

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC SERVICE PENSIONS BILL

First Sitting

Tuesday 6 November 2012

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Written evidence reported to the House.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

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Saturday 10 November 2012

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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chairs: † MR JOE BENTON, ANNETTE BROOKE

† Abrahams, Debbie (<i>Oldham East and Saddleworth</i>) (Lab)	† Jamieson, Cathy (<i>Kilmarnock and Loudoun</i>) (Lab/Co-op)
† Ashworth, Jonathan (<i>Leicester South</i>) (Lab)	† Javid, Sajid (<i>Economic Secretary to the Treasury</i>)
† Burt, Lorely (<i>Solihull</i>) (LD)	† Jones, Mr Marcus (<i>Nuneaton</i>) (Con)
† Doyle-Price, Jackie (<i>Thurrock</i>) (Con)	† Leadsom, Andrea (<i>South Northamptonshire</i>) (Con)
† Evans, Graham (<i>Weaver Vale</i>) (Con)	† Leslie, Chris (<i>Nottingham East</i>) (Lab/Co-op)
† Freer, Mike (<i>Finchley and Golders Green</i>) (Con)	† McGovern, Alison (<i>Wirral South</i>) (Lab)
† Fuller, Richard (<i>Bedford</i>) (Con)	† McKenzie, Mr Iain (<i>Inverclyde</i>) (Lab)
† Gibb, Mr Nick (<i>Bognor Regis and Littlehampton</i>) (Con)	† Paisley, Ian (<i>North Antrim</i>) (DUP)
† Gilmore, Sheila (<i>Edinburgh East</i>) (Lab)	Williams, Stephen (<i>Bristol West</i>) (LD)
† Hands, Greg (<i>Chelsea and Fulham</i>) (Con)	Kate Emms, Neil Caulfield, <i>Committee Clerks</i>
	† attended the Committee

Witnesses

Paul Johnson, Director, Institute for Fiscal Studies

Angus Hanton, Co-founder, Intergenerational Foundation

Bob Summers, Chair of Pensions Panel, Chartered Institute of Public Finance and Accountancy

Glyn Jenkins, Head of Pensions, Unison

Gail Cartmail, Assistant General Secretary, Unite

Alice Hood, Senior Policy Officer, TUC

Brian Strutton, National Secretary, GMB

Dr Mark Porter, Chair of Council, British Medical Association

Andy Blake, Head of Pensions, British Medical Association

Lord Hutton of Furness

Public Bill Committee

Tuesday 6 November 2012

(Morning)

[MR JOE BENTON *in the Chair*]

Public Service Pensions Bill

8.55 am

The Chair: Before we begin, I have a few preliminary announcements. Members may, if they wish, remove their jackets during Committee sittings. Will all Members ensure that their mobile phones and pagers are turned off or switched to silent mode during sittings?

As a general rule, my fellow Chair and I do not intend to call starred amendments that have not been tabled with adequate notice. The required notice period in Public Bill Committees is three working days, so amendments should be tabled by the rise of the House on Mondays for consideration on Thursdays, and by the rise of the House on Thursdays for consideration on Tuesdays.

Not everyone is familiar with the process of taking oral evidence in Public Bill Committees, so it may be helpful if I briefly explain how we will proceed. The Committee will first be asked to consider the programme motion, for which debate is limited to half an hour. We will then deal with motions to report written evidence and to permit the Committee to deliberate in private in advance of the oral evidence sessions, which I hope that we can take formally.

Assuming that the last of those motions is agreed, the Committee will then move into private session. Once it has deliberated, the witnesses and members of the public will be invited back into the room and our oral evidence session will begin. If the Committee agrees to the programme motion, we will hear oral evidence this morning.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 6 November) meet—

- (a) at 2.00 pm on Tuesday 6 November;
- (b) at 11.30 am and 2.00 pm on Thursday 8 November;
- (c) at 8.55 am and 2.00 pm on Tuesday 13 November;
- (d) at 8.55 am and 2.00 pm on Tuesday 20 November;
- (e) at 11.30 am and 2.00 pm on Thursday 22 November;

(2) the Committee shall hear oral evidence on Tuesday 6 November in accordance with the following Table:

TABLE

<i>Time</i>	<i>Witness</i>
Until no later than 9.45 am	Institute for Fiscal Studies Intergenerational Foundation Chartered Institute of Public Finance and Accountancy
Until no later than 10.15 am	UNISON Unite

<i>Time</i>	<i>Witness</i>
Until no later than 11.00 am	Trades Union Congress GMB British Medical Association
Until no later than 11.20 am	Lord Hutton of Furness
Until no later than 3.00 pm	Pension Policy Institute National Association of Pension Funds Association of Consulting Actuaries
Until no later than 4.00 pm	Confederation of British Industry Prospect Police Federation
Until no later than 4.45 pm	Local Government Association Pensions Regulator
Until no later than 5.30 pm	National Union of Teachers NASUWT

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clause 22; Clause 2; Schedule 2; Clause 3; Schedule 3; Clauses 4 to 6; Clauses 13 to 15; Schedule 4; Clauses 7 to 12; Clause 16; Schedule 5; Clause 17; Schedule 6; Clause 18; Schedule 7; Clauses 19 to 21; Clauses 23 and 24; Schedule 8; Clauses 25 and 26; Schedule 9; Clauses 27 and 28; Schedule 10; Clauses 29 and 30; Schedule 11; Clauses 31 and 32; new Clauses; new Schedules; Clauses 33 to 38; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 22 November.—(*Sajid Javid.*)

Resolved,

That, subject to the discretion of the Chairman, any written evidence received by the Committee shall be reported to the House for publication.—(*Sajid Javid.*)

Written evidence to be reported to the House

PSP 01 British Medical Association

PSP 04 GMB

PSP 08 Rt Hon. Lord Hutton of Furness

The Chair: Copies of memorandums received by the Committee will be made available in the Committee Room.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Sajid Javid.*)

8.58 am

The Committee deliberated in private.

Examination of Witnesses

Paul Johnson, Angus Hanton and Bob Summers gave evidence.

9.4 am

The Chair: Good morning. Thank you very much to the witnesses and to members of the public for attending. May I ask the witnesses to introduce themselves?

Bob Summers: My name is Bob Summers. I chair the Chartered Institute of Public Finance and Accountancy's pensions panel and its pensions network.

Angus Hanton: My name is Angus Hanton. I am co-founder of the Intergenerational Foundation, a non-party political charity think-tank, which is pursuing the interests of younger and future generations through research. Obviously, we have read the Hutton report, the Bill and the report of last week's debate.

Paul Johnson: I am Paul Johnson, director of the Institute for Fiscal Studies.

The Chair: Thank you. You are most welcome. We have until 9.45 am for questions.

Q1 Chris Leslie (Nottingham East) (Lab/Co-op): Good morning, Mr Benton. First, without meaning any disrespect to the witnesses, may I pay tribute to you for giving us your guidance throughout our Committee proceedings? The Bill is complicated, so it will be important to have a firm hand on the tiller. I also welcome the witnesses and thank them for their time considering this complicated piece of reform.

I will start with a question to Mr Summers so that we can hear CIPFA's perspective. I understand that you are treasurer of the Norfolk police authority and that you have experience of overseeing the Norfolk pension fund, which I know is quite considerable. I have several particular questions about the local government pension scheme. Obviously, the Bill provides for the closure of all public service pension schemes, including the funded local government schemes. What is your opinion about the closure of those funded schemes?

Bob Summers: I think that we need to be very careful about the word "closure", because it can mean different things to different people. I have had some very helpful discussions with the Treasury team who are sitting behind me, as well as with colleagues from the Department for Communities and Local Government. The difficulty is that when you see the word "closure", it could mean closure in a very simplistic sense—immediately cutting off the fund, as it were, and setting up a new fund for future service. I gather, however, that that is not the intention. There are investment funds, and as the local government scheme is funded, the intention is that the investment side will remain as it is, but this will cease to be open to new members. It would be helpful to clarify in the Bill that you do not mean that you are going to close-end it, in terms of the funded nature of the scheme.

Q2 Chris Leslie: Some of our concerns are about how much thought has been given to the closure and reopening process. What is your understanding of the rules in respect of the crystallisation of any deficits that might occur at the point at which an existing funded scheme is closed before we move forward under the Bill? Could that pose a financial risk to those authorities concerned?

Bob Summers: Absolutely. If the intention were to crystallise the liabilities, there would be considerable financial implications. That will raise issues about what the investment strategy should be for the closed fund. You would immediately be looking to have investments that were far less volatile, dare I say, which would have considerable cost implications. There would be implications for the new fund that would be created. In other words, when you put it together, there would be considerable cost implications that would need to be unravelled. It is for that reason that there has already been discussion

with Treasury and CLG colleagues. We have expressed anxiety that this particular aspect of the Bill needs clarification.

Q3 Chris Leslie: With regard to the general running costs of local government pension schemes—those funded schemes obviously have fund managers and administrative costs—what is your general opinion of the Bill as it stands? Will it improve or worsen the administration and cost-effectiveness of the local government pension schemes?

Bob Summers: Let me say that there is no doubt whatsoever that the Bill is a very sensible way forward for public sector pensions reform. Some of its aspects require clarification but, as I say, I have had very helpful discussions with Treasury and DCLG colleagues. For example, I am not totally clear about how several governance issues will play into the LGPS, such as those arising from clauses 5 and 10.

Clause 10 specifically refers to valuations. I have had some helpful discussions about this but, on reading the Bill, clause 10 implies that, once an actuary has valued each of the LGPS funds—Members may know that each of the funds are separately valued—that actuarial valuation is then separately examined by another qualified person. I read it that that person will need to be an actuary, but that would obviously have implications of cost, to say the least, as well as for time scales. Again, it would be helpful if that aspect of the Bill was clarified.

Angus Hanton: May I make a comment about valuations? It seems to me that the previous valuations of the schemes—which are enormous, with a total liability is some £1.2 trillion—have been inadequate. One way of improving the Bill would be to include a clause that requires each scheme to do an annual valuation and, most importantly, make that valuation such that there is a sensitivity analysis. That means that you look at what the liabilities will be under different assumptions about life expectancy, longevity and discount rates—the discount rate is probably the more important factor—so that each scheme says each year how much its liabilities are at a 1% discount rate, a 2% discount rate and a 3% discount rate, because we at the Intergenerational Foundation believe that the current discount rate of 3% significantly understates the liabilities. The way this has been set up means that that high discount rate is locked in, so what is being handed on to the next generation and future generations to pay is much more than the Treasury and others are saying.

Q4 Chris Leslie: I have a final question for Mr Summers. Clause 12, in conjunction with clause 3, gives the Treasury control over the rate of employer contributions to funded local government pension schemes. Do you think that that rate-setting power should be removed from the managers of local government pension funds? Is it appropriate to have such centralisation?

Bob Summers: A fundamental building block of the LGPS is that the funds are managed locally with local democratic control. If actuarial factors were to be prescribed by the Treasury, there would be big issues about how local accountability could operate. From the point of view of CIPFA, there is concern about how centrally determined factors might play into the need to recognise local factors that play into local demography. The key

issue here is that, when the actuary looks at each of the LGPS funds, he will consider the current number of pensioners, deferred members and active members, and particular trends in life expectancy. As everyone knows, life expectancy patterns depend on where you live. It is important that those local factors are reflected in local valuations. If that local approach is taken away, our concern would be about how the local nature of the scheme would be picked up. Also, fundamentally, there is the whole issue of local accountability and local democratic control, which is the cornerstone and, indeed, the strength of how the LGPS operates.

