong case for looking at some increase in pension contributions for public service employees, to better meet the real costs of providing these pensions, the value of which has risen in recent years with most of these extra costs falling to taxpayers.⁴

The manner and level of any increases in contributions would be for the Government to decide. The Commission recommended that this should be done with a view to preventing a significant increase in opt-outs and did not recommend introducing contribution rates for the armed forces at that time.⁵

In response, the Government said it intended to implement member contribution increases of 3.2% on average by 2014-15, across public service schemes except for the armed forces. The increases would be phased-in and there would be protection for the lower paid.⁶ The first stage of member contribution increases were introduced in April 2012. Contribution rates are not subject to primary legislation. Therefore, these changes are not part of the *Public Service Pensions Bill*.

The Commission’s recommendations for longer-term, structural reform were set out in its Final Report, published on 10 March 2011.⁷ It recommended that the key design features of its proposed new public service schemes should be “part of a UK-wide policy framework, with limited adaptations of other features to meet local circumstances.” Primary legislation should be introduced to “adopt a new common UK legal framework for public service schemes”.⁸

¹ Independent Public Service Pensions Commission: [Interim Report](#), 7 October 2010, p133

² *Ibid*, p133

³ *Ibid*, Foreword

⁴ *Ibid*, Foreword

⁵ *Ibid*, Ex 29

⁶ HM Treasury, *Spending Review – policy costings*, October 2010.

⁷ *Independent Public Service Pensions Commission: Final Report*, 10 March 2011

⁸ *Ibid*, p146

In its 2011 Budget, the Government said it had accepted Lord Hutton's recommendations as a basis for consultation with public service workers, trades unions and others.⁹ Following negotiations, the Government published Proposed Final Agreements for the teachers, NHS and civil service schemes on 9 March 2012.¹⁰ Proposed final agreements for the police, firefighters and armed forces were published between May and October 2012.¹¹

1.2 The Bill

The *Public Service Pensions Bill 2012-13*, published on 13 September 2012, would create the framework necessary to enable changes to public service pensions in line with the Government's objectives and the recommendations of the Commission. Except for scheme members covered by transitional protection, the existing schemes would close for future accruals by 5 April 2015 (1 April 2014 for the Local Government Pension Scheme in England and Wales and Northern Ireland).

In evidence to the Public Bill Committee, Lord Hutton said that the Bill covered the main areas set out in the Commission's Final Report. However, he had some concerns:

3. The Bill covers the main areas set out in my Final Report. My principal concerns were to put the design of the new schemes on to a proper footing, establish effective accountability and responsibility for individual schemes, establish a framework for better governance arrangements, clarify and make more consistent the powers of amendment and consultation, improve scheme member engagement and establish a proper understanding of accrued rights as they apply to the main public service schemes. To a large extent, the Bill has achieved these objectives and is therefore an important step in the right direction.

4. The Bill is itself a very technical piece of legislation. Its detailed provisions will require careful scrutiny. My main concerns at present are centred on the provisions dealing with scheme closures and how this might affect the Local Government Pension Scheme and the proper protection of accrued rights. There is still no definition of these in the Bill. I also feel there is a strong case to improve the specific provisions in the Bill dealing with the membership of the new pension boards so that employee representatives sit as of right, on all of these new bodies.¹²

The main elements of the Bill would:

- Enable the creation of new public service schemes, providing pensions based on career average rather than final salary;
- Link the normal pension age to the State Pension age, except in the schemes for the firefighters, police and armed forces, which would have a normal pension age of 60, subject to regular review;
- Provide transitional protection for those 'closest to retirement'. People within 10 years of their Normal Pension Age on 1 April 2012 would remain in the existing schemes (except for the local government scheme, where transitional protection is to be provided by means of an "underpin"). Some schemes have also set out further tapered arrangements for those within a further 3-4 years of Normal Pension age,

⁹ HM Treasury, *Budget 2011*, para 1.132

¹⁰ HM Treasury press release, *'Discussions concluded on public service pension details'*, 9 March 2012

¹¹ *HC Deb*, 24 May 2012, c77-9WS; *HC Deb*, 4 September 2012, c19-22WS; *HC Deb*, 16 October 2012, c15-6WS

¹² *Opening Statement by the Rt Hon Lord Hutton of Furness (PSP 08) November 2012*

with the option of a delayed transition to the new scheme. These details, and the level of protection afforded, would be in scheme regulations;

- Introduce an "employer cost cap" – a mechanism to manage changes in scheme costs should they breach a limit;
- Introduce new requirements for the management, regulation and administration of schemes;
- Introduce new common procedures for changing scheme rules in future, with enhanced requirements for certain changes made within 25 years of 2015, and for retrospective changes expected to have 'significant adverse affects' for scheme members;
- Extend access to public service schemes, to allow public service workers whose employment is compulsorily transferred to a new employer to retain membership of a public service scheme (reflecting a change in the Fair Deal policy);
- Add the new schemes to the list covered by the *Pensions Increase Act 1971*, so that the same arrangements apply for increasing pensions in payment in the new schemes as apply to the existing schemes (i.e. annual increases in line with the CPI).
- End the existing pension arrangements for future holders of the Great Offices of State – the Prime Minister, Lord Chancellor and Speaker of the House of Commons – and instead, enable them to accrue benefits under the Ministerial Pension Scheme;

The details of the new schemes would be in scheme regulations. The Government expects these to reflect the 'proposed final agreement' for each scheme.

The extent of the Bill is UK-wide. Devolved administrations retain their existing power to make regulations, but within the framework of the Bill.

Copies of the Bill, Explanatory Notes and other supporting documents are on the [Parliament website](#). The [HM Treasury website](#) has other information, including impact assessments, consultation documents and links to more detailed information on individual schemes. The Bill is discussed in more detail in Library Research Paper RP 12/57 [Public Service Pensions Bill \[Bill No 70 of 2012-13\]](#) (16 October 2012).

2 Second Reading debate

The Bill had its Second Reading in the House of Commons on 29 October 2012.¹³ Introducing the debate, the Chief Secretary to the Treasury, Danny Alexander, made the case for reform:

Lord Hutton's conclusions of March 2011 set out a clear and compelling case for further reform. He found that the status quo was not tenable, that there had been an unfair sharing of costs between the employer, the employee and the taxpayer, and that previous reforms had not fully addressed the underlying issues of sustainability and fairness. His recommendations were equally compelling, and those for the future design of schemes fall into three broad categories, the first of which is safeguards to ensure that the long-term costs of pensions are sustainable. That is achieved through a link between the state pension age and normal pension ages in the majority of

¹³ [HC Deb, 29 October 2012, c53-131](#)

schemes, and a cost-cap mechanism to protect the taxpayer in the event of other unforeseen costs.¹⁴

He explained that Lord Hutton's recommendations had been accepted as a basis for discussion with trade unions and scheme member representatives. Proposed designs had now been issued for all major public service schemes:

The trade unions took those scheme designs to their memberships as the best that could be achieved through discussion, and the majority of the unions have accepted the proposed agreements. The turnout in the ballots held by the unions that rejected reform was low—less than 30% in most cases—which is hardly a compelling mandate for an ongoing dispute.¹⁵

He argued that the Bill met the four key tests for reform proposed by the Commission - affordability, fairness to public service workers, fairness to the taxpayer and transparency. Regarding affordability, he said:

First, on affordability, it is clear from Lord Hutton's report that the new scheme should be affordable and sustainable. The Bill represents a significant proportion of the total of more than £430 billion of savings that our reforms of public service pensions are estimated to save over the next 50 years. [...] The reforms treat not only the symptoms of delayed reform but the underlying problem. Therefore, they are forecast to reduce the cost of providing public service pensions by around 40% over the next 50 years, returning costs to their historic long-term average. Clause 9 deals with the principal risk that needs to be managed if pensions are to be affordable and sustainable: longevity.¹⁶

Regarding fairness to public servants, he referred to the transitional protection arrangements to be made under clause 16 of the Bill for those closest to retirement. Furthermore, the Government had retained the 'final salary link' for rights built up in the existing final salary schemes:

Although these people will move on to CARE schemes by 6 April 2015 at the latest, their accrued years of final salary benefits will be calculated and paid at their final retirement salary—not their 2015 salary.¹⁷

He argued that the switch to schemes providing pension benefits on the basis of career average revalued salary (CARE) was fair to both members and taxpayers:

Under final salary schemes, it is the taxpayer that picks up the cost of those high flyers who attain high salaries by the time they leave public service. Such members can receive twice as much in benefits per £1 of contributions that they have paid towards their pension. This is clearly unfair, which is why this Bill will not allow final salary schemes to continue after 2015. For members, pension benefits will be based on the amount that they earn over their career. That means their pension benefits will directly reflect the contributions that they and their employer make over their career.¹⁸

¹⁴ Ibid, c53

¹⁵ Ibid, c57

¹⁶ Ibid, c58-9

¹⁷ Ibid, c62

¹⁸ Ibid

The employer cost cap in clause 11 of the Bill would “provide backstop protection to the taxpayer to ensure that any unexpected risks associated with pension provision are shared between employers and scheme members.”¹⁹

Regarding governance and transparency, he said clause 5 would provide for each scheme to have a pension board, which would work to ensure that the scheme was administered effectively and efficiently. Clause 15 and Schedule 4 would provide for an extension of the role of the Pensions Regulator, who would ‘improve and police the management and administration of the new schemes.’ Clauses 12 and 13 would ensure schemes collated and published information to improve transparency and enable comparisons to be made between them.²⁰

The Shadow Chief Secretary to the Treasury, Rachel Reeves, explained that the Opposition remained critical of reforms already introduced. However, Labour supported in principle the main measures in the Bill:

We remain of the view that the Government’s imposition of steep contribution increases across the board and a permanent switch in the uprating of pensions to a lower measure of inflation were unfair and unnecessarily provocative.[...]

