PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC SERVICE PENSIONS BILL

Seventh Sitting

Tuesday 20 November 2012

(Morning)

CONTENTS

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Saturday 24 November 2012

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: † Mr Joe Benton, Annette Brooke

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

Kate Emms, Neil Caulfield, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 20 November 2012

(Morning)

[Mr Joe Benton *in the Chair*]

Public Service Pensions Bill

Written evidence to be reported to the House

PSP 15 British Dental Association
PSP 16 Local Government Association
PSP 17 South Yorkshire Pensions Authority
PSP 18 TUC
PSP 19 Unison
PSP 20 Public and Commercial Services Union
PSP 21 John Ralfe
PSP 22 Working Longer Review Steering Group (NHS)

Clause 11

Employer cost cap

8.55 am

Amendment made: 10, in clause 11, page 6, line 26, after 'section 1', insert

'which is a defined benefits scheme'.—*(Sajid Javid.)*

Cathy Jamieson (Kilmarnock and Loudoun) (Lab/Co-op): I beg to move amendment 57, in clause 11, page 6, line 40, at end insert—

'(4A) Treasury directions under subsection (3) may only be made after consultation with the persons or representatives of the persons who appear to the Treasury to be likely to be affected by the employer cost cap.'.

The Chair: With this it will be convenient to discuss amendment 58, in clause 11, page 7, line 15, at end insert

'provided that they do not have the effect of reducing members' accrued benefits.'.

Cathy Jamieson: It is a pleasure to have you back in the Chair, Mr Benton, and also to be back for another day of interesting deliberations on the Bill. This morning we will deal with one of the most important clauses we have still to consider, given the number of representations we have received about it from external organisations, particularly some of those representing people involved in public sector pension schemes who have expressed concerns.

The amendments were tabled in advance of receiving the Treasury papers that were provided during last week's sittings. However, having looked through the documents in more detail, it is still important that we debate the amendments so that we can put a number of things on record, as well as seek the Minister's support for what we are trying to achieve.

Amendment 57 would add proposed new subsection (4A) to clause 11. Notwithstanding some of what is set out in the Treasury documents, we want the requirement for consultation that is set out in the provision to be included in the Bill. We are worried that if the cost of a public service pension scheme goes above the employer cost cap by a specified margin, clause 11(7) will allow scheme regulations to reduce members' benefits, or increase their contributions, to reach the target cost of the scheme. Subsection (7) might contain a relatively small number of words, but it may have very significant implications for the members of those schemes, so the way in which the cost cap is set is absolutely critical.

Clause 11 provides for the cost cap to be

"set in accordance with Treasury directions."

Although the Treasury documents indicate that the Minister would like consultation to take place, there does not appear to be any requirement in the Bill for the Treasury to consult with scheme members or their representatives.

Subsection (3) gives the Treasury the widest possible discretion over how the cost cap is set so, in theory, there would be nothing to prevent it from setting the cap in such a way that it would be easily exceeded, thus triggering an increase in employee contributions or a decrease in benefits. Of course, some might say that we have a Minister who would do no such thing but, as we have repeatedly heard, Ministers come and go—indeed, Governments come and go—so we want to ensure that the Bill will stand the test of time. There is concern that the clause might allow for the increase of contributions or the reduction of benefits through the back door, as some organisations have suggested.

Once again, let me quote the words of the Chief Secretary to the Treasury on 20 June last year:

"establishing a relationship of trust and confidence between the Government and public service workers is critical to the success of these reforms."

If the Minister agrees with that, I would hope that he would accept our amendment. There would be real concern if there was no consultation on the employer cost cap, and that could seriously damage trust.

Several points made during the evidence sessions and in written submissions to the Committee highlight why this issue is so important. During the evidence sessions, my hon. Friend the Member for Nottingham East specifically made a point about the employer cost cap in clause 11. Brian Strutton gave him a very full response, including by saying:

"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."—[*Official Report*, *Public Service Pensions Public Bill Committee*, 6 November 2012; c. 151, Q29.]

We have dealt with some of those issues during the course of our debates, but that again highlights the sense that people feel that the huge amount of work and many debates that took place will be superseded without proper consultation.

When my hon. Friend asked whether the BMA representative, Dr Porter, was satisfied with clause 11, he received the reply:

"We have supported the principle of an employer cost cap. Nobody wants to see pension schemes with completely unlimited costs and open future commitments."

However, Dr Porter went on to say:

"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."—[*Official Report*, *Public Service Pensions Public Bill Committee*, 6 November 2012; c. 159, Q44.]

I do not want to get ahead of our discussions on amendment 59, but those comments are important as they are a sign of people's concerns.

I make reference also to a number of points made by the British Dental Association in its written submission. The papers were helpfully provided to the Committee yesterday, which state:

"There are a number of places in the Bill where power is reserved to HM Treasury to exercise control…Examples of this power appear in Clause 11—Employer cost cap—where the cap is to be set in accordance with Treasury directions."