Q5 Richard Fuller (Bedford) (Con): I have a question for Mr Hanton and Mr Johnson on the overall basis for the funding of public sector pensions, which at the moment is on a tax-as-you-go basis. Public sector pensions are the largest bill that we pass down to future generations. In your report, Mr Hanton, you estimate the liability at £1.2 trillion, which is even more than the country's enormous public sector debt. The Government are trying to do something in the Bill to introduce an employer cost cap to ensure that there is true and fair accounting between generations. Does the panel believe that that goes far enough? What comments would you make about whether the Government should have considered the establishment of a future fund—a fully-funded scheme—such as has been done in Australia for public sector pensions?

Angus Hanton: In terms of whether it goes far enough, definitely not. It seems to us that it retains the flawed architecture of the old scheme, which is to say that it makes promises to this generation, by this generation, to be paid for by future generations. The increase in longevity and the accounting flaws in the system mean that the obligations that are being passed on to future generations are much more significant than the Treasury has presented. Also, the way it is set up, the younger generation takes the risk of economic growth not being as high as is hoped. You are creating asymmetry here. Public sector pensions are legally and contractually enforceable liabilities, and yet they depend on tax revenues that may or may not be adequate or up to the projections. The future fund seems an extremely good idea. As you say, Australia and other countries have led the way on this, and we ought to be much more focused on providing for future needs.

Paul Johnson: On the structure of the changes, there are clearly things here that make a good deal of sense. Linking state pension age to the normal pension age in these schemes makes a good deal of sense. The scale of the change is pretty modest in overall terms—in future cost terms. These changes make a limited difference to the amount that we will be spending in 30 years' time. The numbers given by the Office for Budget Responsibility certainly suggest that. Of course, this is not on the face of the Bill, but the crucial things here are the accrual rates and so on, which are agreed by the Treasury and the relevant Departments.

One of the things that is interesting about this is while the scale of the change in terms of the total cost is not enormous, there are really quite significant distributional changes. Higher earners and those who are doing well in the public sector—those who are moving up the earnings distributions—are losing quite substantially. Those at the bottom of the earnings

distribution are actually gaining quite substantially from these changes, which, interestingly, take the structure of pensions and public sector remuneration even further away from what you see in the private sector. Clearly, there are balances there.

In terms of the scope for funding these schemes, there seems to be quite a strong case for having unfunded schemes for Government employees, because the Government are often in a better position than the private sector to pool risks across generations. Indeed, moving from an unfunded scheme to a funded scheme clearly has an impact on the transition generation who will have to fund both those things. It is quite difficult to move from unfunded to funded. You can certainly explain a world in which you have got the Government taking a role in unfunded provision for public sector pensioners in a way that it does not for those in the private sector. The more interesting question is, how does this leave public sector remuneration and pension provision relative to what you see in the private sector? Overall, this Bill takes the public sector further away from the private sector, rather than closer to the private sector.

Q6 Alison McGovern (Wirral South) (Lab): Could I take us back to actuarial assessments? You mentioned that previous actuarial assessments had proved to be faulty in some way, and your suggestion was more frequent assessments. What is underlying that suggestion? Why do you think that increased frequency would lead to increased accuracy? Secondly, you mentioned the discount rate. Could you say a little more about that? Mr Hanton, what is your underlying concern about the discount rate?

Angus Hanton: The discount rate is used to get a present value of a future liability. Therefore the discount rate matters a lot, because we are talking about a lot of money in the future discounted to the present. Most economists would say that the discount rate should be something like the index-linked gilt rate—in other words, quite low: about 1% or perhaps a little less than 1%, which would make the liabilities much higher than currently estimated.

The Government have committed to using a discount rate based on the growth rate that was expected just over a year ago—in other words, 3% per year. That means that we are understating those liabilities systematically. One consequence of that is that it is being argued that these schemes are now sustainable, when we would say that they are not. An illustration of that is the added years arrangement, which I think is a bit of a scandal, really. If you have a career break and, as a public sector employee, you buy in missing years, you pay less than half of the market value of the benefits you are getting, so in effect the Government are selling off promises on the cheap.

In relation to your first question about frequency, it is not just about frequency, it is also about bringing together the estimates. You have a sort of balkanised system of public sector pension schemes with a lot of different schemes of very different sizes. When we have been doing research on the liabilities and on how these things work, we have had to keep going to different groups. What I think you would benefit from as policy makers would be an authority that brings together all the liabilities and also breaks them down instead of

your having to go to each scheme, and I think you could put something in the Bill to require that.

Paul Johnson: Could I add something on the issue of the discount rate? I think it is important to be clear that there may be three things that we are worried about in these schemes. One is the number that Angus was referring to, which is the current discounted value of future liabilities: £1.2 trillion. I think that that is the least interesting of the three. The second thing that we might be interested in is the actual cost in billions of pounds or percentage of GDP in 2030 or 2040. That is certainly a number worth focusing on, but it clearly depends on where GDP is at that stage. The place where the discount rate really matters in my view is in the value of these things to individual members of the public service pension schemes at the moment as a proportion of their pay. It will be 15% or so after this Bill, based on the Government discount rate, but it is worth a lot more than that if you use a lower discount rate. It is that number that you then need to compare by asking what is the value of these public sector pensions relative to what you might see in the private sector.

I am not that worried about whether it is £1.2 trillion or £800 billion. These huge numbers are obviously open to all sorts of difference, but I am worried about the amount that we will be spending in 2040 and what that responds to, and the value of this stuff to public sector workers at the moment.

Q7 Alison McGovern: Just to follow up on the question I asked about actuarial assessment, you have flagged up some of the problems that we have had in the past. The suggestion was made that increased frequency of assessment would give a result that was more believable and more trustworthy. Why should you think that? Why should a person think that, if we go back through the same actuarial process, the future will prove better than the past?

Angus Hanton: I do not want you to go through the same actuarial process. I want you to go through a better one, but I want you to make sure it is every year. What happened in the case of the state pension obligation, which is now £3.8 trillion according to the Office for National Statistics figures from April, was that no assessment was done for about five years, so the biggest obligation that the state faced was ignored and not even measured for five years. So I want you to use your Bill to make sure that we do not get into a situation in which schemes are being run in a way that is, frankly, unbusinesslike.

Q8 Mike Freer (Finchley and Golders Green) (Con): On the local government pension scheme, I want to follow up on what Mr Leslie said. I chaired a pension panel some years ago, so I might be a bit rusty. We are talking about closing the scheme to new entrants, but when councils did their triennial revaluation, they quite often had to top up the fund from the general fund. If, as Mr Leslie says, there is a crystallisation of the future liabilities—and from my latest reading, currently only 75% of future liabilities can be met—surely there is a great danger that, by crystallising that gap, we will have to call on the council tax payer to put money in today to close the gap. Therefore, although the Treasury is seeking to hold down council tax, it could be shooting itself in the foot by forcing council tax rises to be quite significant to top up the closed LGPS.

Bob Summers: That is absolutely right. The key issue with the LGPS is that it is formally valued every three years; incidentally, just to go back to the discussion I had a moment ago, I ought to say that it is not at all uncommon for funds to undertake interim valuations to establish the health of their funds between the three-year valuations. However, the key issue for the way the LGPS operates is that every three years, the fund actuary will look at the health, if I dare say that, of the fund, and on the basis of that the actuary will certify an employer contribution rate at a cost that, clearly, all employers in the LGPS need to fund. That then represents the cost. Clearly, if by closing the fund there are costs incurred, there is one place that those costs will manifest themselves, which is in the employer cost.

Another issue with the LGPS is that it is not just a single employer; typically, one of these funds will have a multitude of different employers. For example, as you will know from my biography, I live in Norfolk, and the fund up there has over 100 different employers, some big, some small. When the employer cost goes up there are considerable implications for the viability of some of those small bodies. Obviously, in the context of public expenditure cuts and difficult decisions that everyone has to make, that can make a big difference to the future viability of a lot of those individual bodies. The cost consequences have to be funded, and it is in the employer cost that those costs manifest themselves.

Angus Hanton: I understand the problem about control of these funds, but is there not also a problem of conflict of interest? At the heart of this, of course, these are public sector pensions that are being decided by you and your colleagues, who are beneficiaries, and by civil servants, who are also beneficiaries of these schemes. So at the heart of it, you have a problem, but you also have a problem of conflict of interest at local level. I wonder whether you could improve your Bill by requiring that at least 50% of the members of the boards for each scheme are people who do not benefit themselves from public service pension schemes and whose spouses do not benefit from the schemes. To get more of an intergenerational perspective, you could also require that those boards should have at least, say, two members who are under 35.

Q9 Mike Freer: I am not going to go down the route of whether the pension panel should be demographically weighted for the work force and the local population; I think you would find that the whole system would freeze and grind to a halt. If I could go back to what Mr Summers said, my concern, from a localism point of view, is that when you get the valuations and interim valuations, the pension panel will take a view—certainly my pension panel, which had two very professional fund managers, took such a view, given our liabilities—about whether the performance will improve and whether the fund will continue to underperform or overperform, and will then take a balanced view, based on its own investment criteria, as to whether to top its own fund up from the council tax or not. If we go down the route of saying that it is all down to the Treasury, is there not a danger that we simply give the council tax payer no say, but a big bill?

Bob Summers: That comes back to a previous question. A cornerstone and, indeed, a strength of the LGPS is local democratic accountability. The pension panel sits

within a local authority, and the members of the panel are open to scrutiny and are accountable for decisions that they make. If the issues upon which they deliberate—for example, the valuation factors—are set centrally, there must be questions about how democratic accountability could operate. If I dare digress, there is an issue relating to the LGPS under clause 5(4), which refers to conflicts of interest. In the LGPS, pension panels and pension committees are composed in the main of elected members; clause 5, as it is currently drafted, could preclude elected members being members of those committees.

Equally, if I dare say, there is an issue around local government law and legislation. From CIPFA's perspective, you will not be surprised to hear me say that each local authority is required, by law, to appoint an officer who has certain financial responsibilities—the section 151 officer. This chief finance officer to the local authority will have an overriding responsibility not just for the pension fund but for the local authority as well. Clause 5(4), as it is currently drafted, could preclude that officer from fulfilling that important statutory role, so there is a conflict between the Bill as drafted and local government law in statute.

Q10 Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): Good morning to the panel. I have a brief question which is mainly aimed at Mr Johnson and Mr Summers, but I would be interested also to hear Mr Hanton's views, should he wish to give them.

What is the likelihood of increased contributions leading to substantial numbers of people opting out from public service pension schemes, and what effect do you think that that may have on the long-term sustainability of the schemes?

Paul Johnson: I do not know how many people are likely to opt out. It remains the case that these things are, clearly, extremely valuable to the people who remain in them, that the level of employee contribution, in most circumstances, will be a lot less expensive than the value of the scheme, and that the employer contributions remain very high.

Going forward, there are some interesting issues about levels of contribution, such as who is going to pay the highest additional contributions—particularly in the health service, but not only there. The highest earners will see much higher contributions, but are they going to opt out? I do not know, but I doubt it as it is pretty clear where the value is.