We support in principle the main measures in the Bill, however, so we will not oppose it on Second Reading, but we will work in Committee to improve it, in order to ensure that it underpins, rather than undermines, the progress made in negotiations. We will seek to ensure it facilitates a smooth and stable transition to new scheme designs, entrenching good standards of governance, transparency, administration and consultation, thereby allowing those who give their working lives to serving the public to save for their retirement with confidence, while establishing a workable system for managing change and controlling costs to the taxpayer.²¹

Ms Reeves made a number of specific points about the contents of the Bill. Regarding clause 9 on the normal pension age, she said:

First, we think it is right that pension ages rise in line with longevity, but it is essential that that is done carefully and fairly, with due notice given to people whose retirement plans may need to change and due consideration given to the impact of working longer on people in front-line or particularly strenuous occupations.[...] We also believe that this Bill should not pre-empt or cut across ongoing discussions [...] between the Department of Health, NHS employers and NHS workers about the implications of working longer for some staff groups, especially those, such as paramedics, in physically demanding roles. We think that the Bill should reflect Lord Hutton’s recommendations that the link between public service pension ages and the state pension age should be kept under review and that this should be conducted by a properly independent body, with public service employees and employers represented and consulted.²²

She was concerned that the Bill failed to take due account of the specific characteristics of the Local Government Pension Scheme (LGPS) by “forcing a disruptive and potentially disastrous closure of existing schemes”. Furthermore, Treasury “interference into aspects of scheme valuation and design” was to be extended.²³

¹⁹ Ibid

²⁰ Ibid, c64

²¹ Ibid, c66

²² Ibid, c69-70

²³ Ibid, c71

On governance arrangements, she said the Bill failed to include key recommendations of the Commission's report:

[...] such as the inclusion of member-nominated and independent members on pension boards; the establishment of pension policy groups to consider major changes to scheme rules; the need to ensure that pension boards are responsible for the oversight of financial management and, in the case of funded schemes such as the local government pension scheme, for investment management; and the commissioning of a review into how standards of administration in public service pension schemes can be improved.²⁴

Finally, the Bill needed to adequately reflect and reinforce the progress made in negotiations. This meant that members needed to be protected against 'retrospective or arbitrary detrimental changes' to their pensions. The fact that clause 7 provided for the creation of new schemes, including defined contribution schemes, should "not be the means to drive a coach and horses through the commitments the Government have given".²⁵ Furthermore, there was "no guarantee in the Bill that public service workers transferred to new employers will be able to keep their public service pensions."²⁶

The House voted to give the Bill a Second Reading by 276 votes to 19.²⁷ Issues raised by those voting against the Bill included: increases in the normal pension age and the lack of flexibility regarding this;²⁸ whether there was sufficient protection for members against future changes to their benefits (including retrospective changes);²⁹ the need for member representation in scheme governance arrangements.³⁰

3 Public Bill Committee Stage

The Public Bill Committee was chaired by Joe Benton and Annette Brooke. Its members included Economic Secretary to the Treasury, Sajid Javid, Shadow Economic Secretary, Cathy Jamieson and Shadow Financial Secretary, Chris Leslie. Other members included:

Abrahams, Debbie (*Oldham East and Saddleworth*) (Lab)
Ashworth, Jonathan (*Leicester South*) (Lab)
Burt, Lorely (*Solihull*) (LD)
Doyle-Price, Jackie (*Thurrock*) (Con)
Evans, Graham (*Weaver Vale*) (Con)
Freer, Mike (*Finchley and Golders Green*) (Con)
Fuller, Richard (*Bedford*) (Con)
Gibb, Mr Nick (*Bognor Regis and Littlehampton*) (Con)
Gilmore, Sheila (*Edinburgh East*) (Lab)
Hands, Greg (*Chelsea and Fulham*) (Con)
Jones, Mr Marcus (*Nuneaton*) (Con)
Leadsom, Andrea (*South Northamptonshire*) (Con)
McGovern, Alison (*Wirral South*) (Lab)
McKenzie, Mr Iain (*Inverclyde*) (Lab)
Paisley, Ian (*North Antrim*) (DUP)

²⁴ Ibid, c71

²⁵ Ibid, c71-2

²⁶ Ibid, c72S

²⁷ Ibid, c128-30

²⁸ See, for example, Ibid,c79-80 [Katy Clark]; c87-9 [Dr Eilidh Whiteford]; c105 [David Anderson];c111-2 [John McDonnell]

²⁹ See, for example Ibid, c89 [Dr Eilidh Whiteford]; c111-2 [John McDonnell]

³⁰ See, for example bid, c106 [David Anderson]; c111-2 [John McDonnell]

Williams, Stephen (*Bristol West*)(LD)

The Committee debated the Bill in nine sittings on five days between the 6 and 22 November 2012.

In the first two sittings, it took evidence from the following organisations and individuals: Institute for Fiscal Studies; Intergenerational Foundation; Chartered Institute of Public Finance and Accountancy; UNISON; Unite; Trades Union Congress; GMB; British Medical Association; Lord Hutton of Furness³¹; Pension Policy Institute; National Association of Pension Funds; Association of Consulting Actuaries; Confederation of British Industry; Prospect; Police Federation; Local Government Association; the Pensions Regulator; National Union of Teachers; NASUWT.³² It reported 28 pieces of written evidence to the House.³³

The Bill as amended in Committee is [Public Service Pensions Bill \[Bill 95 of 2012-13\]](#)

3.1 Establishing the new schemes

Public service pension schemes are established under statute. In most cases, the detailed rules are set out in regulations. The Commission recommended that the Government should introduce a new legal framework for public service pension schemes.³⁴

Clause 1 contains the main enabling power to establish schemes for the payment of pension benefits (and other benefits, such as injury and compensation benefits) for “persons in the public service”.³⁵ Economic Secretary to the Treasury, Sajid Javid, amended Schedule 1 to ensure access to the police pension scheme in Northern Ireland for the correct groups.³⁶

Clause 22 is designed to allow schemes to provide access to the new pension schemes for persons not covered by the normal circumstances under clause 1.³⁷ The intention is that new schemes would “continue to provide pensions to the same range of people as existing schemes and, in the case of a few schemes, more widely.”³⁸ Shadow Financial Secretary, Chris Leslie, proposed that when regulations made provision under clause 22 for persons not in the public service, the cost of their participation should be calculated, and how that cost would be funded.³⁹ The Minister responded that these costs of their participation would be met by the employer and employee contributions and he therefore saw “no real purpose in calculating and publishing that information separately.” If the information was required in future, the Treasury could use the powers in clause 13.⁴⁰

3.2 Scheme regulations

Under **clause 3** contains provisions about how the power to make scheme regulations under the Bill may be used. The Government made a “minor and technical amendment” to clause 3 to clarify that schemes may be treated as “connected” for some purposes but not others:

³¹ [PBC Deb, 6 November 2012, morning](#)

³² [PBC Deb, 6 November 2012, afternoon](#)

³³ The written evidence is on the [Public Bill Committee's website](#)

³⁴ [Independent Public Service Pensions Commission: Final Report](#), 10 March 2011, p145-6

³⁵ See clause (1) (2) and Schedule 1

³⁶ [PBC Deb, 8 November 2012, c221](#)

³⁷ *Ibid*, c226

³⁸ *Ibid*, c226

³⁹ *Ibid*, c223

⁴⁰ *Ibid*, c224

Clause 3 sets out where schemes are connected – if they apply provisions to the same people – but also that scheme regulations may set out exceptions. The amendment is to make clear that those exceptions may be made for different purposes as well as different cases. There are times when this might be desired to deliver the true policy intent. For example, it may be desired to apply the same governance arrangements in a compensation scheme that is connected to a pension scheme, but to exclude it from the cost cap mechanism. Schemes benefit from this degree of flexibility and it is important that the Bill allows scope for them to do so.⁴¹

Retrospective changes

Clause 3(3)(c) would provide for scheme regulations to make retrospective provision. Mr Leslie moved an amendment that would replicate the existing commitments in section 2(3) of the *Superannuation Act 1972*, to the effect that a retrospective change affecting accrued rights could not be made without the consent of scheme members or their representatives.⁴²

The Minister responded that there were different member consent and consultation requirements across public service schemes for rights that have already been built up. The Government had decided not to change the existing provisions for the current schemes:

At present, there are several member consent and consultation requirements across public service schemes for rights that have already been built up. Each is designed to safeguard against unfair reductions in members' rights, but they vary in nature and extent. For example, consent locks apply in the civil service scheme for any reduction in accrued rights, and in the police scheme for any changes that would make a member worse off. Conversely, in the local government, teachers and health schemes, there are what are known as "no worsening" provisions, which enable pensioner members to opt out of changes that have an adverse effect on their accrued rights.