Unison's written submission also expresses concerning, stating:

"In respect of clause 11, dealing with the employer contribution cap, UNISON would seek clarification as to what the Treasury involvement would be with the LGPS. Principles designed jointly by the LGA and trade unions and agreed by the Government; provide a mechanism for setting the cap and collar that will be incorporated into the scheme regulations...We do not understand why Treasury directions should therefore apply to the LGPS as this seems to contradict the principles already agreed by government."

Amendment 58 would insert a provision on accrued benefits. At present, clause 11(7) allows members' benefits to be reduced, or for their contributions to be increased, to prevent the cost of the scheme going beyond the specified margins, but it appears that there is nothing to stop accrued benefits from being reduced. Lord Hutton's written evidence set out that one of his main concerns about the Bill was that it did not offer

"proper protection of accrued rights",

so that sensitive and serious issue needs addressing.

The Treasury documents state:

"There is no intention to make changes to benefits already accrued via the cost cap mechanism."

That sentiment is sensible, and I am sure that people welcome it, but the problem is that the Bill, as I understand it, does not say that. Despite the Minister's good intentions, the clause could allow for the deduction of accrued benefits via the cost cap, so its wording is not as strong as I and others would like. Just because the Government have "no intention", it does not mean that that might not happen. This comes back to the question of trust and the need to find a common understanding of how to proceed.

Given that the Minister has promised in the Treasury papers that the Government do not intend to reduce any accrued benefits, I hope that he will not object to amendment 58. Such a change would not be detrimental to the Government, but would be of enormous benefit to the millions of public service workers who worry that their pensions are not safe. At the heart of our discussions has been the fact that people want to be able to plan with a degree of certainty. The worry and uncertainty that the proposals create will cause much grief and concern to people who are approaching retirement age and do not know what financial position they will be in.

The Bill allows for the reduction of accrued benefits. Although the Government have promised that they will not reduce them, what if the legislation outlives the Government? Presumably it will, because the intention is that it will apply in the long term. The Government cannot guarantee that Ministers in any future Government will not use the Bill to reduce accrued rates. If the Minister genuinely wants to protect accrued rates, why not accept our amendment and send a message to the public service workers who are concerned about that?

A further question is prompted by the Treasury paper "Establishing an employer cost cap in public service pension schemes". Paragraph 1.7 on page 6 states:

"The Government is currently considering more detailed proposals on the operation of the cost cap in the local government scheme, including in Scotland where there is currently no model fund. Further details will be provided in due course."

I have already asked the Minister several questions about the operation of schemes in Scotland. Will he update us on exactly what discussions are taking place, and with whom, about the local government scheme in Scotland? When does he expect to be able to report on those discussions and give us further details? This is a crucial point, because external organisations, including some trade unions, are worried about the scope of the legislative consent motion that the Scottish Parliament is due to discuss. The Government and the Scottish Government do not appear to believe that such matters need to be part of the motion, but the paper suggests that the Treasury is involved in discussions about the future operation of the local government scheme in Scotland. That may or may not be different from what has gone before—I do not know, because we do not have the details—so will the Minister tell us whether he believes that putting that statement on paper brings the matter within the scope of the legislative consent motion in the Scottish Parliament?

I hope that I have outlined the concerns to which we would like the Minister to respond. Our important amendments reflect the views that we heard during the evidence sessions, which is surely why we have such sessions in the first place. They also reflect the views of Lord Hutton. I know that the Government will adopt some of Lord Hutton's recommendations and not others, but I hope that they adopt this one. The amendments also reflect the views expressed in the written evidence that we received from professional organisations—particularly, but not exclusively, trade unions—that are involved in discussions with the Government about the way ahead. I believe that those organisations want to continue to work in a spirit of trust and co-operation, but they have not had all the assurances that they hoped for set out in the Bill.

The Economic Secretary to the Treasury (Sajid Javid): I thank the hon. Lady for her thoughtful comments. A key recommendation in Lord Hutton's report was the establishment of an employer cost cap mechanism to ensure the future sustainability of public service pension schemes. Clause 11 establishes the mechanism for all pension schemes made under the Bill, which we will discuss in more detail later.

[Sajid Javid]

Amendment 57 would place a statutory consultation requirement on Her Majesty's Treasury regarding the detail of the cost cap policy, which is to be set out in Treasury directions. That requirement would be unnecessarily burdensome. There will be further opportunities for scheme members and their representatives to comment on the operation of the cap as the policy is developed through the normal scheme governance procedures. Additionally, a consultation requirement for the scheme regulations, which must include the cost cap and mechanisms for dealing with any breach of the margins around it, already exists in clauses 19 and 20.

Amendment 58 would prevent members' accrued rights from being reduced under the operation of the employer cost cap. Let me reassure hon. Members that the Government have no intention of reducing scheme members' accrued rights either as part of the default response to the cost cap, or through changes agreed by scheme members and employers. As is clearly set out in "Establishing an employer cost cap in public service pension schemes", which was published by the Treasury last week, any adjustments made to member benefits as a result of the cap will only apply going forward. The paper states:

"There is no intention to make changes to benefits already accrued via the cost cap mechanism."

Amendment 57 therefore places an unnecessary burden on the workings of the new schemes, while amendment 58 would provide protection for accrued rights when none is needed, because adequate protections already exist.