Looking two or three years down the road, there is an interesting issue with the abolition of contracting out. From the way the Bill is structured, my understanding is that contracting out will lead to higher national insurance contributions for public sector workers. Effectively, if we move to a single-tier basic state pension, it will lead to higher basic state pensions for those people. If we carry on with the Bill, we will end up with higher contributions now and even higher pensions in the future if no further changes are made. My understanding is that that is not what will happen in the private sector, where there will be some reduction in contributions and benefits to offset the increase in the state pension. In that circumstance, we will get to a very odd situation where you have even higher contributions and even higher benefits, which seems like a very odd way about.

Bob Summers: If I could address the LGPS side of this, a key worry for all pension panels is what is called the increased maturity of their funds: the proportion of contributors to the fund compared to those who are pensioners or deferred members. In the context of the here and now—workplace reduction and all the issues that local authorities up and down the land are grappling with—we have seen, very much, that funds that would have been mature many years hence find their maturity coming closer and closer. Coming back to our previous discussion, there is a very real cost implication in that because when the fund becomes more mature—when you have a higher proportion of pensioners and deferred members to active members—you need to think carefully through your investment strategy and think very clearly about the sort of investments you have to minimise volatility. That is because, ultimately, the aim of the fund is to provide cash for benefits, and benefits need to be paid. But of course, as I am sure Members appreciate, when you move away from equity-type based investments into those investments that are far less volatile, there are cost consequences to face.

Fund maturity is a big issue for my treasurer colleagues up and down the land, and in that context, there were many discussions about opt-out worries in the LGPS, hence the employers' proposal—I think you will discuss it later today—to keep it as it is. If, in fact, the employee contribution were to increase, there must be considerable worries about increased opt-out, which will add to our worries about fund maturity. All of this will manifest itself in employer cost because, ultimately, it needs to be funded.

Angus Hanton: It seems that about 88% of public sector employees are in these schemes. The evidence in relation to your question seems to be that with the recent increases in contribution rates there has been very little drop-out. Given what a good bargain these pensions are, I would expect that even with some further increases in contribution rates, you will not get much drop-out. But overall the problem is that you are looking at things from the point of view of the older generation. What the Japanese have done is to say, "We'll cap the total amount that can be spent on public sector pensions as a proportion of GDP." I wonder whether you could do that in your Bill, and have an overall cap. But it would mean changing the nature of the contract to make it a bit more flexible.

Bob Summers: The difficulty of public sector pensions is that each of the schemes tends to be in different places. When I talk about the LGPS it is populated, dare I say it, with a lot of very lowly paid people for whom contribution increases can represent a considerable economic hurdle. That is why there has been considerable dialogue and worry about opt-out rates in the LGPS.

Angus Hanton: One of the things that the Americans have done is to say that they will only increase contribution rates when people get promoted or get a pay increase. This seems to be a way of making them less painful and more effective, and dealing with your concern about people dropping out of the schemes.

Paul Johnson: Can I follow on from something that Angus said about risk sharing? At the moment, the structure of the schemes is set; in a sense whatever happens to national income or earnings, the pensions get paid. One of the ways that the new system is structured is that if we have a bad run of years in terms

of average earnings, the new scheme will turn out to be much more generous than the previous scheme, because the way that earnings are revalued through to retirement is set at CPI plus one-point-something per cent. It is slightly different in the different schemes. If we have a run of years, as we have had over the last few years, in which earnings do rather badly, this scheme will turn out a lot more expensive than the scheme it is replacing. There is no sharing of risk; it is just set in the scheme rules.

Q11 Mr Nick Gibb (Bognor Regis and Littlehampton) (Con): One reason why I am a fierce supporter of the Bill is that at the end of it people who work in the public sector will have a defined benefit scheme. That is an important scheme for public sector workers, and the Government should be congratulated on delivering it, notwithstanding the context in which we are all living. It is the context that I want to draw out from you if possible. Do either Paul or Bob know the number of active members in private sector defined benefit schemes, say in 1996, compared with the number of active members in defined benefit pension schemes today? How does that compare? Do you have comparisons on the public sector figures as well between those two dates? It need not be an exact figure.

Paul Johnson: It has dropped very substantially in the private sector from—I do not know, so do not quote this—4 million to 1 million. It is that kind of order, and it has increased in the public sector. The relativities change very dramatically. The numbers are published in all sorts of places.

Angus Hanton: But you could look at that the other way round and say that the private sector, faced with real economics, has chosen to abandon final salary—I know this is career average salary—and defined benefit schemes because they are not affordable. An interesting question, it seems to me, is why the public sector is not moving in the same direction.

Q12 Mr Gibb: But what impact do you think the decision in 1997 to withdraw the repayment of dividend tax credits had on the decisions in the private sector to move away from defined benefit schemes? My understanding was that there were £650 billion of assets in private sector funds in 1996, and we were taking £3.5 billion a year out of those funds with that decision. Do people think that had an impact on the private sector decision to move away from defined benefit schemes?

Angus Hanton: It made pension schemes less attractive, but what really made the private sector move away from defined benefit schemes were increases in longevity and uncertainty about longevity. They were trying to avoid burdening companies and schemes with unknowable liabilities. It seems to me that the Government should be doing the same now in public sector schemes.

Paul Johnson: I agree with that—not necessarily with the last bit. A whole series of changes have driven the private sector away from this, one of them clearly being increases in longevity and therefore in cost. Another has been the very low stock market returns over the past decade and a half, which have made schemes more expensive, and another thing has been changes in accounting rules regarding how the schemes count on the bottom line of company balance sheets. There have also been changes in regulations, which have meant that companies

have to do a whole series of things, regarding indexation and so on, which is more than has been the case in the past.

The fundamental answer, however, is exactly as Angus stated: these are big, unknowable and absolute liabilities, and once the liabilities are absolute in that sense, and they have been increasing, it is beyond the ability of most, though not all, private sector organisations to carry that level of risk. The difference with the public sector is that it is not beyond the capacity of that sector to carry that kind of risk. There is a genuine choice to be had. In a way, it is a pretty straightforward choice in the private sector in general.

The Chair: Two Members have indicated that they have questions. I propose to close the session promptly at 9.45 am because we cannot afford to fall behind, so please bear that in mind.

Q13 Andrea Leadsom (South Northamptonshire) (Con): Mr Johnson, you seem to be saying that the new scheme is far more generous than the previous one, and that it will take the public sector even further away from the private sector. Can you explain that a little further, and could you also explain whether you think certain public sector workers will be in a far better and stronger position than other public sector workers as a result?

Paul Johnson: Just to be clear, I am not saying that it is more generous than the previous scheme. I am saying that it has changed the structure of its generosity, in a sense. Particularly for higher earners, it is clearly much less generous, and it is certainly less generous when you take account of the increased contributions. So if you take account of the increased contributions, overall, under most circumstances, this looks less generous than the scheme it replaces. It depends on what happens going forward, and one of the crucial things is to think about those uncertainties. If it turns out that earnings over the next 20 years, in some terrible kind of outcome, do not grow much, this will look more generous than the scheme it replaces, but I hope that is a small tail risk.

The most likely circumstance is that it will be less generous than the scheme it replaces, but it changes the structure of that generosity, so it becomes much less generous for high earners. If you are a doctor, or a teacher who becomes a head teacher, the scheme is significantly less generous than what went before. If you are a low-paid person in the civil service or a porter in the health service and you stay at that level through your career, the scheme is significantly more generous than what went before. My point about how this relates to the private sector is that defined benefit schemes in particular are increasingly available only to the higher-paid, so it takes it away from the private sector in that sense, in terms of comparability.

Q14 Andrea Leadsom: So you are saying that the private sector is worsening, that both schemes are getting less generous but the private sector more so, and at a faster rate.

Paul Johnson: If you look at what the world looks like today, there are not many people in the private sector with a good DB pension, and if they have one the chances are they are relatively well paid. A high-quality defined contribution pension is more likely among those who are somewhat better off. In addition, if you look at

the overall remuneration package, it is at the top end of earnings that the public sector does relatively badly and at the bottom end that it does relatively well, by comparison with the private sector. Again, the way that the change stretches things, so that it hits the top earners and benefits the bottom earners, takes it further away from the private sector.

Q15 Andrea Leadsom: Finally, can you comment on different types of public sector workers? For example, police officers tell me that judges are getting a much better deal than they are.

Paul Johnson: Judges and police officers both get enormously good deals under these schemes. There are particular issues around judges that I am certainly not an expert on, but judges were well protected under the previous regime and certainly should not be taken as a benchmark for anyone else.

Angus Hanton: No, they pay extremely low contribution rates and they only need 15 years of contributions rather than 30, do they not? There is another question in relation to Paul's comment about the higher earners suffering relatively with the new scheme. That is true in the long term, but in the short term the higher earners in their 50s have been protected. The older generation are protected, even if later on higher earners will not do quite so well.

Q16 Graham Evans (Weaver Vale) (Con): My question is on transparency. Lord Hutton recommends that the public sector pension scheme should be published as common data, so that we can compare performance like for like. I am interested in whether you think the Bill will enable that. Also, is it possible to compare private sector pension schemes with these new public sector schemes?

Angus Hanton: A lot more transparency is needed. In this age of computers and so on, we have struggled to get information. We have used the Freedom of Information Act, and it seems slightly absurd that a small charity focused on intergenerational fairness should need to make freedom of information requests to find out some of the figures that were just not there in the public domain. For example, we looked up the number of public sector pensioners who already draw a pension of more than £50,000 a year and we found that there were 10,000 of them, but that information was not out there before. I totally agree that more transparency is needed, which is why I am suggesting that you could put something in the Bill to require more transparency. As you imply, public sector schemes are very generous compared with most private sector schemes. I agree with the gist of the question.

The Chair: Order. I am sorry, but that is the end of the session. On behalf of the Committee, I thank the witnesses for their attendance.

Examination of Witnesses

Glyn Jenkins and Gail Cartmail gave evidence.

9.48 am

The Chair: Good morning. Welcome. I thank you for your attendance. The Committee will ask questions, so without further ado, perhaps you would like to say a couple of words to introduce yourselves before we kick off.

Glyn Jenkins: I am Glyn Jenkins. I am head of pensions at the trade union Unison. For my sins, I have done the same job for 25 and a half years, so I have been through a number of changes and a number of new schemes down the line.

Gail Cartmail: My name is Gail Cartmail. I am assistant general secretary for the union Unite. Similarly, I have been through two reforms: the reforms under Alan Johnson and the current reforms.

Q17 Mr Gibb: Welcome to the Committee. Thank you very much for giving evidence. I do not know whether you heard the previous session, when concerns were expressed about the costs of public sector pensions compared with what is happening in the private sector. There has been a fall in the number of active members of private sector defined benefit schemes, from five-point-something million to less than 1 million today. I wonder whether the view of the two unions that you represent is that the deal that has been negotiated with the Government is good for all the different schemes, given that it is a defined benefit scheme at a time when the private sector is moving wholesale away from them. What is the view of the two unions about the negotiated settlement in public sector pensions, given what is happening in the private sector?