The Bill will not change those existing provisions for the current schemes, but we do not think it would be appropriate to set up a consent lock, or indeed "no worsening" provisions, across the board for the current schemes. Changing how the current schemes operate could inhibit their flexibility and efficiency, and interfere with the much more important issue of implementing the new schemes to ensure long-term sustainability. That is why we are leaving the rules for current schemes largely untouched by the Bill and focusing instead on starting from a blank sheet of paper for new schemes.⁴³

However, for the new schemes, the Bill would set up a new and homogenous set of member consent and consultation requirements:

The provisions can be found in clauses 20 and 21. In regards to rights that have already built up, the clauses provide that any changes with a significant adverse effect on members' benefits will be subject to enhanced consultation requirements and the affirmative procedure. This standardised approach has been chosen as an appropriate balance between protecting members' benefits and administrative efficiency.⁴⁴

Mr Leslie's amendment was defeated on division by 10 votes to 6.⁴⁵

⁴¹ [PBC Deb, 8 November 2012, c229-30](#)

⁴² *Ibid*, c230-3

⁴³ *Ibid*, c234

⁴⁴ *Ibid*, c235

⁴⁵ *Ibid*, c240

Devolved Administrations

Clause 2 and **Schedule 2** provide that scheme regulations are to be made by the ‘responsible authority’ for the scheme. Where regulation-making power is devolved, the responsible authority will be the Minister in the devolved administration. Any regulations must be in accordance with the framework provided by the Bill, which includes clauses that limit the type of provision that may be made. Clause 9, for example, contains requirements relating to the normal pension age of schemes made under the Bill.⁴⁶

Shadow Economic Secretary, Cathy Jamieson, asked about the extent to which the Bill changed “the nature of the relationship with the devolved Administrations.” She referred to concerns that the Bill was more prescriptive, in terms of the parameters for scheme design, than the existing legislation:

Concerns have been raised by some of the trade unions and others in Scotland that the Bill could change the range of prescriptions set out in *the Superannuation Act 1972*. That Act is, essentially, an empowering provision that allows Scottish Ministers to make schemes for local government, for health services and for teachers, with parallel provisions in other legislation specific to firefighters and the police. Any restrictions to what they do are, essentially, financial.

There is concern that, for the new schemes, the clause sets down specific design parameters that are not specified in regulations at all. Then, the regulations could be spelt out in the Bill rather than in secondary legislation or regulations, which would mean that, if the Bill was enacted, regulations would be prevented from going beyond the powers permitted by that new Act.⁴⁷

In response, Mr Javid, explained the implications of clause 3 for the devolved administrations:

Clause 3 provides more detail about how the power to make scheme regulations can be used. It gives the responsible authority discretion to use regulations as it considers appropriate, within the limits set out in the rest of the Bill. [...]

The clause contains the consent requirements for scheme regulations, which mark a slight extension to the current situation to require Treasury consent for all non-devolved schemes. The clause maintains the current and long-standing consent arrangements with devolved Administrations. Those consent requirements for scheme regulations allow the Treasury and the Executive in Northern Ireland to perform a central scrutiny role across public service schemes. It is right that the Treasury has a role given that it is has complete responsibility for public spending and the oversight of public pension policy.⁴⁸

The Government was working on the assumption that it would get the requested Legislative Consent Motion from the Scottish Government. If it did not, it would “have to make appropriate changes to the proposed legislation.”⁴⁹

On 26 November 2012, after the Committee had finished its deliberations, the Minister for Finance and Personnel in the Northern Ireland Assembly, Sammy Wilson, announced that the Executive had not agreed to his recommendation for a Legislative Consent Motion for public service pensions. This meant that a Public Service Pensions Bill for Northern Ireland

⁴⁶ [Bill 70 - EN](#), para 20-30

⁴⁷ [PBC Deb, 8 November 2011, c243-4](#)

⁴⁸ [Ibid, c247-8](#)

⁴⁹ [Ibid, c248](#)

would need to be introduced, subject to Executive Approval, and proceed through the Assembly process.⁵⁰

3.3 Governance

The Commission had recommended “introducing more independent oversight and much stronger governance of all public service pension schemes.”⁵¹

Clause 4 provides for there to be a ‘scheme manager’, responsible for managing or administering a public service scheme set up under clause 1 of the Bill and any statutory scheme connected with it. The scheme manager can be the responsible authority. This is expected to be the case for a centrally-administered scheme, such as the armed forces scheme. In the case of a locally-administered scheme like the LGPS, the responsible authority would be the Secretary of State and the scheme manager would be the ‘administering authority’ for the fund at local level.⁵²

The Government amended the Bill to “restrict the applications of the common governance provisions to pension schemes made under clause 1”. They would not apply to schemes for payment of injury benefits or for compensation on loss of office, on the grounds that they did not require the same levels of administration or management as pension schemes.⁵³

The Government also amended the Bill made to clarify the fact that there could be more than one scheme manager for a public service pension scheme. This was to make it clear that “local authorities can be scheme managers and, where they are, they can be given responsibility for their part of the scheme.”⁵⁴

Mr Javid explained how the provisions were intended to operate with regard to ‘connected schemes’:

A connected scheme is simply another statutory pension scheme that makes provision in respect of the same group of public service employees as the new scheme that is being created. The new scheme for teachers will thus be connected to any other teachers pension scheme that exists. A new scheme for civil servants and all their existing schemes will be connected, and so on. The reason for such action is that the connected schemes can, and will, be administered and managed together.

By virtue of subsequent clauses, connected schemes may be valued together; they will have the same pension board to support their effective and efficient delivery and their joint operation will be overseen by an independent regulator. The new schemes and pre-existing schemes will still be separate for the purposes of providing pension benefits to members. The new schemes will make provision in respect of employment after 2015. Existing schemes will provide for employment up to that date, and thereafter only for members who are subject to transitional arrangements.⁵⁵

Clause 5 requires the new public service schemes to establish a ‘pensions board’. The role of the board is to ‘assist the scheme manager in securing the effective and efficient

⁵⁰ Northern Ireland Public Service Pensions Proposal, *Statement to the Assembly by Sammy Wilson MP MLA, Minister for Finance and Personnel*, 26 November 2012

⁵¹ *Independent Public Service Pensions Commission press release, 10 March 2011, Lord Hutton publishes his final report on public service pensions*

⁵² *Bill 70 - EN*, para 35

⁵³ *PBC Deb, 8 November 2011, c249-51*

⁵⁴ *Ibid*, c251-2

⁵⁵ *Ibid*, c252

administration of the pension scheme and any statutory scheme connected with it.⁵⁶ Scheme regulations would provide for the constitution and appointment of pension boards.⁵⁷

The Government made “minor and technical” amendments to clause 5.⁵⁸

Ms Jamieson proposed that public sector pension boards should be made responsible “for oversight of the financial management of schemes and of the investment management in the cases of funded schemes.” She argued that this would support the objective, proposed by Lord Hutton, to “bring pension boards in line with best practice in the private sector” and would help improve transparency.⁵⁹ In response, Mr Javid, said the amendment was “inappropriate” because:

In public service schemes, pension benefits are determined by scheme regulations. That is, members’ entitlements are specified and guaranteed in statute. The existence, performance or level of any pension fund is irrelevant. [...]The employer bears the risks, and should determine how to manage them.⁶⁰

In any case, the financial and investment management of local government schemes was “already subject to a wide range of safeguards that protect taxpayers against improper and inappropriate decision making.”⁶¹ The role of pension boards was to ensure that schemes complied with the legislative framework applying to pension schemes. It was not appropriate for them to have a wider role relation to finances:

The pension board’s role already encompasses some aspects of schemes’ financial management. It is concerned not with investment strategies and performance, but with the proper management of receipts and payments. It would not be appropriate for a pension board to have a wider role in the finances of public service schemes.⁶²

Mr Leslie also proposed at least one third of board members should be member-nominated and at least one should be independent. He said:

This is one area where we can point to some of the best practice in the private sector. The trustees of many private sector pension schemes come from among the membership of those schemes⁶³

The Minister did not think the imposition of independent board members was either “appropriate, necessary or desirable.” He said there was “no objection in principle to having scheme-member-nominated representation on pension boards.” However, it was important for the Bill to provide flexibility as to the detail:

Our policy is that all pension boards should have member and employer representatives. The Bill provides flexibility for the detail of this representation and the process for appointing people to the board to be agreed in each scheme, following consultation with members and other interests. This approach will ensure that the constitution and underlying processes are appropriate to each work force, that representation can reflect the range of groups of

⁵⁶ Bill 70 - EN, para 38

⁵⁷ PBC Deb, 8 November 2011, c264-5

⁵⁸ Ibid, c253-4

⁵⁹ Ibid, c255-7; Independent Public Service Pensions Commission: March 2011, para 6.3

⁶⁰ PBC Deb, 8 November 2011, c260

⁶¹ Ibid, c260

⁶² Ibid, c261

⁶³ Ibid, c264-5

employees and employers, and that pension boards are appropriate to different scheme structures.⁶⁴

He offered to share with the Committee ongoing work on draft schemes and policies. Mr Leslie urged the Minister to reflect further on the issues.⁶⁵

Clause 13 is concerned with the collection and publication of information about pension schemes made under clause 1 of the Bill. Mr Leslie moved an amendment that would require the Office of Budget Responsibility (OBR) to report at regular intervals on the long-term fiscal impact of public service pension schemes, in line with the Commission's recommendation. The Minister responded that the amendment was unnecessary because the OBR already had responsibility for the sustainability of public finances, including pension schemes over the long-term. The amendment was defeated on division by 7 votes to 5.⁶⁶

Mr Leslie proposed an independent review into standards of administration in public service schemes and how they could be improved. The Minister responded that the new clause was not necessary. Under **clause 15**, an independent body – the Pensions Regulator – would “be responsible for setting standards of administration and governance in public service schemes, and will have powers to enforce those standards, as required.” **Clause 13** would provide for ‘information on those matters to be published by schemes or collated by Government.’ Mr Leslie indicated that he might return to the issue.⁶⁷

The Government made a minor change to part 2 of Schedule 4 to correct an erroneous reference to the *Pension Schemes Act 1993*.⁶⁸

3.4 Scheme design

Clause 7 provides for a “broad power to create pension and benefit schemes of different designs”, including Defined Benefit (DB) schemes, Defined Contribution (DC) schemes and “schemes of any other description.” Any DB scheme must be a career average revalued earnings (CARE) scheme, or another type of DB scheme specified in regulations made by the Treasury, but may not be a final salary scheme.⁶⁹