Glyn Jenkins: We are certainly relieved that it has remained a defined benefit scheme. We believe that it remains fit for purpose, and the purpose in our view is, of course, to ensure that people who join that scheme and pay a lot of money into such schemes have a pension that they can retire on and live above the poverty line in retirement.

Clearly, we are concerned—in fact, very sad—that, in the UK, pensions have declined so dramatically in the private sector. There are huge issues around this. One of the major issues is that the DC schemes—defined contribution schemes—that have replaced the defined benefit schemes are far cheaper for the employer. The employer is paying very low contributions to defined contribution schemes.

I noticed that the example of Australia was mentioned. Yes, they negotiated defined contribution schemes many years ago, but it is often forgotten or overlooked that the minimum employer contribution to those schemes is 9%, and about to go up to 12%. You would be lucky to get 4% or 5% in a UK defined contribution scheme, so you are heading for poverty.

Gail Cartmail: It should be remembered that pensions represent deferred pay. The role of the scheme members is to make contributions from their pay. It is a form of saving for their future retirement. Unite is also a private sector union. We have seen the devastating consequences of the closure of pension schemes in the private sector and, as you know, we lobbied for protection for scheme members who were left high and dry. Our concern is to avoid a race to the bottom and to preserve good quality defined benefit schemes that are credible, and we welcome the fact that they will remain in the private sector.

A question was asked in the earlier session about the potential for opt-out. There is potential for opt-out, particularly among lower to middle-income scheme members, partly due to continuing uncertainty. A key concern of Unite within the Bill is the uncertainty and lack of detail about future changes.

Q18 Chris Leslie: Thank you, witnesses, for attending this morning. Following those answers, I want to ask whether the Bill reflects the agreements that were struck in the negotiations between the employees and the employer side of the discussion. Obviously, there was an agreement between your two unions and the Government that has manifested itself in the Bill. What concerns do you have, if any, about the difference between the agreement and the legislation?

Glyn Jenkins: We have a number of serious concerns. We did not recommend opposition to Second Reading on the basis that we are seeking clarification and agreement to change some of the wording. But we are concerned that, on the face of it, the measure seems to be giving a lot of power to the Treasury to direct changes, when we believe the emphasis should be on the governance of the individual schemes to do the job. We are also concerned at some of the wide-ranging wording within the Bill that seems to allow a future Government or a future interpretation to change schemes completely without proper consent from Parliament. We are worried about the negative procedure as opposed to the affirmative procedure. Yes, there are very serious concerns.

Gail Cartmail: Yes, that is right. In particular, I want to home in on the normal pension age and the link to the state pension age. One of the points made in our negotiations with Francis Maude and Danny Alexander was that all Hutton recommendations should be implemented. There should be no cherry-picking. There is no provision in the Bill for an independent review of the continuing appropriateness of the link in relation to scheme member mortality, as was recommended by Hutton. That is one concern that we have, and it is a key concern.

Q19 Chris Leslie: What about the point about retrospectivity? Normally it is assumed that accrued benefits are sacrosanct, and it is not possible to go back and unpick benefits if people have been paid in good faith along the way. Do you believe that there is sufficient protection against retrospective decisions by the Treasury?

Glyn Jenkins: As currently worded, no, I do not. For example, the Treasury picks the revaluation rate for the future. As we know, at the moment it is CPI. There is wording in the Bill that seems to suggest that if CPI or whatever measure the Treasury uses is negative, it can reduce the earnings in a given year, so it could reduce the benefits that a person has earned based on an accident of inflation. That is just one example of an unintended consequence of the Bill that we need to clear up. We are in discussion with Treasury through the TUC and we are seeking clarification, but we would like the wording of the Bill to reflect the assurances that we have been given elsewhere.

Gail Cartmail: The question goes to the heart of the fact that the Bill includes a provision for retrospective changes, which is extraordinary and unusual. There is also no provision for a national board for the local government pension scheme, which both the unions and the employers want. That was another Hutton recommendation, and I know you will be hearing more about that later. Importantly, the negative re-evaluation provided for differs, as has been said, from the Pensions (Increase) Act 1971 provision, where negative inflation is associated with zero increase. It is important to stress today that that was new, and it was never discussed in the scheme talks.

Q20 Richard Fuller: You made some comments about the comparison with the private sector. Of course, when it comes to the affordability of pensions, there is a direct link in the private sector between shareholders and management in the negotiations. In public sector pensions, however, the cost of that is being paid for by our children and our grandchildren. They do not have a voice, and they do not have a vote, so the management of the cost of pensions in public service is important.

As participants in that, perhaps you could tell me what the unions' position has been on two of the main drivers of the cost for our children and grandchildren of the pension provision over the past 10 years: the increase in numbers of people in the schemes, in the parts that you are involved with, and the average pay over those periods of time. In your discussions about the increase in participation in the fund and average salaries, what consideration have the unions paid to the bill that is being passed on to future generations?

Glyn Jenkins: Obviously, one has to differentiate between the types of public service scheme, first of all. A lot of our members are in the local government pension scheme, which on a good day has about £150 billion of assets. A lot of the income to sustain that scheme actually comes from the investments of that scheme, and in many ways it is very similar to a private sector scheme. The schemes are, and should be—we may come back to this later—totally separate from the employer. That is certainly true in the private sector, and not quite so true in the public sector. Certainly, that means that there is not simply a direct link between the shareholders and the grandchildren, and all the rest of it, and the scheme; it is to do with whether the sums are being done right and whether the scheme has been lucky with the economic circumstances it finds itself in.

It should be remembered that we live in difficult economic circumstances at the moment, but 25 years ago the situation was very different and these schemes had huge surpluses, including the local government pension scheme funds. Far from increased employer contributions, there were actually periods where I think 12 funds took employer contribution holidays. Legislation passed in about 1990 required the schemes in England and Wales to fund to 75% of their solvency, so there are big issues.

Moving on to pay-as-you-go schemes, they mean that money goes into the Treasury and money comes out of the Treasury, but it is not simply about people waving a stick in the air and deciding how much they are going to pay. These are notionally funded schemes. They are in the same world as everyone else when determining the contributions. It is the choice of successive Governments that instead of putting that money into a fund, they choose to spend it. The members' money is spent by the Government of the day in whatever way they see fit, so there is quite a sophisticated debate to have on who is costing what.

Q21 Richard Fuller: I have a question about that, because it gets to the core of my point. Under that system, there is always pressure on the Government, wanting to provide public services that we all cherish and want to be able to afford, to increase the number of people who will then subsequently claim because they are part of a public sector pension scheme. In the debate about the role and extent of public services and

[Richard Fuller]

the number of people that the public sector can afford, if you do not have a fully funded scheme, how do you ensure that you are not passing a large bill on to the people who have no voice and no vote?

Gail Cartmail: It has to be remembered that our members are taxpayers, too. They pay their council tax. Equally, taking the NHS scheme, for example, the NHS is probably globally one of the largest recruiters of young graduates into health professions. The issue of generational equality is germane in that respect.

There are issues around how the schemes are managed. For instance, as the Bill is currently set out, there is no requirement for member representation. Now, member trustees are standard practice in the private sector. On the cost cap and cost sharing mechanism, the mechanism is now within the Bill, set by Treasury direction, and there will be no consultation. There is no requirement to consult and regulations are approved, as we heard earlier, by the negative procedure. There is a critical issue in relation to member confidence, which I touched on earlier, on cost sharing and the integrity of the 25-year guarantee.

I could go on, but my point is that we need some stability and certainty. Of the people who are currently contributing to public sector pension schemes, some have recently gone through a consultation following the previous reforms. Your constituents and our members, who are all taxpayers, require some certainty, but better governance than is on the face of the Bill.

Q22 Alison McGovern: Mr Jenkins, do feel free to answer the previous question in response to what I am about to say, which is hopefully not unrelated.

I asked the previous panel about actuarial assessments of valuations. Mr Johnson from the IFS mentioned two important factors that had contributed to the situation that was just mentioned, which were the missing of the increase in longevity and the fact that investments had not performed in the way that they were expected to. The suggestion was that more frequent and more integrated assessment would resolve those problems. What changes might we put in place as part of the Bill to enable our understanding of schemes, and the future performance of schemes, to be better than it has been? I would be grateful for your comments on that, particularly in relation to governance, as was just mentioned.

Glyn Jenkins: Certainly. We are not particularly happy, as has been mentioned, with the governance arrangements of the schemes, in particular the local government pension scheme, which is funded. There is a European directive: the institutions for occupational retirement provision. We believe that part of the Bill should enable one or two of its articles to apply. That would help with the running of the scheme.

Under article 8 of the directive, we would have complete legal separation of the funds from the employer, which, by the way, is the case for all other funded schemes in the country. Equally importantly, if article 18 was put in, it would ensure that all the investments were invested in the sole interest of the beneficiaries, which is the case in the private sector. We believe that there may be a legal issue with the local government pension scheme; it may be acting illegally by not having that. There are issues on that.

The previous speakers talked about opt-outs, but we are much nearer the face of what is going on. When they quoted the figure of 88%, they were talking about the whole public sector, including judges and the police. They were not talking about the large schemes with large numbers of low-paid workers. In the local government pension scheme, for example, I think that about 70% of members of the scheme are earning less than £21,000 a year. The average pension in payment in the local government scheme is around £4,000 to £5,000 a year. That puts them hardly above the poverty line. The opt-out in local government is on average—believe it or not—25%. That is the proportion of people who are eligible to join but do not join; in fact, they physically opt out. It varies right across the country. Some funds have a much higher opt-out rate, and it is increasing. It is not something to be knocked out lightly.

Gail Cartmail: This should go without saying, but just for the record, the disproportionate impact is on women.

Regarding some other concerns on transparency and governance, in relation to clause 15 and the Pensions Regulator, there are concerns about the priority and resources that the regulator will attach to the role. As I mentioned earlier, for the LGPS, we feel that some functions would be better performed by a national board; that is certainly the employers' view.

There are important points to be made about clause 19 and consultation, because there is no provision in the Bill in respect of a role for a policy review group, which is a standing joint body to consult and negotiate on scheme changes and frictional issues. This goes to the heart of the point about testing, and it was a Hutton recommendation. Consultation with a view to reaching agreement is required only for changes that breach the 25-year guarantee. There is a credibility issue for scheme members.

Q23 Ian Paisley (North Antrim) (DUP): May I bring you back to the design in terms of pension age issues? Clause 9(2)(a) indicates that the normal pensions age, 65, does not apply in relation to firefighters, whose normal pensions age is 60. Obviously there are good occupational reasons why a firefighter retires at age 55. Do you foresee any significant problems to the structure and working of the new scheme if the age retirement limit of 55 was reinserted and maintained?

Glyn Jenkins: To me a serious concern is the effect on the work force of increasing retirement ages. As has been mentioned, we would want to review the appropriateness of using the link to state pension age at some time in the future, as recommended by Lord Hutton.

Additionally, in the NHS pension scheme we already have a working party that is looking at the effect on workers of working longer. Your list was chosen by Lord Hutton with regard to exemptions. We, and I suspect the armed forces in particular—this is a slightly emotional point—want it to be completely objective, and we want to have a proper review of the effect on all the workers and the various groups within the schemes. We want to consider the dates at which they actually need their pension and whether, at that date, they have a pension that they can actually live on. In other words, is the pension fit for purpose? So I think the answer is yes.

Gail Cartmail: There is a concern that the Bill is coming before the White Paper on the state pension age. We are concerned that the Bill might limit the possible outcomes of the NHS working longer review group, to which my colleague has referred. Earlier we were asked about disappointments, and, of course, a disappointment is that the independent review of the automatic link, as recommended by Hutton, is not on the face of the Bill.

On the occupational physicality issue and the automatic link—this was a key point in the discussions with Francis Maude and Danny Alexander—we have firefighters in the Ministry of Defence who are not protected, and we have paramedic ambulance staff who do difficult and dangerous work as an emergency service who are not covered as an exception. The measure does not feel as objective as it ought, and there are other occupational groups in which the physical, mental and emotional demands are immense because of the very nature of the service provided. At the very least, therefore, we think the independent review, as recommended by John Hutton, should be in place.

Q24 Ian Paisley: May I come back on that? Could you give us a little more on the scale of the numbers of the unmentioned—not the unmentionable, but the unmentioned?

Gail Cartmail: I cannot give you a number. I have mentioned paramedics, ambulance staff and ambulance crew. I have mentioned civilian staff in the Ministry of Defence for whom physicality is an issue, such as Ministry of Defence guards and firefighters. Prison guards are not a protected category under the provisions of the Bill. There are other less obvious job roles, such as specialist nurses in intensive care, with very high levels of mental, physical and emotional demands due to the specialism of their job.

Q25 Ian Paisley: So at the very least you want clause 9(2) increased to accommodate those numbers?

Gail Cartmail: Yes, and also the independent review, and we want nothing that would narrow the possible outcome of the process that has been agreed in scheme talks in the NHS working longer review.

The Chair: Two people want to ask questions, but we will close promptly at 10.15 am.

Q26 Mr Marcus Jones (Nuneaton) (Con): Thank you, Mr Benton. I will be as quick as possible.

You have mentioned low-paid workers on a number of occasions, and low-paid workers are an extremely important group in the reforms. The representatives on the previous panel, particularly the representatives from the IFS and the Intergenerational Foundation, said that in their view the Bill's package for low-paid workers is comparatively more generous than the previous scheme. In light of those comments, what is your view of that? Do you agree with the IFS and the Intergenerational Foundation? If not, why do you disagree with them?

Glyn Jenkins: Obviously we are pleased that it is still a defined benefit scheme. We appreciate that, for a lot of our workers, the career average model may provide more of the cake than they had hitherto. Whether it is more generous or not is in the lap of the gods. Obviously, the revaluation of career average revalued earnings

schemes is based on prices, not earnings, in many cases, and it will depend on what happens in the future. It could well be that a large number of members will end up with lower benefits, and they will not necessarily be just the higher earners. Certainly, in terms of the tax or the contribution increases—especially in the NHS which will see significant increases in contributions for people earning over £25,000 or £26,000 in future—that is quite problematic. We are very concerned.

One of the issues that we are pleased about is that in the national talks we got the commitment to retain the fair deal, so that when people are outsourced they will stay in their public service scheme. For the reasons we discussed earlier, the more people you have in a public service scheme, especially contributors, the healthier it is and the more costs are going to be kept down. We would like that mentioned in the Bill.

The Chair: I am afraid that brings us to the close of this session. I thank the witnesses on behalf of the Committee.

Examination of Witnesses

Alice Hood, Brian Strutton, Dr Mark Porter and Andy Blake gave evidence.

10.17 am

The Chair: Welcome, and thank you for your attendance. Would each of you please introduce yourselves briefly?

Alice Hood: I am Alice Hood, a senior policy officer at the TUC, where I work on public services.

Brian Strutton: I am Brian Strutton, GMB national secretary for public services.

Dr Porter: My name is Mark Porter. I am a consultant anaesthetist in the NHS, and chair of council at the British Medical Association.

Andy Blake: I am Andy Blake, head of pensions at the British Medical Association.

The Chair: Thank you very much. We have until 11 am for questions.

Q27 Mr Gibb: May I ask your view of the agreement that was negotiated? We heard earlier that, due to longevity and poor performance of the stock exchange over the past decade, as well as other changes, the number of active members of private sector defined benefit schemes has fallen from over 5 million to under 1 million, yet you have managed to negotiate with the Government a defined benefit scheme for all public sector workers. Do you think that that is a good negotiation? Are you pleased for your members that that has been negotiated, given the context?

Could you also say something about some of the other reforms, such as the fact that no one within 10 years of retirement will see any change to their scheme and that those earning under £15,000 will see no increase in their contribution? Will you comment on the outcome of the negotiations, given the context in which they took place?

Alice Hood: The commitment to defined benefit, which was important, has been welcomed by all parties. The Bill is presented very much as an enabling piece of

legislation, but our concern at the outset is that, for an enabling Bill, it is relatively prescriptive in some areas, such as on revaluation rates, but relatively quiet—or silent—on some of the other elements that were central to those discussions. We have heard particular reference to the Hutton recommendation of a review of the link between the normal pension age and the state pension age, and also the commitment to the fair deal—the widening of access to the schemes.

Brian Strutton: From the GMB's point of view, the outcome of the negotiations was generally fair. Our members voted for the deal in local government and the civil service. Our members voted against the deal in the NHS, which I do not think is a particularly good deal. Overall, the package is reasonable, in the circumstances. The task ahead of us is to ensure that the Bill allows those deals to be carried forward, and allows the future cost management processes to make sure that those deals are sustainable for the future. That is the big question.

Dr Porter: I would like to pick up on the comment made by the GMB about the NHS scheme. Anything I say before you today is going to be about the NHS scheme. I am not an expert in the others, although I am an interested observer, as are many others.

With regard to the NHS scheme, I cannot help looking back to the agreement that we had with the Government in 2008, which was marked by partnership working and by what were perceived to be fair valuations and fair discussions about the scheme's costs and commitments over many decades. We reached an agreement at that time that we thought was painful in many respects, but nevertheless fair. We were prepared to recommend it to our members, and we did so because we felt that it was the right thing to do. Contained within that was the provision for future renegotiation should demographic circumstances change, as they have, and should work force characteristics change, as they have. We were prepared to engage with that over the period in which the scheme was expected to run, which was many decades.

I would not characterise the “negotiated” agreement of last December—I think that that was what you referred to—in that way. I would characterise it more as something that was imposed on a very reluctant profession—a very reluctant NHS—in the face of actuarial valuations that showed that much of it was not necessary, and in the face of a disregarding of the previous method of partnership working. If there is anything that we would like to see out of the Bill, it would be the reinstatement of something like the partnership working that we had—reinstating the ability to discuss the parameters of the scheme with our employers, with the NHS and with the Government, without effectively having the hand of the Treasury behind, drawing the parameters for any agreement that is reached.

Q28 Mr Gibb: You seem to be taking a more militant approach than the TUC, the GMB, Unison and Unite, which is surprising given that you represent the medical profession. Do you not agree that the annual accrual rate that you have negotiated—or that has been negotiated against your will, apparently—for NHS employees is one fifty-fourths in a career average scheme with revaluation rates for active members of CPI plus 1.5%? Given the earlier evidence about the imposition that that CPI plus 1.5% represents in terms of the public sector funding of

that career average scheme in the future, do you not think that your stance is unreasonable, given the context of the economic circumstances with which we are living today, as well as intergenerational issues and the disparity between the public sector and the private sector? Would you not be better as an organisation to adopt the more moderate view that the TUC, the GMB and the other trade unions are taking?

Dr Porter: I would remind you that the other health unions felt similarly unhappy. We each had our own degree of unhappiness and our own method of expressing it, but the other health unions felt similarly unhappy about the outcome of the discussions and the talks last December, and what was being done to what everybody would recognise as a previously well set-up scheme following the 2008 discussions. I do not think that the approach I have taken has been unreasonable. I think that it is reasonable in the context of past history, the discussions and the willingness we have repeatedly demonstrated to take part in discussions to take account of all the factors that you mentioned. We have never shied away from taking part in discussions to reset the pension scheme, to revalue it and to look at it decades into the future. However, the negotiations this time were conducted against the background of changes, such as the change from RPI to CPI, that have actually produced many of the savings that people want to make, and at the same time have been used as an excuse for making further unwanted and unnecessary changes to the scheme. It is important to recognise that the BMA, along with the other health unions, has never shied away from taking part in these discussions. We just want the opportunity to take part in them, which is why one of our major concerns about the Bill is that it writes in the potential for future retrospective changes to be made, without consultation, to what is described to a 25-year settlement.

Andy Blake: On the specific point of revaluation, it is worth mentioning that there were negotiations within each sector about the rate of accrual and also the rate of revaluation. In the NHS pension scheme, we felt that it was more important to go for a higher revaluation rate at the cost of a lower accrual rate. The same is not necessarily the case in the civil service scheme, for example. I would also point to the power of the Bill seemingly to amend that revaluation rate, which we are concerned about.

Returning briefly to your previous question about the difference between public and private sector pensions, the argument has been made well—it is well known—about the increasing cost of longevity and the failure of investment returns, but probably slightly less has been said about the fact that private sector pensions were effectively over-regulated, which pushed up their costs and made it more difficult for companies to provide them to their employees. That was set alongside a rather less paternalistic view from boardrooms during the 1990s.

Q29 Chris Leslie: I have a similar question to one that I asked in the previous session about the fit between the agreements that the TUC-affiliated organisations and others negotiated, and how the Bill has actually manifested. It is quite important that if you strike an agreement, it can somehow be fulfilled through to legislation. Can you explain whether you have any particular thoughts about how accurately the Bill reflects those agreements?

In particular, I wanted to ask about the design of the local government pension scheme and the ability of some schemes to be delegated and to be designed by stakeholders in the schemes as they go forward. Do you have any thoughts about clause 11 in respect of the employer cost cap or the cost control mechanism, and whether that reflects the discussions and agreements that had been reached.

Brian Strutton: There are two key things to bear in mind about the LGPS. You all know that it is different because it is funded, but its other major difference is that we have to introduce its scheme regulations by next spring so that that can be taken into account in next year's valuations to bring the savings through. We are therefore working to a very fast timetable. To do that, LGPS stakeholders—unions and employers—working with officials, have put forward comprehensive proposals not just for benefit reform, which is what everybody voted on, but on scheme governance, efficiency improvements and cost control going forward. We put those proposals forward at the end of July and we are yet to have a response to them.

You asked about the compatibility between what we have done in the LGPS work between stakeholders and the Bill. There is one crucial area—future cost management—where the proposals that we designed and submitted in the summer are incompatible with clause 11 and other provisions in the Bill. The way in which the Bill describes cost management does not suit the LGPS with its funded nature and the provisions that we have put together. In addition, the Bill's suggestion that schemes should close is unsuitable for the LGPS. The Bill does not allow the establishment of a board for the LGPS, which was a key recommendation of Hutton, to manage efficiency in the LGPS going forward. The Bill does not allow for national and local valuations in the way that they work for the LGPS. It does not allow for the introduction of new fair deal in particular circumstances for local government, which are different from those in the rest of the public sector. There are therefore several areas of incompatibility between the Bill's provisions and what we have agreed between all the stakeholders, including the Government, for the LGPS, and that is why we are working very hard to suggest a whole series of amendments, because our objective is to help the Bill to do what it says on the tin, which is to enable those deals, particularly the LGPS one, to be put in place, because it does not do that at the moment.