Mr Leslie said it was “right to move away from final salary arrangements to career average revalued earnings schemes.”⁷⁰ However, he was concerned this was not enshrined in the Bill:

The Bill enshrines certain aspects of the protections for the employer side by stating, “thou shall not have final salary schemes”. That is fine as far as it goes, but the symmetrical promise to stick with a career average defined benefit scheme does not appear on the face of the Bill. It is not unreasonable for us to ask why that has not been included [...].⁷¹

He therefore moved an amendment to require that any scheme made under section one of the Bill to replace a DB scheme, could only be established as a DB scheme.⁷²

⁶⁴ Ibid, c268

⁶⁵ *Independent Public Service Pensions Commission: Final Report*, 10 March 2011, Recommendation 17a, p126

⁶⁶ *PBC Deb*, 8 November 2011, c274-6; *Independent Public Service Pensions Commission: Final Report*, 10 March 2011, recommendation 20

⁶⁷ *PBC Deb*, 13 November 2012, c281-4; *Independent Public Service Pensions Commission: Final Report*, 10 March 2011, recommendation 22

⁶⁸ *PBC Deb*, 13 November 2012, c287

⁶⁹ *Bill 70 - EN*, para 46-51

⁷⁰ *Bill 70 - EN*, para 103 to 108

⁷¹ *PBC Deb*, 13 November 2012, c296

⁷² Ibid, c288-97

The Minister responded that the Government was “fully committed to implementing the defined benefit schemes that have been negotiated.” The flexibility embedded in the clause could be helpful to scheme members in future.⁷³ Mr Leslie’s amendment was defeated on division by 9 votes to 6.⁷⁴

In the clause stand part debate, the Minister explained that the Government did not think it right to “use primary legislation to tie the hands of future generations”:

To that end, clause 7 allows for other pension scheme designs if, and only if, further public authorities and pension scheme members decide that, subject to the high hurdle of protection offered by clause 20, CARE schemes are no longer the most appropriate pension design for public service workers. That might seem unlikely, but more than 7,000 civil servants have chosen of their own accord to use the civil service partnership scheme, which is a defined contribution scheme. It is impossible for the Government to predict what public servants will expect from their pension arrangements in more than 25 years’ time.⁷⁵

Mr Leslie was concerned that the clause did not reflect the commitments made in the agreement with the unions.⁷⁶ The Committee voted by 9 votes to 6 that clause 7 should stand part of the Bill.⁷⁷

3.5 Revaluation

In a CARE scheme, the proportion of pensionable pay an individual earns for a particular year of service needs to be revalued each year during active membership. The final pension is worked out by adding each year’s revalued pension amounts together.⁷⁸ Both the revaluation rate and the accrual rate have an impact on the value of pension benefits at retirement. The parameters chosen will determine the outcome for members in different situations.⁷⁹ Different accrual and indexation arrangements have since been agreed for each scheme.⁸⁰

Clause 8 would provide for the revaluation of each year’s earnings (or a proportion of those earnings) until a scheme member leaves pensionable service. Subsection 2 would provide for the Treasury to make orders that specify what the percentage increase or decrease in prices or earnings, is for each period of service. Subsection (3) would provide that:

The Treasury may determine by order the change in prices or earnings, by reference to the general level of prices or earnings, which is estimated by the Treasury in a manner that they consider to be appropriate.⁸¹

Mr Leslie proposed an amendment that would require the Treasury to estimate prices or earnings in a manner that it considered ‘reasonably’ appropriate.⁸² The Minister responded that the current intention was that:

⁷³ Ibid, c291

⁷⁴ Ibid, c297-99

⁷⁵ Ibid, c299

⁷⁶ Ibid, c300

⁷⁷ Ibid, c301

⁷⁸ See HM Treasury, *Public Service Pensions: good pensions that last*, Cm 8214, November 2011, Box 3C

⁷⁹ *Independent Public Service Pensions Commission: Final Report*, 10 March 2011

⁸⁰ See Library Research Paper RP 12/57, *Public Service Pensions Bill*, section 5.5

⁸¹ *Bill 70 - EN*, para 55

⁸² *PBC Deb*, 13 November 2012, c301

[...] the orders would refer to CPI for changes in the general level of prices and to the average weekly earnings index for changes in the general level of earnings.⁸³

The clause gave the Treasury a limited amount of discretion:

In providing that discretion, the wording of the clause is consistent with that of other pension indexation legislation, and it makes clear that the estimates must be made in an appropriate manner.[...] When the Treasury exercises the power, any decision that was not reasonable could be challenged by judicial review [...]⁸⁴

Mr Leslie then proposed that a Treasury order under clause 8 should be subject to the affirmative Parliamentary procedure.⁸⁵ The Minister responded that such orders were currently subject to the negative procedure. They were 'routine' and simply reflected 'stated Government policy on their preferred earnings and prices measure.'⁸⁶ If the House wanted to debate an order there were procedures in place to allow that.⁸⁷

Ms Jamieson referred to trade union concerns that the clause would allow for negative revaluations of accrued benefits. The Minister responded that although negative growth was rare, it would not be fair to shield members from it:

It is important to note that the clause theoretically allows for negative revaluations. It is extremely rare for negative growth to occur. For example, CPI, the Government's preferred measure of prices, has never been negative. None the less, it would be unfair for members to benefit from the upside risk of revaluation but be shielded from the downside risk. Brief periods of negative growth are unlikely to affect the total value of the pension significantly. If negative growth were overlooked, scheme costs would rise and accordingly eat into the cost cap in clause 11 [...] designed to control scheme costs.⁸⁸

Mr Leslie hoped the Government would come back with further assurances on this point.⁸⁹

3.6 Pension age

Clause 9 provides for the normal pension age and deferred pension age for members of most public service schemes to be the same as their State Pension age (SPA), or 65, whichever is greater. The floor of age 65 is "to account for the gender disparity in state pension ages at present, which is due to be equalised at 65 by 2018."⁹⁰ The exception is for the schemes for the police, firefighters and armed forces, who would have a normal pension age of 60. An increase in an individual's SPA would affect all benefits earned in the scheme:

65. *Subsection (4)* requires any changes to normal or deferred pension age that occur as a result of a change in state pension age to apply to the calculation and payment of all benefits earned in a scheme, including benefits accrued before the change in state pension age.⁹¹

⁸³ Ibid, c303-4

⁸⁴ Ibid, c304

⁸⁵ Regulations subject to the affirmative procedure are laid before Parliament in draft and must be approved by both Houses before becoming law; See [House of Commons Information Office Factsheet L7 Statutory Instruments](#)

⁸⁶ [PBC Deb, 13 November 2012, c305-6](#)

⁸⁷ Ibid, c307

⁸⁸ Ibid, c308-9

⁸⁹ Ibid, c310

⁹⁰ [Bill 70 - EN](#), para 60

⁹¹ Ibid

Mr Leslie explained that Opposition agreed in principle that normal pension ages should increase:

Obviously, with life expectancies increasing, it is reasonable to ask people to work for longer before retiring. No one disagrees with that. Without such adjustments, public sector schemes would become unsustainable.⁹²

However, he proposed an amendment that would allow certain categories of workers to be exempt from the SPA link:

The amendment would allow for further categories of workers to be exempt from the state pension age link under clause 9(1) if scheme-specific reviews found that they were physically unable to carry out their roles after the age of 65. We hope that we are giving some flexibility to the provisions so that those review findings can come to fruition.⁹³

In response, the Minister said that would create uncertainty:

The independent commission was clear that the work of police, firefighters and the armed forces is unique and that that should be reflected in their normal pension ages. That is why the Bill would allow members of those work forces to retain the pension age of 60 that was implemented by the previous Administration's pension reforms.

However, the uniqueness of those work forces is not just about physical demands or their duties. Pension schemes provide other benefits for those who are physically unable to continue working, such as ill health provisions. Importantly, nobody is being forced to work for longer. Members can choose to retire before their new normal pension age, and they will receive an actuarially adjusted pension to reflect the fact that their retirement benefits will be paid for a longer period.

The Government commend the work and commitment of all of the diverse work forces that make up the public service, but it is important to aim for consistency and commonality, unless there is a compelling reason to the contrary. The Government are confident that the pension age provisions are correct and, therefore, do not see the need to exempt any further members from the state age link as a result of future undefined capability reviews.⁹⁴

Mr Leslie asked whether, if the NHS "working longer review" recommended a different retirement age for certain categories of staff, there would be a legislative means to fulfil this. The Minister responded that the review was considering the implications of working longer for NHS staff, not the SPA link. The Government would review the SPA link in any case:

As the Government have said, whenever the state pension age changes, there will be regular reviews of that link. The link will already be established, but as the state pension age changes, meaning that the normal pension age should change as well, the Government will always ensure the link is working as intended, including by taking into account any new information at that time.⁹⁵

Mr Leslie's amendment was defeated on division by 9 votes to 6.⁹⁶

⁹² [PBC Deb, 13 November 2012, c311](#)

⁹³ *Ibid*, c312

⁹⁴ [PBC Deb, 13 November 2012, c327](#)

⁹⁵ *Ibid*, c328

⁹⁶ *Ibid*, c330

Mr Leslie moved a further amendment designed to ensure that scheme members had at least 10 years' notice of an increase in their normal pension age.⁹⁷ He was concerned that, as drafted, there was "no protection for those approaching retirement and there are no safeguards regarding the notice that must be given of changes."⁹⁸ The Minister responded that there was an ongoing review by the Department for Work and Pensions of how the SPA should change in future. Providing for a notice period in the Bill could 'undermine those considerations':

Let me be clear, however, that although the Bill does not provide for an explicit notice period, the Government place great importance on giving members of public service pension schemes time to accommodate change in their retirement planning. That plays a key role in increasing members' certainty and trust in their schemes, which is what these reforms are designed to do.