Alice Hood: I want to come in on one particular element: the Government's commitment that these reforms should last a generation. The shorthand is the 25-year guarantee that clause 20 attempts to introduce by looking at consultation and reporting requirements. Our concern about that is that it is actually very narrowly drafted as it picks out only three protected elements. It leaves aside things such as the revaluation rate, ill-health provisions, eligibility to join the scheme and the pension increase rate. There are lots of factors that, if they were changed, would have a significant impact on members. That is also potentially undermined by clause 3, which includes the provision to make retrospective changes. Again, that is something that all our affiliates have raised serious concerns about.

Dr Porter: You ask a good question about whether the Bill imbeds the agreement and how we would see things going on from that. I have already talked about our view of the agreement in response to Mr Gibb, but if we move beyond that and look at the Bill itself, there are two specific things—one was raised by Alice—that are really important in terms of what has already been announced, and what is not, or what is, countermanded in the Bill. The first and most important is clause 3—the Henry VIII clause. Mr Gibb asked about the relationship between the accrual rate and the revaluation rates in the published agreements last December. Those can be retrospectively changed at the stroke of a pen by the Secretary of State in the future, and I do not see the Bill as embedding that agreement, given that it contains that power, which should be removed.

Secondly, the agreement and Lord Hutton's report clearly refer to mechanisms to ensure that the extension of normal pension age is appropriate and the right thing to do. One of the mechanisms for that is the working longer review. The Bill moves ahead to entrench the link between normal pension age and state pension age without allowing for consideration of that review. Indeed, it puts in place things that could countermand and overrule any of the conclusions that the working longer review could come to. In answer to your question, I therefore think that the Bill very specifically fails to embed even the agreement that was reached last December.

Andy Blake: I would briefly add that I recall no discussion about negative revaluation, as specified in clause 8.

Q30 Chris Leslie: I wanted to pick up the earlier thread of this crystallisation of deficits with the closure of local government pension schemes, which I know is a very particular question. We heard earlier that myriad organisations and institutions are members of local government pension schemes. Can you elaborate on—just put it in real terms—the sorts of organisations that might face a major financial shock? As I understand it, colleges and academy schools are members of local government pension schemes and would have to find great lumps of money to cope with crystallisation. Are we talking about that level of potential risk?

Brian Strutton: We are. The LGPS in England and Wales is divided into 89 funds, as you know. Those 89 funds have several thousand employers in membership—not just councils and academies, but charities, contractors and many other types of employers. If, as the Bill says, the pension schemes have to close and start again, the lawyers to the LGPS tell us that that triggers certain things. It requires those funds effectively to become paid up and to start again. It changes their investment strategies. It may crystallise certain debts, so many of those scheme employers could be asked to contribute to any outstanding deficit at that time. It is simply unthinkable to allow that to happen, and that is why we are absolutely adamant that when the Bill describes closure—it runs all the way through the Bill in different guises—it must not mean closure; it must mean amendment to the existing scheme. That is what we are seeking to achieve in discussions with the Bill officials and others.

Q31 Ian Paisley: I want to go back to the issue of age, specifically for the BMA. Our previous witnesses said that they would like to see the provisions in clause 9

[*Ian Paisley*]

expanded to include, for example, nursing staff and specifically intensive care nursing staff. You heard that evidence. Is there anyone else you would like to see on that list?

Dr Porter: We should remember that intensive care nursing staff work alongside, as part of the team, intensive care medical staff, who deliver very similar care to the same patients. There is one obvious point to make there. The wider point is that the principle is established that not everybody should be linked to the state pension age. There is a list of exceptions, which are, as rehearsed, police, firefighters and members of the armed forces, but that leads to the curious situation whereby somebody who works behind a desk in an undemanding job but happens to be a member of one particular pension scheme is protected, whereas someone who works in front-line clinical care—perhaps in the intensive care unit that you mentioned—is not protected. One thing that especially concerns me is doctors who find themselves with an economic incentive to carry on working long past the time when it might be wise for them to think about stepping back, based on their individual circumstances. I do not think that it is fair to protect one group completely on the basis of their occupational status, yet to ignore the potential needs of another group who may be engaged in very demanding front-line work.

Perhaps it would help if I described what happens when I am working. I have just come back from a couple of weeks' leave, but the Sunday before I went, I was working as the resident anaesthetist on call in my hospital. I found myself running back and forth between operating theatres and resus areas, and putting in central lines on coronary care units and admitting patients to ICUs—and doing all that in a 12-hour shift. I enjoy it, but I am not quite so sure that I will enjoy it in 10 or 15 years' time.

Brian Strutton: The thing I always try to bear in mind with scheme pension ages is that they are a calculation point, rather than a defined age at which somebody has to stop working. When the Government took the decision that they would have different normal pension ages in the different pension schemes, they were actually saying that different groups of employees would have more generous pension arrangements than others, because a higher or lower normal retirement age in the pension scheme has exactly the same effect as a higher or lower accrual rate.

Once the Government had decided to go down that route, they opened up the question of defining many occupational types to which you might apply the same criteria. You could say precisely the same thing about every walk of life, whether it be certain categories of health workers—I particularly think about paramedics and ambulance staff—or, in the local government community, cleaners and care workers. Are they still capable of doing a highly demanding, physical job in their late 60s or even up to 70? You start to say that there are many such occupations that you can talk about, and the key thing is whether the Bill enables any employer who wishes to pay extra to allow those who retire earlier better benefits. Does the Bill allow that to happen? The Chief Secretary to the Treasury said during the Second Reading debate that there was an opportunity

for employers who wanted to pay more for a lower retirement age to do so, but that is actually not in the Bill at the moment. If that is the intention—and it is not a bad idea—the Bill must enable that to happen.

Alice Hood: I would make three broad points. One, which I and others have already mentioned, is Lord Hutton's recommendation 11: a regular and independent review should be established of the appropriateness of the link between the normal pension age in public sector schemes and the state pension age. We see that as absolutely critical. Secondly, there should be space in the Bill to take account of the outcomes of the reviews that are still under way. We have heard about the review of working longer in the NHS, and it is expected that the research and detailed work that is needed will take at least a year. There is also a review looking at the impact of the higher normal pension age in the fire scheme. Thirdly, if there is this link—this automaticity—we need more transparency and accountability in the way in which the state pension age is set. At the moment, there is not really transparency around that; it is set by Ministers. That is why we have been supporting calls for an independent commission involving a range of stakeholders, including representatives of members, to examine the evidence and have a clear and transparent set of criteria with which any changes to the state pension age would be looked at.

Andy Blake: I would add that the working longer review in the proposed final agreement was a central part of the discussions, so it would seem odd for the Bill not to allow that review to report back genuinely evidence-based recommendations as a result of its findings.

Q32 Mike Freer: I would like to ask two very quick questions, first to Mr Strutton. I have to say that I found myself, oddly, agreeing with a lot of the GMB submission, so I had to read it twice. In terms of the negative valuations and the technical potential of cutting a pension benefit, would you therefore be happy if the Bill said that the increase would be not less than zero, if it was linked to CPI, to create that floor?

Brian Strutton: Yes, that is precisely what we are saying.

Q33 Mike Freer: Thank you. Dr Porter, having read your submission, it is clear that you disagree with the new tiering, but the IFS has clearly said that the new scheme is more generous to the lower paid and less generous to the higher paid. Is it genuinely the BMA's position that the higher paid should pay less and that the lower paid should pay more, which is what your submission seemed to suggest?

Dr Porter: First, the exact levels of tiering are not in the Bill, although principles of fairness and transparency are and should be embedded in the Bill. One of those principles of fairness is that people pay the same amount for things of the same value. There is an unfairness at present in moving to a care scheme where our contribution rates as doctors will be defined as higher than those of other people, whether because they happen to earn a different amount of money, so that we pay not only more but a different proportion, or because people might be in different pension schemes. The point there is the principle of fairness and of paying the same contributions for the same benefit. Embedding that is

not a problem. The unfairness at the moment is embedded, and implying that to rectify an unfairness is further unfairness is an argument for making no change ever to anything if a mistake has been made. I would challenge that unfairness in the first place.

Q34 Cathy Jamieson: I have a couple of questions, the first of which is in relation to the local government pension scheme. I am referring back to the agreements made in December 2011 with the Government that the LGPS stakeholders could, subject to consent, design their own reforms to the local government pension scheme and, of course, further work has been done on that.

For the record, can people say whether they believe that the Bill is consistent with that agreement on what needs to change? Secondly, in relation to clause 21 and the parliamentary scrutiny process, with the retrospective amendments to schemes that are proposed, how would members of the panel like to see that amended?

Brian Strutton: In terms of the specific cost and benefit redesign that the LGPS stakeholders negotiated, the Bill enables most of that but not all of it. It does not at the moment allow for the fair deal equivalent part of it. We need a primary legislation repeal to be covered by this Bill to enable that to happen.

The other feature that I referred to that is incompatible with the LGPS is the second part of the deal that we did and covers governance and cost management. For us in the LGPS, benefit and cost redesign and managing the scheme going forward and keeping the cost affordable are intrinsically linked, so if we cannot deliver the one, we actually cannot deliver the other. The reason is that, within our negotiations, we set a target cost of 19.5% of the pay bill both for the benefit design and the cost management going forward, so if we cannot get the cost management part right, we cannot keep the cost at 19.5% and the benefit deal falls apart as well.

All the things that I referred to about not delivering the LGPS deal, such as closure, the scheme board, the cost management process and the governance structure apply to the whole package that we have renegotiated.

Alice Hood: On the point about clause 21, it speaks to the stuff around clause 3 as well, and the ability to make retrospective changes. The Superannuation Act 1972 required member consent for any changes that were detrimental either directly or indirectly to their accrued rights, and we would be looking for a protection that was at least as strong, if not stronger, than that existing protection.

Andy Blake: The safeguards given in clause 21 are insufficient. The affirmative procedure in our view does not provide adequate cover and we would push for the super-affirmative procedure.

Q35 Graham Evans: May I ask the BMA what percentage of its 150,000 members are members of the NHS pension scheme? What retirement age do you think is reasonable for you and your members? I ask the TUC and GMB what percentage of their members—I know you are the public sector side—are members of pension schemes compared with your colleagues who represent the GMB private sector members. How many of them, in the private sector, are members of a pension scheme?

Dr Porter: Taking the two questions you have asked me, we believe that about 90% of our members who work in the NHS—some of our members do not work in the NHS—are in the NHS pension scheme. It is always something that we advise whenever they ask our advice. In relation to the other question, I am awfully sorry, but can I ask you to repeat it?

Q36 Graham Evans: What do you think is a reasonable retirement age for doctors?

Dr Porter: My apologies, yes. The scheme at the moment has two retirement ages attached, both of which we have agreed in the past. The 1995 section, as it is known, which tends to be, although it is not entirely, those people who were appointed before 2008, has a normal retirement age of 60 for most people. The scheme that we agreed in 2008, which I referred to earlier and which was part of the agreement that we reached on resetting the pension scheme at that time, had a normal retirement age of 65. We stand by both those agreements.

Brian Strutton: You asked about the relative proportions of GMB members who are in pension schemes in the public and private sectors. I can only relate that to the general membership in those schemes; we do not ask our members to fill in questionnaires or surveys, so we cannot be precise about it. We need to bear two things in mind: we generally represent the lower-paid sections of work forces; and where we organise in the private sector it tends to be with large employers who by and large still have occupational provision. So on the one hand, in the public sector we generally have a lower proportion of GMB membership than you see in the public sector schemes as a whole, because our members are lower paid and often cannot afford to be in the schemes, but in the private sector we have a higher proportion than you generally see for private sector employees because most of our members tend to be in large firms where there is still occupational provision. Overall, I have roughly estimated that in the public sector we would have about 60% of our members in occupational pension schemes and in the private sector about 30%.

Q37 Andrea Leadsom: Dr Porter, I think you do the BMA a great disservice in suggesting that, in effect, just because previously the lower-paid received a lower pension and the higher-paid a higher pension it should always remain thus. Since you have given the example of your own personal situation, perhaps you could tell us what a doctor of your seniority might roughly expect to retire on at your normal retirement age.

Dr Porter: I am not sure I accept that I have done the BMA a disservice in stating that because I am not sure that I did state it. What I said was that there should be principles of fairness going throughout so that the pension one purchases costs roughly the same wherever one works.

Q38 Andrea Leadsom: But you do not accept the principle that those on lower pay should get a relatively more generous pension than those on higher pay. There is obviously a general absolute cost of living, and it is the desire of this Government to ensure that all NHS workers retire on a living income. Effectively, you are

[*Andrea Leadsom*]

saying that in the interests of retaining the higher retirement earnings for the higher-paid you would sacrifice the higher retirement earnings for the lower-paid. I think that is what you said earlier.

Dr Porter: I think you are placing a construction on my words that they are not capable of bearing. We have always accepted that there should be some differences. The principles of transparency and fairness come in here though, which at the moment have been overridden because the differences have grown too wide. For example, in the 1995 scheme that I mentioned, there were provisions for lower-paid members to contribute less, and we supported that. In the 2008 scheme there were provisions not only for lower-paid members to contribute less but for the introduction of some tiering, to reflect the differences in the value of pensions, which at that time were done in the final salary scheme as opposed to the CARE scheme we are talking about in this legislation.

We have always accepted that there should be differences there, and that there should be a greater encouragement to the people at the lower end of the income scale. There is no way in which we have ever attempted to argue that there should be a completely flat contribution across the entire scale. What we are arguing is that the current contribution levels, which look set to continue as the CARE pension is introduced in April 2015, are out of alignment with that and are disproportionately unfair.

Andrea Leadsom: To the higher-paid.

Dr Porter: That is right.

Q39 Andrea Leadsom: Would you then answer the second question, which is what would a doctor of your seniority expect to retire on, per annum, as an absolute sum, at your normal retirement age?

Dr Porter: That is difficult to answer for several reasons. The first is that it is difficult to get annual statements out of the NHS pension scheme. That is not just a trite answer; it is genuinely true.

Q40 Andrea Leadsom: Within the nearest £10,000 a year.

Dr Porter: Secondly, of course, the effect of the legislation that we are discussing today makes any projections that any of us might have about our future pensions difficult or impossible to sustain, because of the powers contained within the Bill to make retrospective adjustments.

Q41 Andrea Leadsom: Okay, if somebody at your level of seniority retired last year, what sort of pension would they have retired on, year on year?

Andy Blake: I do not think it is particularly helpful to talk about individual amounts of pensions in terms of the Public Sector Pensions Bill and the progression of the Bill through Parliament.

Andrea Leadsom: It is helpful, in the context.

Andy Blake: I do not see how that helps—[*Interruption.*]

The Chair: Order. The witnesses must be allowed to answer. I will be as flexible as possible, but they must be allowed to answer.

Andrea Leadsom: Apologies.

Andy Blake: I do not think it is particularly helpful to the progression of the Bill to talk about individual members of the scheme, which is one of the largest schemes in the world, and the level of benefits they receive. An important point I would make is that the BMA was instrumental in accepting tiered contributions in the NHS pension scheme in the 2008 settlement, and we have never said that there should be flat contributions. Although the justification for tiering in a CARE scheme is limited, we accept that there is still some justification for it, given tax relief.

Q42 Andrea Leadsom: My final question is for Dr Porter. You mentioned that you might not enjoy rushing around for 12 hours a day in 10 or 15 years' time. Do you accept, for the record, that you would not have to do that? You could retire earlier and take a reduction in your pension. My reason for asking you about that was that I wanted the Committee to be able to assess whether you could retire on a living income if you were to decide to retire, perhaps, five years early.

Dr Porter: You are right. A number of allegations have been made that the introduction of the scheme that is coming in 2015, as entrenched in this Bill, would require people to work to the age of 68. I have always argued against that when people have tried to argue that it is in there, because I know it is not. You are quite right that it is perfectly possible, within any pension scheme, to retire after the minimum age, although the minimum age is, if course, generally set relatively close to the age of retirement.

The issue there, however, is the economic incentive: what it does to people's expectations and careers, and to their ability to think about what it is sensible for them to do. The economic incentive to carry on working is entrenched by the continuation of the actuarial reduction mechanism, so that even if one would want to retire at 60 or 65, as is currently available—65 is what we agreed, going forward, in the 2008 scheme—one would have to take a large actuarial reduction of one's existing pension to be able to do that. It is not the absolute level of the pension that is important there; it is the effect it has on an individual's expectations of their life and career, and what it says to them about what they would want to be doing and what they ought to be doing. Those decisions, we believe, should not be forced by linking the pension age artificially to the age at which the state pension is paid out.

Q43 Chris Leslie: I want to turn to some other aspects of the Bill. In clause 7 there are a series of provisions in respect of new types of schemes. Obviously an agreement has been reached about defined benefit schemes going forward, but do you think that there are sufficient protections in clause 7 to ensure that, if an old defined benefit scheme is closed down, you will definitely see a new defined benefit scheme opened up? Are there loopholes in the Bill as it is currently drafted, such that you could find that a defined benefit scheme closes and you end up with a defined contribution scheme?

Alice Hood: We were quite concerned when we saw a provision in the Bill that clearly says that public sector schemes could be defined benefit, defined contribution or any other type of scheme apart from final salary, because it was such an important part of the whole framework of the negotiations that there was a commitment to defined benefit schemes. That was repeated by Ministers on many occasions. Seeing the potential for a move to defined contributions schemes there on the face of the Bill is quite concerning, and damaging to member confidence. There is another element—clause 23—that also opens up the possibility of alternative provision. On the face of it, it seems to suggest that an employer could set up an alternative scheme. We are unclear as to why that clause is necessary. It looks like a way of bypassing the public sector schemes.

Brian Strutton: I strongly support those points. There seems no obvious need for clause 23 at all. We have asked lots and lots of people, and nobody seems to know exactly what clause 23 is intended for. Clause 7 gives the Treasury far too wide-ranging powers to introduce any other type of pension provision, and crucially, without proper parliamentary scrutiny. That is the key point about clause 7. We think that it should require the affirmative procedure under that heading.

Andy Blake: We have been reassured by members of the Treasury Bill team that the Bill is intended to deliver the proposed final agreement. One of the central parts of that proposed final agreement is that it would be a defined benefit scheme. Therefore I think clause 7(1)(b), which is about defined contribution schemes, does not offer the appropriate protection. I completely agree with Brian and Alice that nobody seems to know what clause 23 means, and I think it should be removed.

Q44 Chris Leslie: Those are interesting points. May I ask about the employer cost cap provisions under clause 11? Are you content with the provisions in respect of consultation with scheme members that are set out? As far as I can see, there is no real guarantee on consultation. In a sense, I cannot really quite see what the harm would be in having a consultative requirement in the Bill, as employer cost cap arrangements are proposed. What is your view about how the Bill might be improved there?

Dr Porter: We have supported the principle of an employer cost cap. Nobody wants to see pension schemes with completely unlimited costs and open future commitments. That would obviously be ludicrous, and we have supported that cap in negotiations in the past. We would like to see proper mechanisms for consultation and—this is similar to some other comments—we would like to see it being subject to the affirmative procedure, so that we get away from the potential in the Bill for people simply to write in the rules and regulations regarding pension schemes without having to open themselves to proper scrutiny.

Brian Strutton: Put more simply, we have all committed to sign up to a process that means that we will jointly manage costs going forward. For the starting point to be set by the Treasury without consultation with the people who have accepted responsibility for managing that going forward seems bizarre, to say the least.

Alice Hood: That puts it clearly. It is part of a wider picture across the Bill of a number of important elements being set by Treasury directions and a general lack of

scrutiny and consultation. That comes up in this clause and a couple of other areas, such as the treatment of valuations.

The Chair: The session will end promptly at 11 o'clock, so this will be the last question.

Q45 Mike Freer: I want to understand the fairness of the tiering that the BMA talks about, because I cannot find it in your submission. Dr Porter, what is the percentage of final salary the average doctor will retire on? Is it 45% or 50% of the final salary?

Dr Porter: It depends on the length of their service.

Q46 Mike Freer: But on average.

Dr Porter: It would be approaching half. The reason I say that is because most doctors, unless they have paid into the added years scheme, do not have the opportunity to fulfil the complete service in the NHS scheme because of starting as late graduates.

Q47 Mike Freer: It is roughly 50%.

Dr Porter: A little bit under, but yes.

Q48 Mike Freer: What is the highest tier of contribution rate for a doctor?

Dr Porter: Under the figures that we are assuming will be going forward for 2014-15 and possibly continuing, I think it is 14.9% or 14.5%.

Andy Blake: It is 14.5%.

Dr Porter: It is 14.5%. My apologies.

Q49 Mike Freer: So 14.5% in and 50% out.

Dr Porter: No, that is not the way it works, sorry. It really is not the way it works.

Mike Freer: I understand how it works.

The Chair: Order. I thank the witnesses for their attendance and for answering the questions.

Examination of Witness

Lord Hutton of Furness gave evidence.

11 am

The Chair: Welcome, Lord Hutton. We have only 20 minutes because some Members will want to leave early for Treasury questions, which will be taking place on the Floor of the House. Needless to say, you are very welcome. I do not think that you need to introduce yourself, so we shall go directly to questions.

Q50 Chris Leslie: My apologies for the short time we have, especially given the valuable and comprehensive report that you have produced. I want to cut straight to the issue about the local government pension scheme. Do you have any particular concerns about the way in which the Bill has framed the provisions in respect of the LGPS, in particular because funded schemes are different from unfunded schemes? There are also issues to do with the fact that LGPS schemes will have to close

[Chris Leslie]

and restart. Could you elaborate on some of your thoughts about the Bill's provisions in respect of the LGPS?

Lord Hutton: Thank you, Chris. I hope that all Members have seen the opening statement that I have provided to the Committee, in which I outline some of my concerns about the current drafting of the Bill, especially regarding clause 16. I think that it all depends on what you mean by not providing any future benefits under the scheme—does that suggest that the future local government pension scheme will be completely separate from the existing one? If that were to be the case, I think that a number of risks and hazards would flow from that, such as extra costs for providing different advisers, auditors, oversight arrangements and so on. There is a major risk that if that were to be the interpretation, there could be a crystallisation of deficits at that point, and we really should avoid that if at all possible. There are a lot of other implications that would follow from looking at how clause 16 may require two separate local government pension funds to be established. I do not think that that can be the Government's intention, and I hope that that will be sufficiently clarified at some point. If such an interpretation were placed on the scheme, there would be some real difficulties. If there were to be two schemes, I am not entirely sure whether they would be considered, under the Bill, to be connected. I understand that that would be a decision for the relevant Secretary of State, not the Treasury, and that, too, could be problematic. You would then have issues about separate valuations, and there would certainly be additional costs if there were a requirement for that. If the schemes are not to be considered as connected, I think that the new cost cap arrangements would apply only to the new scheme, not the old scheme—that also seems bonkers to me.