It was important to retain a degree of flexibility to enable the government of the day to "work for the best interests of all concerned", including the taxpayer.⁹⁹ The transitional arrangements for moving to the new schemes were a sign of the Government's intentions on this issue:

In those arrangements, the Government have used a 10-year period, stating that they do not want to have a sudden impact on people who have made retirement plans and expected to retire at a particular date.¹⁰⁰

Mr Leslie said he might return to the issue.¹⁰¹

Mr Leslie moved an amendment that would require:

The link between the state pension age and a person's normal or deferred pension age shall be regularly reviewed to ensure that the link remains appropriate in light of scheme members' longevity.¹⁰²

This arose from recommendation 11 of the Commission's final report.¹⁰³

In response, the Minister said the Government intended that "reviews should be carried out as and when future changes to the state pension age are announced." It had not made provision for this in the Bill because:

First, I firmly believe that the Bill's provisions are correct. They are based on Lord Hutton's recommendations, they are a vital step in protecting the taxpayer from escalating costs, and they are a basis on which agreements have been reached with the majority of trade unions. Secondly, as I have said out, the Government have already committed to reviewing the state pension age, which underpins the public service pension age provisions, to ensure that it keeps pace with increases in longevity. In the light of that, it is also sensible to wait for clarity on the timing and regularity of state pension age reviews before finalising the arrangements for reviewing pension age provisions.¹⁰⁴

⁹⁷ Ibid, c330

⁹⁸ Ibid, c330

⁹⁹ Ibid, c335

¹⁰⁰ Ibid, c336

¹⁰¹ Ibid, c339

¹⁰² Ibid, c339

¹⁰³ *Independent Public Service Pensions Commission: Final Report*, 10 March 2011, p94

¹⁰⁴ *PBC Deb*, 13 November 2012, c340

Mr Leslie said he did not understand how, given the strictness with which the link was set out in the Bill, it could be varied if a review found it was no longer appropriate.¹⁰⁵ The Minister responded that:

If, for any reason, a future review suggested that the state pension age was not tracking longevity, as was intended in the Bill, it would require the Government of the day to make a change through legislation. That would require proper scrutiny and all procedures that we would expect in Parliament.¹⁰⁶

Mr Leslie hoped there was scope for compromise on this issue. He withdrew the amendment.¹⁰⁷

Mr Leslie commented that the Bill contained no definition of accrued rights. In his evidence to the Committee, Lord Hutton, had said:

When I was doing my work on the commission, my view was that we needed fully to respect accrued rights. If you are seen not to do that, there is a real risk to the confidence that scheme members have, and in fact you lay yourself open to a significant legal challenge. You can never rule that out, however, carefully drafted a Bill is, but I think there is [...] a need to have a definition of accrued benefits properly set out in the Bill.¹⁰⁸

The Minister responded that it had proved difficult to define accrued rights:

It has proved difficult to try to define accrued rights. There are already differences in the old individual schemes and occupations; there will no doubt be differences in new schemes. There is naturally a certain flexibility to give to each scheme. If one looks at the police scheme versus the civil service scheme, there would already be differences in those schemes in what they would recognise as accrued rights. One concern I have is that, if we try to define accrued rights in the Bill, there is a risk of coming up with a definition that acts as a minimum. Without intending to do so, one might end up taking out some accrued rights from one particular scheme because a minimum definition had been provided. That clearly would not be the intention of providing a definition of accrued rights.¹⁰⁹

The Government accepted there was concern on this issue and was still looking at it:

It is not our intention to play with accrued rights. Everyone accepts the general principle that those rights must be protected where it is clearly defined that they have protection.[...] It is important that, when we look at this, we consider whether there is a way to come up with a definition that does not run the risk of excluding rights that are already there in certain schemes.¹¹⁰

Mr Leslie was “not content that clause 9 [was] sufficient” but wanted to give the Minister the “opportunity to return on Report with some of the improvements we have discussed” and so would not push it to a vote.¹¹¹

¹⁰⁵ Ibid, c340

¹⁰⁶ Ibid, c341

¹⁰⁷ Ibid, c342

¹⁰⁸ [PCB Deb, 6 November 2012, d161-2](#)

¹⁰⁹ [PBC Deb, 13 November 2012, c344](#)

¹¹⁰ Ibid, c344

¹¹¹ Ibid, c343

3.7 Cost control

Clause 10 provides that schemes must be actuarially valued in accordance with Treasury directions. This would apply to the 2015 schemes and to ‘connected schemes’.¹¹² HM Treasury published a paper to explain in more detail how this was intended to work.¹¹³ The Minister explained that:

Setting out the detail of the precise timing and methodology of valuations in Treasury directions will ensure that the process is transparent and consistent between different schemes. It is appropriate for this to be done by the Treasury because it has oversight of, and ultimate responsibility for, public service pensions.¹¹⁴

The Government amended clauses 10 and 11 to limit their automatic application to DB schemes. The Minister explained that there would be flexibility for scheme regulations to specify that other types of scheme, such as injury or compensation schemes, should be valued with a connected pension scheme where this was needed.¹¹⁵

Ms Jamieson proposed an amendment to ensure that Treasury directions on valuations took account of the individual nature of the different local government pension funds.¹¹⁶ Witnesses to the Committee had argued that it was important for valuations to take account of individual features, such as demographics and the investments. The Minister responded that the drafting of the clause already allowed the Treasury “enough flexibility to ensure that its directions will account for the differences between schemes.” In relation to local government, Treasury directions would “relate only to valuations used to assess the aggregate costs of the scheme as a whole.”¹¹⁷ They would provide detail on how ‘model funds’, used to assess the affordability of the LGPS as a whole, should be valued:

1.12 The pension schemes for local government employees differ from the other large public service schemes as they are funded schemes, comprised of a number of individual local funds. These individual funds will continue to carry out their own valuations to determine the contributions to be paid by employers using the fund. However, to allow an employer cost cap to operate, a model fund will be used to measure assets and liabilities across the local government scheme as a whole. The outcome of the model fund valuation will be used to assess whether costs remain at sustainable levels. For the remainder of this paper, references in this document to valuations of the local government schemes will relate to these model funds, unless otherwise stated.¹¹⁸

The output of actuarial valuations of the model fund would inform the operation of the employer cost cap under clause 11. The Treasury was not seeking to make directions about the valuations that are to be carried out on individual local government pension funds.¹¹⁹

Ms Jamieson also asked about the regularity with which valuations would be required, an issue that had been raised in evidence to the Committee from trade unions.¹²⁰ The Minister

¹¹² [Bill 70 - EN](#), para 69; A connected scheme is one covering employees in the same kind of public service as the new scheme, subject to exceptions in scheme regulations/

¹¹³ HM Treasury, [Actuarial valuations of public service pension schemes](#), November 2012

¹¹⁴ [PBC Deb, 13 November 2012, c350](#)

¹¹⁵ [PBC Deb, 13 November 2012, c345](#); See also, [PBC Deb, 20 November 2012, c361](#)

¹¹⁶ [Ibid, c346](#)

¹¹⁷ [Ibid, c348](#)

¹¹⁸ HM Treasury, [Actuarial valuations of public service pension schemes](#), November 2012

¹¹⁹ [PBC Deb, 13 November 2012, c351](#)

¹²⁰ [Ibid, c351](#)

responded that the Government's intention was that valuations should be "carried out every four years for unfunded schemes and every three years for local government schemes."¹²¹

Clause 11 requires scheme regulations "to set an employer cost cap, and sets out how this cap should be set, measured and operated." The cap is to be set in accordance with Treasury directions. Subsection (5) requires the Treasury to make regulations to determine how the cap will operate. In the event of costs exceeding the set margins, regulations may provide for "processes to be followed to reach agreement on the action to be taken". This may include an increase or decrease in members' benefits or contributions. A default process may be specified if there is no agreement.¹²² HM Treasury published a paper setting out the Government's plans in more detail.¹²³

Ms Jamieson moved an amendment that would require the Treasury to consult with scheme members or their representatives when making directions about how the employer cost cap should be set. She said that, in the clause as currently drafted, there was "nothing to prevent [the Treasury] from setting the cap in such a way that it would be easily exceeded."¹²⁴ She also referred to concerns expressed by witnesses to the Committee about the application of directions to the LGPS. UNISON had said:

In respect of clause 11, dealing with the employer contribution cap, UNISON would seek clarification as to what the Treasury involvement would be with the LGPS. Principles designed jointly by the LGA and trade unions and agreed by the Government; provide a mechanism for setting the cap and collar that will be incorporated into the scheme regulations...We do not understand why Treasury directions should therefore apply to the LGPS as this seems to contradict the principles already agreed by government." Ms Jamieson was also concerned that there seemed to be 'nothing to stop accrued benefits from being reduced' under the operation of the employer cost cap.¹²⁵

The Minister responded that a statutory consultation requirement would be "unnecessarily burdensome". There would be further opportunities to comment on the "operation of the cap as the policy is developed through the normal scheme governance procedures." Discussions with representatives of LGPS schemes were ongoing:

Such schemes are funded, but the taxpayer ultimately provides the back-stop, which is why it is fair that the Treasury has a keen interest in those schemes and that there is some form of cost cap. However, the schemes' funded nature must also be taken into account. The Government is in detailed discussions with the representatives of such schemes, including in Scotland, and with trade unions on the best way to put the cost cap together. There are more discussions to be had because there is no model fund for Scotland.¹²⁶

Regarding accrued rights, he said that the Government had:

[...] no intention of reducing scheme members' accrued rights either as part of the default response to the cost cap or through changes agreed by scheme members and employers.¹²⁷