It might be that I am taking a worst-case scenario interpretation here, but I think that we need to be clear about the intent. There would also be a final issue for the admitted bodies, as well, as there could be a crystallisation of their liabilities for deficits at that point, if there were to be two separate funds. Again, I think—for reasons that the Committee will be aware of—that that, too, is a consequence that we really do not want to entertain.

Q51 Chris Leslie: I have only one more question because time is limited. You picked up a number of points in respect of the crystallisation of closed LGPS schemes, which is really important, but I want to ask about the issue of retrospectivity. I think that you mention this in your opening evidence. Clause 3 could have a detrimental effect on the accrued benefits that many people assume are sacrosanct. Clause 11 also allows for a reduction of accrued benefits through some of the employer cost cap mechanisms. Do you have concerns about the potential for retrospectivity in the Bill? What is your understanding of how that cuts across the protections that are supposed to be in the European convention on human rights?

Lord Hutton: I think that we have to be very clear about these matters. 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—I refer to this in my opening statement—a need to have a definition of accrued benefits properly set out in the Bill. One of the recommendations in my commission's final report was that any new legislation should seek to do that. There is a definition of accrued benefits and accrued pension rights concerning private occupational schemes. The rule of thumb has always been that that would be a definition that we applied to public sector schemes.

The point of this legislation was to resolve these issues and set the context. I think there is a strong case—I would say this, wouldn't I, because it was in my report—that we should define what we mean by accrued benefits. In the context of the Bill, some complicated issues could arise from clause 9, which refers to accrued benefits, but does not define them. I am a great admirer of the legal profession—I am a lawyer—and if you are going to use such terms and chuck them about in a Bill, you need to be really clear about what you are referring to, because you are just inviting someone to test the water. Again, you can never preclude that, but the benefit of having this Bill—there are very strong benefits from having such a Bill at this time—is to resolve these issues, not to leave them hanging in the air. I think that we should resolve them.

Q52 Richard Fuller: We have heard some robust observations by the BMA on behalf of the fairly wealthy—I would guess relatively high-paid public sector workers—and, before that, we heard concerns from Unite and Unison about how the pensions of public sector workers on lower pay could be £4,000 or £5,000 a year. In that context, the Government have set out proposals for a career average pension instead of a final salary pension, which will go some way towards achieving an aspect of fairness. Do you think they could have gone further and put a cap on the total amount that an individual could take in their public sector pension? Average earnings in Bedford are about £24,000 a year. Why should we not have tried to limit the pension that someone could take from the public purse to, say, 1.5 times average earnings?

Lord Hutton: I did look at those issues in the course of my inquiry, but it will be clear to everyone on the Committee that I did not recommend doing that—for a variety of reasons. I accept at least one aspect of your question, in that I do not think that there is a genuine public policy reason for the taxpayer to go on providing unreformed public service pensions for those who earn very good amounts of money in the service of the public. There is every public policy reason for providing really good pensions—high replacement rates—for workers who actually have low and modest incomes, because we should be most concerned to ensure that that group of people has an adequate retirement income.

I did not recommend such a proposal, Mr Fuller, because of reasons of fairness, in one sense. If people want to make contributions, I do not think that what they get back should be arbitrarily limited, because you then sow the seeds of uncertainty and a lack of support for those schemes. People should get back what they pay into it, and these schemes are all designed essentially to do that.

Q53 Ian Paisley: In your opinion, Lord Hutton, would any violence be done to the principles, workings and values of the work that you carried out—and indeed to the Bill—if a retirement age below 60 was reintroduced for certain physical occupations?

Lord Hutton: That is a political decision for Ministers and I am keen not to get involved in those areas. My report essentially looked at trends and demographic changes, which are compelling. I perfectly accept that people would say that the age of 60 that I recommended for the uniformed services is pretty rough and ready—to some extent it is—but it was based on trends that were clearly established and, for example, had already been recognised in the new firefighters pension scheme, which had a minimum retirement age of 60 for new entrants to the fire service. That was negotiated under the previous Government and, in my mind, it set something of a precedent that we should use.

I cannot remember whether it was the Chief Secretary or the Economic Secretary—I do not want to damn them with too much praise, because I know how difficult and embarrassing that would be for them—who made a very important point on Second Reading about the normal retiring age. It is not a compulsory aspect of these schemes; it is a calculation point that is used to determine a person's entitlement, without seeking the consent of anyone else, to a full pension. If Ministers want to negotiate a different set of rules around that, they can—that is up to them.

The key thing from the taxpayer's point of view is the cost cap. As long as that is not breached, I am fairly relaxed. There should be an ability to exercise more discretion, and I am not a stick-in-the-mud about that. You just have to understand the trend of demographic change and understand that a normal retiring age is not a compulsory point at which you have to keep working—it is the point at which you draw your full pension. You can go earlier—there are early retirement provisions in all the schemes—and there should be flexibility, because we are not all the same. The evidence about increased life expectancy is pretty strong and, if we are serious about keeping the cost of these schemes under some kind of control, we absolutely have to establish some link between the trends in longevity and the calculation point at which someone is entitled to a full pension.

Q54 Graham Evans: I welcome the Bill and I think that you have done a fantastic job. Your name will be mentioned by future generations, and I am sure that everybody is most grateful.

After listening to the evidence from some of our witnesses, we have to wonder whether they think that you should be doing this at all. With the DB scheme, if we take a 21-year-old graduate looking at career paths, he could, even with your reforms, look at a 45-year career in the public sector and work out what sort of pension he would get at the end of it. What would you say to a 21-year-old who was thinking of going into the private sector and who, after 45 years working there, would ironically be paying for the 21-year-old graduate in the public sector through taxation and so on? What would you say to graduates thinking now about which career path to take, in terms of going for the public sector or private sector?

Lord Hutton: I never saw any evidence that directly suggested that people chose to go into the public sector specifically after looking at their pension entitlement. I know that that becomes part of the rhetoric and that there are arguments on both sides that that is the case, but I did not see any evidence for that.

Another part of my response would be that the public sector should provide good pensions for people who do fundamentally important jobs. These guys keep our country safe, educate our children and look after people who are sick. Those really important jobs should involve good pensions, but they have to be affordable. I think that there is a way of providing good pensions and keeping them affordable, and that was basically what my report was about.

My third response would be that there is a problem in the private sector with defined contribution pensions. Everyone knows that there is a problem. Outcomes have historically not been good enough, and that is why the Pensions Minister has done a very good job in initiating a debate about the outcomes from defined contribution pension schemes. That is where we all in the House should focus our attention. We have debated the future of defined benefit to the point of extinction, so let us now focus our attention on the defined contribution schemes in which most people will be saving in the future and on ensuring that the outcomes from those schemes are better.

I fundamentally did not agree with those who said that the only solution for public service pensions was somehow to reduce their value and drag them down to the point where they do not provide good incomes in retirement. That would be a stupid thing to do—for taxpayers as well as for the health of our economy. Let us not think that the solution to this problem is to go on hacking away at the value of public service pensions. Let us think about the value of people's savings in defined contribution pots, and then we might be able to square the circle.

Q55 Alison McGovern: Thank you for giving us evidence, Lord Hutton. You made several recommendations on governance in your report, and several of the Bill's provisions address such issues and make changes. Bearing in mind the point about trust that you mentioned, as well as successive Governments' problems getting people to engage with how trusted pension schemes are, do you think that the Bill addresses such issues sufficiently?

Lord Hutton: It very nearly does. It is an important development, and I welcome the Bill's general provisions on improved governance. For some people, governance might be a second-order issue, but for me it is a first-tier issue. If we are to build confidence in the arrangements for the long term, we must improve governance. One way of doing that is through these pension boards and having proper accountability for their overall management of the unfunded schemes. I welcome all those good things.

I also made it clear in my report that, as a matter of principle, there should be representation on pension boards for scheme members. It would be useful if the Bill were amended to make that point clear. I strongly welcome the direction set out by the Government for this part of the Bill, and I think it could be improved further by making it clear that scheme members should have a role on pension boards. I am sure that that is

where Ministers intend the provisions eventually to lead, but it will save a lot of heartache and amendments from you guys on this Committee—I can imagine the debates now—if that is made clear from the beginning. I would welcome a Government amendment to this aspect of the Bill to make that clear.

Q56 Mr Gibb: May I add my congratulations to those of my colleagues on your interim and final reports? They accurately reflected the challenges of longevity, increasing costs, poor investment returns, the fairness of a career average scheme versus a final salary scheme, and fairness to the taxpayer. Nevertheless, you rejected the notion of a race to the bottom. As a consequence, we are continuing to provide defined benefit schemes for those working in the public sector. Given that some compromises were made in the negotiations, are you satisfied that the proposed final settlement reflects what you had in mind as the outcome of the recommendations of your report?

Lord Hutton: Yes, broadly. Clearly, there was a set of negotiations. My report wanted that process to be led centrally by the Treasury—and it was—so there had to be a framework, but there should have been discretion for each of the main schemes to reach their own agreements with the representatives of the work force, which was the case. In my final report, I preferred a more generous revaluation method for the new career average schemes. I preferred earnings revaluation, but that has been changed to prices, albeit with a more generous accrual rate. Again, that is fine, as long as the cost cap is in place and there are mechanisms to deal with that going forward, which there are.

You have to strike a balance between achieving the overall objective of sustainable, affordable and good-quality pensions going forward, with schemes that address the particular needs of the work force in each of those main departments. I think that that has been done.

Q57 Debbie Abrahams (Oldham East and Saddleworth) (Lab): My question builds on the points about the cherry-picking of your recommendations, as a previous witness put it. Will you comment further on that in the light of what you think the unintended consequences of that cherry-picking might be?

Lord Hutton: I do not think that there has been any cherry-picking, so I am not quite sure what the earlier evidence referred to. To be fair, the Government have taken forward all my recommendations. I do not think there has been any cherry-picking, and I do not see any sign that the Government are trying to use smoke and mirrors on my 27 recommendations.

Inevitably, even the best legislation can have unintended consequences. Good intentions are not a guarantee of good legislation, as we all know. I have referred to a number of areas in which I think the Bill could be improved, but they are largely drafting issues. I do not subscribe to a conspiracy theory that there is some underhand agenda here. I think that the Government, to be fair, are trying to move this forward and get it settled. I think that there are ways that the Bill could be improved to nail this down, but I do not subscribe to the cherry-picking school of thought.

The Chair: Order. We have to call a halt. Apologies to those Members we did not get around to.

Lord Hutton, on behalf of the Committee, thank you very much for your attendance. It was most appreciated.

Ordered, That further consideration be now adjourned.—(Sajid Javid.)

11.20 am

Adjourned till this day at Two o'clock.