¹²¹ Ibid, c356

¹²² [Bill 70 - EN](#), para 73-82

¹²³ HM Treasury, *Establishing an employer cost cap in public service schemes*, November 2012

¹²⁴ [PBC Deb, 20 November 2012, c361-2](#)

¹²⁵ Ibid, c363

¹²⁶ Ibid, c365

¹²⁷ Ibid

Ms Jamieson's amendment was defeated on division by 11 votes to 7.¹²⁸

Ms Jamieson proposed that regulations under clause 11 should be subject to the affirmative parliamentary procedure. The Minister considered this unnecessary. Ms Jamieson said the Opposition might return to the issue.¹²⁹

Conservative MP, Richard Fuller, proposed a cap on the taxpayer contribution to the pensions of those in public service schemes who would "receive an annual pension more than twice average national earnings."¹³⁰ The Minister responded that controlling costs was an important part of the Bill:

The Government's view is that the employer cost cap effectively controls the costs of the new schemes while ensuring that public service pensions remain among the best available.¹³¹

He said Mr Fuller's proposal might not deliver the kind of cost control that was envisaged and "could have an undesirable impact on recruitment and retention in the public sector."¹³²

3.8 Employer contributions in funded schemes

Local authority pension funds are required to undergo a triennial actuarial valuation. The purpose of the exercise is to ensure that their pension liabilities can be met, to set affordable employer contribution rates and maintain on-going stability and discipline in overall funding.¹³³

Clause 12 would provide for the setting of the rate of employer contributions in funded public service schemes (in particular, the LGPS). It would require an actuarial valuation of the pension fund to inform the setting of the employer contribution rate. Subsection (2) would require scheme regulations to set employer contribution rates so that they met two specified objectives:

These objectives are to ensure that the rate of employer contributions are set at a level that is sufficient to ensure the solvency and long-term cost efficiency of the scheme, which will take into account the current and anticipated liabilities of the scheme.¹³⁴

The Government amended the Bill to clarify these objectives. The Minister explained:

Amendment 11 [...] is designed to make it clear that where a pension scheme has more than one pension fund – as is the case in the local government schemes in Scotland, and in England and Wales- the solvency objective in clause 12(2) relates to the fund separately.[...]Amendment 12 makes an equivalent change to the other funding objective in clause 12(2). It makes it clear that each pension fund must have regard to the long-term cost-efficiency of their part of the pension scheme when setting employer contribution rates.¹³⁵

The Minister stated that clause 12 went further than the existing arrangements:

First, it provides that employer contributions not only will be sufficient to ensure the solvency of the pension fund, but must be set at a level ensuring the long-term cost-

¹²⁸ Ibid, c367

¹²⁹ Ibid, c367-9

¹³⁰ Ibid, c369-70

¹³¹ Ibid, c376

¹³² Ibid, c376

¹³³ [HC Deb, 9 September 2009, c2012W](#)

¹³⁴ [Bill 70 - EN, para 85](#)

¹³⁵ [PBC Deb, 20 November 2012, c378](#)

efficiency of the part of the pension scheme that relates to that fund. That will prevent any short-term suppression of contribution rates that would defer costs to the future and that would therefore fail to meet the liabilities of the scheme responsibly.

Secondly, the clause requires the pension fund valuations to be reviewed by an appropriately qualified and independent person. The appointed person will publish a report explaining whether they are satisfied that the valuation and the resulting employer contribution rates are appropriate. When the appointed person identifies a problem, the local authority will be required to take steps to remedy it. In doing that, the local authority must publish details of the steps it will take and an explanation of how they will be sufficient to address the identified problem.

That is the right course of action. Local authorities should be free to determine how to meet their liabilities from their resources, and must do so openly and transparently. However, a backstop is needed, given the risks underfunding pension funds might have on scheme employers, local council tax payers and local government services.¹³⁶

3.9 Closure of existing schemes

Clause 16 provides that benefits may not be provided under existing pension schemes in relation to service after the closing date for the scheme, except where transitional arrangements had been agreed to allow those who were closest to retirement to continue to accrue benefits under the scheme. The closing date would be: 5 April 2015, or, in the case of the Local Government Pension Schemes in England and Wales and in Northern Ireland, 1 April 2014. ‘Existing schemes’ for the purposes of the Bill are listed in Schedule 5.¹³⁷

Mr Leslie proposed that the LGPS should be removed from the list of schemes to be closed under clause 16. He referred to concerns expressed by witnesses, including Lord Hutton, that:

[...]closing the existing schemes by a set closing date would trigger what are known as section 75 debts in many local government schemes that are currently in deficit, meaning that each participating employer would immediately become liable for its share of the scheme debts.¹³⁸

The Minister said such concerns were unfounded:

I can reassure the Committee that neither clause 16 nor any other part of the Bill requires local authority pension funds to be wound up. It only requires the closure of a local government pension scheme in so far as is specified in clause 16(1). Clause 16, as the Local Government Association and others have acknowledged, simply prevents benefits from being provided under the existing arrangements in respect of a person’s service after the closing date.[...] There is no intention whatsoever of closing the existing local government pension funds and running separate arrangements for service after April 2014. To do so would be inefficient and there is no reason for it.¹³⁹

Mr Leslie welcomed the Minister’s commitment to ‘work through the issues and, if necessary to make clarifications prior to Report.’ He reserved the right to return to the issue in future.¹⁴⁰

¹³⁶ Ibid, c381

¹³⁷ [Bill 70 - EN](#), para 113

¹³⁸ [PBC Deb, 20 November 2012, c382-3](#)

¹³⁹ Ibid, c384

¹⁴⁰ Ibid, c385-6

The Government amended **Schedule 5** to ensure that compensation schemes made under powers in the *Reserve Forces Act 1996* would not be automatically stopped from providing benefits in 2015 as a result of the passing of the Bill.¹⁴¹

Clause 17 provides for scheme regulations to be made for the closure of existing injury and compensation schemes.¹⁴² The Minister explained that the Government had no current plans for wholesale reform of injury and compensation schemes. The clause simply allowed for “consolidation of the legislative landscape”.¹⁴³

3.10 Final salary link

Clause 18 and **Schedule 7** contain provision for the ‘final salary link’ in relation to schemes closed under clause 16:

237. Final salary scheme pension benefits accumulated up until the date that existing schemes close by virtue of either clause 16(1) or clause 28(2) are to be calculated in relation to the member’s final salary at the point they retire or otherwise leave pensionable service, not the point at which their final salary scheme was closed. The final salary link applies to all past service in final salary schemes prior to the closing date.¹⁴⁴

Mr Leslie moved an amendment intended to ensure the final salary link was “fully preserved” by “providing that the definition of pensionable earnings under the new scheme is the same as it was under the old.”¹⁴⁵ The Minister responded that “the calculation of final salary on leaving the new scheme will be based on the definition of pensionable earnings in the new scheme.” He said that a key feature of the reforms was “modernisation and rationalisation of underlying legislation.” The definitions of pensionable earnings in current regulations could appear outdated and archaic. However, this did not mean the new regulations would change the underlying calculation in a way that changed the actual value of benefits:

Indeed, as a result of the schedule, any scheme that wants to change its definition of pensionable pay in the future would need to consider how that would affect the value of benefits calculated in accordance with the final salary link. If the change would reduce the value of someone’s final salary benefits, the scheme is likely to need to justify it in terms of article 1, protocol 1 of the European convention on human rights, and of course all aspects of the scheme regulations will be subject to consultation with the unions.¹⁴⁶

3.11 Procedure for making scheme regulations

Clause 20 provides for an “enhanced consultation and report process”. This is to apply where either a responsible authority wishes to make changes within the ‘protected period’ (25 years from 1 April 2015) to “protected elements”. Subsection (5) provides that protected elements means: the extent to which the scheme is a career average revalued earnings scheme; members’ contributions under the scheme; and benefit accrual rates under the scheme. However, a reference to a change to the protected elements does not include a change appearing to the responsible authority to be required in consequence of the employer cap under clause 11. The enhanced procedure also applies, without time limits, where the ‘responsible authority proposes to make retrospective changes which appear to the responsible authority to have significant adverse affects in relation to members of a

¹⁴¹ Ibid, c386

¹⁴² [Bill 70 - EN](#), para 120

¹⁴³ [PBC Deb, 20 November 2012, c387-8](#)

¹⁴⁴ Ibid

¹⁴⁵ Ibid, c390

¹⁴⁶ Ibid,c391

scheme.¹⁴⁷ The required process has two parts. The responsible authority must: consult the persons specified in subsection (3) with a view to reaching agreement with them, and lay a report before the appropriate legislature.¹⁴⁸

Mr Leslie moved an amendment which would insert additional elements to the list of protected elements in clause 20(5). These were: the scheme's definition of pensionable earnings; ill-health benefits; and early retirement rights. He said these were important elements and should therefore be subject to the fuller consultation requirements in clause 20.¹⁴⁹ The Minister responded that the Government had given careful consideration to the elements included in clause 20(5):

The inclusion of further elements, as suggested in the amendment, would, I am afraid, make it more difficult for the scheme to operate in practice. Each element included under this list would represent a restriction on the ability of schemes to respond flexibly and appropriately to changes in circumstances.¹⁵⁰

Mr Leslie's amendment was defeated on division by 10 votes to 5.¹⁵¹

Mr Leslie moved a further amendment intended ensure changes flowing from the operation of the employer cost cap were also subject to these requirements. He said clause 20 did not require member consent, it merely required "consultation with a view to reaching agreement and the laying of a report before Parliament so it can be properly scrutinised." He saw no good reason for changes made under the employer cost cap to be excluded from "what are still pretty modest protections under clause 20."¹⁵² The Minister responded that:

Clause 11 sets out that there will be a period of consultation before any decision is made on what action should be taken to address any breach in the cost cap. The clause allows for a default adjustment to be made to the scheme if agreement cannot be reached. But subsection (6) clearly envisages that scheme regulations will provide a process for interested parties, including the responsible authority, the scheme manager, employers and members to reach agreement on how to adjust the scheme to bring its costs back into line before such a default adjustment would be made. Agreement, of course, is even stronger than consulting "with a view to reaching agreement", as will happen under clause 20. It would seem perverse for the Government to seek to restrict the scope of the discussions that would take place in the case of a breach of the cost cap by placing certain elements under a separate, less stringent consultation regime.¹⁵³

Mr Leslie responded that it was important to have meaningful consultation. He described the provisions of clause 11(6) as a "loose and permissive protection". It said scheme regulations *may* provide for procedures to reach agreement, not that they *must* do so:

That is why we felt it better to ensure that the employer cost cap arrangements at least came under the auspices of the consultation requirements in clause 20. If the Government are to have free rein to put in the cap, decrease member benefits or

¹⁴⁷ Clause 20 (1) (b); [Bill 70 - EN](#), para 134

¹⁴⁸ Clause 20 (2)

¹⁴⁹ [PBC, 20 November 2012, c399-402](#)

¹⁵⁰ *Ibid*, c407

¹⁵¹ *Ibid*, c410

¹⁵² *Ibid*, c401

¹⁵³ *Ibid*, c407

increase employee contributions, it is important to have good, meaningful consultation.¹⁵⁴

His amendment was defeated on division by 10 votes to 5.¹⁵⁵

The Minister said he would consider, as the Opposition had suggested, whether, in the case of the LPGS, the 25-year period should run from 2014 rather than 2015.¹⁵⁶ Mr Leslie said he thought the clause was inadequate and that he might return to it.¹⁵⁷

Clause 21 provides that scheme regulations are subject to the affirmative procedure if:

- (a) they amend primary legislation, or
- (b) they contain retrospective provision which appears to the responsible authority to have significant adverse effects in relation to members of the scheme.¹⁵⁸

Chris Leslie moved an amendment to remove the word “significant” from subparagraph (b) above:

There should be a requirement that the House can have a debate under the affirmative procedure if there are adverse effects from retrospective procedure. The word ‘significant’ leaves too much protection for Ministers [...]¹⁵⁹

The Minister responded that:

Almost all retrospective changes will be either minor, technical or beneficial to members of pension schemes. If regulations have adverse effects on members, in the overwhelming majority of cases those adverse effects can be expected to be minimal. It is only where the adverse effects are significant that retrospective regulations have a real potential for unfairness. In these circumstances, the protective of enhanced legislative scrutiny through the affirmative procedure will apply.¹⁶⁰

Mr Leslie remained of the view that “adverse effects with retrospective consequences ought, at the very least, to come before Parliament for a short discussion.”¹⁶¹ His amendment was defeated on division by 10 votes to 6.¹⁶²

3.12 Non-scheme benefits

Clause 23 allows scheme managers and employers to make payments towards the provision of pensions and other benefits that are not delivered through a scheme made under clause 1, for an individual who could have access to such schemes.¹⁶³ Mr Leslie referred to concerns of scheme members and trade unions that this could undermine some of the other protections in the Bill. He asked the Minister to confirm that the clause would

¹⁵⁴ Ibid, c409

¹⁵⁵ Ibid, c410

¹⁵⁶ Ibid, c408

¹⁵⁷ Ibid, c411

¹⁵⁸ Clause 34 (2); Regulations subject to the affirmative procedure are laid before Parliament in draft and must be approved before becoming law. See [House of Commons Information Office Factsheet L7 Statutory Instruments](#)

¹⁵⁹ [PBC Deb, 20 November 2012, c413](#)

¹⁶⁰ Ibid,c415; See also the Minister’s comments at c407 on a similar point in relation to clause 20

¹⁶¹ Ibid, c415

¹⁶² Ibid, c416

¹⁶³ [Bill 70 - EN](#), para 155

only be used to enable payments in addition to those required under the Bill.¹⁶⁴ The Minister explained that the clause did not allow employers to override eligibility for scheme benefits:

It allows scheme managers or employers to make pension or other benefit payments to people who could have access to schemes made under the Bill, outside the new schemes, where that is considered appropriate and subject to the normal administrative and governance arrangements that apply to the use of public funds. An example would be to make contributions to a personal pension scheme. The clause does not allow employers to override eligibility for main scheme benefits. Scheme regulations will specify who is eligible to be a member of a pension scheme made under the Bill. The clause could allow alternative arrangements to be offered, but not to be mandated.¹⁶⁵

3.13 Consequential and minor amendments

Clause 24 and **Schedule 8** of the current Bill adds the new public service pension schemes to the list of official pensions in Schedule 2 of the *Pensions (Increase) Act 1971*:

The effect is to provide for the annual uprating of deferred pensions and pensions in payment under the mechanism which that Act provides.¹⁶⁶

The Government made amendments to Schedule 8 to “ensure that the schemes made under the Bill by the devolved authorities are listed in the correct places to scheme 2 to the 1971 Act”. The amendments would ensure that increases in benefits made under the 1971 Act, or its Northern Ireland equivalent, would apply only to DB schemes made under the Bill.¹⁶⁷

The Government also made a consequential amendment to the *Merchant Shipping Act 1995* to provide for the transfer of pension rights already accrued to be paid out of the fund. Mr Javid explained:

It is the Government's intention that the smaller pension schemes run by various public bodies be closed or reformed along the lines of the reforms to the major schemes and, in the former case, that their members be brought into one of the main public service pension schemes. The pension schemes run by the three general lighthouse authorities are examples of such schemes. Pensions paid to the employees of these authorities are currently paid out of the general lighthouse fund established under the *Merchant Shipping Act 1995*. That Act provides for pension payments to be made out of the fund for those pensions. However, it does not provide for the transfer of pension rights already accrued to be paid out of the fund. These types of payments, known as bulk transfers, will be necessary to transfer accrued rights into a new scheme if that is what the Government decide. The proposed amendment enables that by allowing payments to be made out of the general lighthouse fund which will include the bulk transfers.¹⁶⁸

A further amendment replaced a reference to the Northern Ireland Board with the Commissioners of Northern Ireland Lighthouses, the correct name of this body.¹⁶⁹

¹⁶⁴ [PBC, 20 November 2012, c417](#)

¹⁶⁵ *Ibid*, c418

¹⁶⁶ Schedule 8 (4); [Bill 70 - EN](#), para 245

¹⁶⁷ [PBC, 20 November 2012, c420](#)

¹⁶⁸ *Ibid*, c421-2

¹⁶⁹ *Ibid*, c422

3.14 Public body pension schemes

Apart from the main public service schemes, there are a number of schemes run for the staff and office holders of non-departmental public bodies, arms length bodies and similar bodies and officers ('public bodies'). The Government anticipates "that most of these pension schemes will be reformed by moving the staff and office holders into one of the new schemes established under Clause 1 of the Bill." However, where this is not possible, public bodies may be allowed to reform their current schemes, or to set up new bespoke pension schemes along reformed lines.¹⁷⁰

Clause 28 requires the bodies listed in Schedule 10 to close their pension schemes to future accrual. Where possible, the Government intends that employees of these bodies should in future join one of the reformed public service pension schemes, such as the civil service pension schemes.¹⁷¹ The Government made amendments to clause 28 to clarify that:

[...] It is the public authority responsible for the public body schemes relating to the public bodies listed in schedule 10 that must apply the provisions of clause 28 to those schemes and reform them in line with reforms to the major schemes.¹⁷²

The Government also amended the Bill to clarify that DC schemes and injury and compensation schemes relating to public bodies would not to be closed to future accrual by the Bill. Two further amendments were made to "provide greater clarity on the limits placed on powers that have been used to create existing public body schemes that are closed to future accrual by subsection 2."¹⁷³

Clause 7(b) provides for the Treasury to amend Schedule 10 by order so as to add any body or office to it. Mr Leslie was concerned that "changes of such a magnitude should normally be made in primary legislation" or at least by regulations subject to the affirmative Parliamentary procedure.¹⁷⁴ The Minister responded that there were good reasons why the list of public bodies in Schedule 10 was not complete at this time:

Public body pension reform is not as advanced as the reforms to the major schemes. We had to concentrate our efforts on dealing with the major schemes first before turning to small public bodies operating schemes. The Bill therefore needs to be flexible enough to admit new bodies into schedule 10 for reform as and when such schemes that are ready for reform are identified.¹⁷⁵

He did not think the affirmative procedure was necessary:

[...] because any changes to schedule 10 are likely to be technical and, secondly, because the Government have been very clear about how these pension schemes will be reformed, so members of the schemes should be well aware that their pensions are in scope for reform.¹⁷⁶

Mr Leslie anticipated that the Opposition would return to this issue.¹⁷⁷

Clause 29 permits a public body scheme established before the coming into force of that clause to have a normal and deferred pension age that is linked to State Pension age, or 65,

¹⁷⁰ [Bill 70 EN](#)

¹⁷¹ [Bill 70 EN](#), para 167

¹⁷² [PBC, 20 November 2012, c429](#)

¹⁷³ *Ibid*, c429

¹⁷⁴ *Ibid*, c431

¹⁷⁵ *Ibid*, c431

¹⁷⁶ *Ibid*, c431

¹⁷⁷ *Ibid*, c432

if that is higher. The link may only apply to benefits accrued under the scheme after the provision to establish that link took effect.¹⁷⁸ Mr Leslie asked why this provision was permissive rather than mandatory. The Minister responded that:

[...] it allows bodies that we have not yet identified in schedule 10 to make the necessary change – to make the link to the state pension age. Over time, as we identify these bodies one by one and they are added to schedule 10, they will have no choice – they must make this reform in relation to the state pension age.¹⁷⁹

3.15 Pensions for the Great Offices of State

Clause 30 and **Schedule 11** change the pension arrangements for future incumbents of the three Great Offices of State: Prime Minister, Lord Chancellor and the Speaker of the House of Commons. It would close the existing arrangements for these offices and provide for future pension and severance arrangements, through the Ministerial pension scheme.¹⁸⁰ The provisions are intended to come into force on the day the Act is passed.¹⁸¹ Pensions of existing holders of these offices will continue to be met from the Consolidated Fund, including where they have chosen to sign a waiver to their entitlements.¹⁸² In the Second Reading debate, Mr Alexander, explained that:

[...] the House should note that the Bill will also close the generous and outdated “great offices of state” pension schemes. They have outlived their usefulness in the modern world. I am glad that the Bill will close them to new office holders and will ensure that people in such roles are given the same pensions as Ministers. As I am sure Members are aware, the Prime Minister waived his entitlement to such a pension when he took office. The current Lord Chancellor is making arrangements to do likewise, as his predecessor did. Mr Speaker announced on the day that we published this Bill that he would retain the pension, but would take it only when he reached the age of 65 rather than drawing it as soon as he left office.¹⁸³

In Public Bill Committee, the Government amended the Bill to regularise the pay arrangement for future Lord Chancellors:

The Bill affords an opportunity to regularise the pay arrangements for future Lord Chancellors by reducing the legislative salary for the office of Lord Chancellor from its current level of £242,345 to one equivalent to that of a Secretary of State, which is £68,827 in the House of Commons and £101,038 in the House of Lords. The amendment ensures that the reformed “great offices of state” pension arrangements introduced in clause 30 and schedule 11 can be based on the salary to which Lord Chancellors are entitled—the lower salary level now taken by them. It removes the historical entitlement to a higher salary and the risk of their pension entitlement being based on that higher amount. The original salary for the office of Lord Chancellor was recommended by the then Top Salaries Review Body in 1983 on the basis that the position of Lord Chancellor was the pre-eminent role in the judiciary. However, since 2007, successive Lord Chancellors have considered the salary excessive and have waived their entitlement to it. Instead, they have chosen to claim a salary that is equivalent to that of a Secretary of State. The Bill affords a timely and efficient

¹⁷⁸ [Bill 70 - EN](#), para 179

¹⁷⁹ *Ibid*, c434

¹⁸⁰ [Bill 70 - EN](#)

¹⁸¹ Clause 37

¹⁸² [Bill 70 - EN](#), para 272

¹⁸³ [HC Deb, 29 October 2012, c63](#)

opportunity to make the necessary changes so that the legislation reflects that change in approach.¹⁸⁴

3.16 Parliamentary pensions – other changes

Clause 31 provides that if the rules of the MPs' or Ministerial pension scheme are changed to link the normal pension age to the State Pension age, the scheme can also provide for this to apply to accrued benefits, although only those accrued after the addition of the link to the scheme.¹⁸⁵

The Government made an amendment to clause 31 remove reference to the term “state pension age link”, as this term was not defined in the Bill.¹⁸⁶ Mr Javid explained that clause 31 was an enabling provision:

It places no requirement on any future ministerial pension scheme, or on IPSA, in respect of future changes to the Members' scheme. Hon Members will be aware of the *Constitutional Reform and Governance Act 2010*, which introduced strong protections for the pension rights accrued in the parliamentary contributory pension fund. This clause disapplies those protections only where that normal pension age is linked to the state pension age, and only in so far as they are affected by any change in state pension age.[...] Only benefits accrued under any future scheme design with a link to the state pension age will be affected.¹⁸⁷

3.17 New clauses

Scheme participation

Mr Leslie moved an amendment to require an independent review into the “appropriateness of increased pension contributions” in the event of the number of members opting out of any public service scheme increasing by more than 5 per cent compared with the drop-out rate in the preceding 12 months. He explained that:

We tabled new clause 1 as a consequence of the unilateral decision that was taken in the 2010 spending review to increase employee contributions by an average of 3.2% and to change indexation from the retail prices index to the consumer prices index, before Lord Hutton had even published his report. Those changes meant that many public service workers were left with the bitter feeling that they were paying increased amounts for fewer benefits.¹⁸⁸

The Minister responded that a formal review would not ‘change the appropriateness of increased contributions’:

Our clear objective is to rebalance costs so that they are fairer than before the increases. That will not change, and putting in place a formal review would be misleading to members about these permanent and justified increases.¹⁸⁹

The Government had designed contribution increases to protect the lower paid and they were being phased in. Following the increase in April 2012, scheme data showed there had

¹⁸⁴ [PBC Deb, 22 November 2012, c439](#)

¹⁸⁵ [Bill 70-EN](#)

¹⁸⁶ [PBC Deb, 22 November 2012, c442](#); The same amendment was made to clause 32, see c444

¹⁸⁷ *Ibid*, c443

¹⁸⁸ *Ibid*, c444

¹⁸⁹ *Ibid*, c449

been no discernable increase in opt out. It would continue to monitor opt-outs.¹⁹⁰ Mr Leslie's amendment was defeated on division by 9 votes to 5.¹⁹¹

Pension policy groups

Mr Leslie proposed introducing a requirement for pension policy groups to be established for each scheme at a national level. He explained that:

As Lord Hutton said on page 130 of his report, in recommendation 17(b): "even if all schemes have a pension board in future, there will still be a need for separate pension policy groups to consider at national level major changes to scheme rules". Many schemes already have such groups or bodies at national level. New clause 2 would ensure that all schemes benefit from that good practice.¹⁹²

The Minister agreed that policy groups could play a valuable role but they did not need to be provided for in legislation:

Lord Hutton identified that the majority of the current public service pension schemes have established groups to advise relevant Departments and Ministers. Such groups already exist in all the current schemes that cover the work forces set out in clause 1. Indeed, many of those groups have already played an important role in developing the reforms that will be taken forward under the Bill. As we have heard, Lord Hutton recommended that such groups should continue and should be introduced in the schemes that do not currently have them. We agree, but we do not believe that it is necessary to put it on the face of the Bill.¹⁹³

In view of the Minister's commitment, Mr Leslie withdrew the amendment.¹⁹⁴

Member communications

Chris Leslie proposed an amendment that would require schemes to 'issue regular benefit statements to active scheme members at least annually and without request', in accordance with recommendation 18 of the Commission's report.¹⁹⁵ The Minister responded that:

It is important that scheme members are kept informed about their scheme and provided with the information they need so that they can plan for their retirement. However, it is also important that schemes have the flexibility to provide that information in the way that they believe it will most effectively reach their members.[...] My central point, however, is that that does not need to be in the Bill because we should allow each particular scheme the flexibility to do it in its own way.¹⁹⁶

Mr Leslie asked the Minister to reflect further on whether any more permissive provision could be drafted. In the absence of this, he would return to the issue on Report. He withdrew the amendment.¹⁹⁷

Fair Deal

Public servants whose employment is compulsorily transferred from the public sector, are covered by 'Fair Deal', a non-statutory policy, introduced in 1999.¹⁹⁸ Under these

¹⁹⁰ Ibid, c450

¹⁹¹ Ibid, c451

¹⁹² Ibid, c452

¹⁹³ Ibid, c453

¹⁹⁴ Ibid, c453

¹⁹⁵ Ibid, c454; [Independent Public Service Pensions Commission: Final Report](#), 10 March 2011, p132

¹⁹⁶ Ibid, c456-7

¹⁹⁷ Ibid, c457

¹⁹⁸ [HC Deb 14 June 1999, c 29-30W \[Alan Milburn\]](#)

arrangements, the new employer is required to offer transferring staff membership of a scheme that is 'broadly comparable' to the one they are leaving. In December 2011, following consultation on the issue, the Government said it would allow staff whose employment was compulsorily transferred to retain membership of their public service pension scheme:

On the basis that the new scheme designs are agreed, the Government agrees to retain Fair Deal provision and extend access to public service pension schemes for transferring staff. This means that all staff whose employment is compulsorily transferred under TUPE, including subsequent TUPE transfers, will still be able to retain membership of the Pension Scheme when transferred. These arrangements will replace the current provisions for bulk transfers under Fair Deal, which will no longer apply.¹⁹⁹

Mr Leslie moved a new clause which would provide for this in the Bill:

That is an improvement on the current fair deal arrangements, which obliged independent contractors to provide "broadly comparable" arrangements to those under the public sector scheme. Securing that was a tribute to the parties involved in the negotiations. However, the promise does not appear in the Bill. In the eyes of many employee representatives, that means that the Bill fails to represent the agreement reached.²⁰⁰

The Minister responded that this would be "inappropriate":

I assure hon. Members that access to the public service pension schemes is the Government's preferred approach. Our proposal is that for staff who have already been compulsorily transferred out and whose contracts are retendered, employers have the option to provide a broadly comparable scheme with the new CARE schemes, or access. However, it is important that we consider in full the views of all stakeholders, including of course those who will be affected, through further consultation before making a final decision on the issue.²⁰¹

Mr Leslie said it was important that this aspect of the negotiations was enshrined in the Bill. His amendment was defeated on division by 8 votes to 5.²⁰²

¹⁹⁹ HC Deb, 20 December 2011, c1202-3; HM Treasury, *Consultation on the Fair Deal Policy: treatment of pensions on compulsory transfer of staff from the public sector*, March 2011

²⁰⁰ PBC Deb, 22 November 2012, c457

²⁰¹ Ibid, c459

²⁰² Ibid, c460