One of the hon. Lady's key questions was about local government pension schemes, particularly in relation to Scotland. Such schemes are funded, but the taxpayer ultimately provides the back-stop, which is why it is fair that the Treasury has a keen interest in those schemes and that there is some form of cost cap. However, the schemes' funded nature must also be taken into account. The Government are in detailed discussions with the representatives of such schemes, including in Scotland, and with trade unions on the best way to put the cost cap together. There are more discussions to be had because there is no model fund for Scotland. The hon. Lady asked when we might be able to provide further information about that. If I had such information today, I would share it with her, but the discussions are ongoing and we have not reached a conclusion. However, the Government expect that discussions will be completed in the coming weeks and we will announce the result as soon as we can.

The hon. Lady also asked about the legislative consent motion in Scotland, specifically in relation to the Scottish LGPS. The Scottish LGPS is not in the scope of any such motion. Public service pension policy is reserved to Westminster with only minor exceptions in the case of Scotland, including for the judiciary and non-departmental public bodies.

I urge the hon. Lady to consider withdrawing the amendment.

9.15 am

Cathy Jamieson: May I start with the issue of the legislative consent motion in Scotland? I hear what the Minister says about the policy being reserved, apart from on some minor issues, as he describes them. However, some of the people in Scotland might consider them to be pretty major issues when they are worried about whether there will be fundamental changes to the local government pension scheme in Scotland as a result of decisions taken here, which is why I have persisted in pursuing points about the legislative consent motion.

I appreciate that that is not entirely the Minister's responsibility, because the Scottish Government also have a responsibility to look at some of these issues and, so far, they have been fairly silent on them. I do not want to appear to be entirely on the Minister's side, but I think that the Scottish Government should look more widely at their responsibilities, rather than always trying to blame this place for what goes on. I will be worried if there is no certainty on this by the time we get to Report and Third Reading, and I am sure that the Minister will want to be able to give some assurances at that stage, particularly to Scottish Members.

I am slightly disappointed by the Minister's response to amendments 57 and 58, which I thought were reasonable amendments that would do exactly what he says he wants to achieve. If his good intentions were set out in the Bill, that would enable him to see them through—if he is spared a reshuffle before the end of the Parliament—and ensure that they were in place for the long term. If they were in the Bill that is passed, they would stand the test of time.

I was also rather disappointed to hear the suggestion that putting such provisions on consultation in the Bill would be burdensome. If the Minister's good intentions are that there should be consultation, there is no reason why that should not be set out in the Bill. That would ensure that consultation would take place, including with trade unions and others who have a direct interest.

I understand that the Prime Minister said in his CBI speech that consultations could be burdensome—perhaps that is the word of the week—and that he wanted to slash consultation periods in the future. I am sure that the Minister did not have any of that in his mind when he said that he wanted to ensure there was consultation—that is referred to in some of the documents he has given us—yet he will not take the next step by ensuring that the Bill provides for it. Perhaps he does not want to be out of step with the broader strategy of the Government. If consultation is to be slashed in future, I do not think it would be a good thing, although I do not believe in consultation for its own sake. It should always have a purpose and be carried out with a view to taking action at the end of it. Amendment 57 would ensure that consultation would take place.

Amendment 58 would put another of the Minister's good intentions in the Bill so that no one would lose out. It was important that he set out his points on record, but it would have given some comfort to members of the schemes if he had showed that he had listened to what they were saying, and what has been represented to him in Committee, by accepting the amendments. That would send the message that he is a listening Minister—and an acting Minister, who is prepared to do something rather than simply listen. "Listening" is another word that is being used a lot at the moment, because I have heard the Minister say on numerous occasions that he and others are listening. We seem to be listening all over the place, but surely at some stage

we have to do something as a result of listening to representations. I am therefore not minded to withdraw the amendment at this point.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 6]

AYES

Ashworth, Jonathan	McGovern, Alison
Gilmore, Sheila	McKenzie, Mr Iain
Jamieson, Cathy	
Leslie, Chris	Paisley, Ian

NOES

Burt, Lorely	Hands, Greg
Doyle-Price, Jackie	Javid, Sajid
Evans, Graham	Jones, Mr Marcus
Freer, Mike	Leadsom, Andrea
Fuller, Richard	Williams, Stephen
Gibb, Mr Nick	

Question accordingly negatived.

The Chair: Does the hon. Lady wish to move amendment 58?

Cathy Jamieson: I am disappointed that the Minister is not accepting our amendments, but I do not intend to press amendment 58 to a Division.

The Chair: We shall therefore move on.

Cathy Jamieson: I beg to move amendment 59, in clause 11, page 7, line 19, leave out 'negative' and insert 'affirmative'.

The amendment seeks to change clause 11 by replacing the word "negative" with "affirmative". That will come as no surprise to the Minister and his colleagues. We have previously made such suggestions on a number of occasions where we believe it would be more appropriate to have the affirmative procedure in place. Once again, we want to put the issue on record.

As I have said in relation to previous amendments, representations have been made by external stakeholders on this point. Without going over again every part of the debate we have had on other clauses and amendments, it is worth putting on record that employer cost caps can result in an increase in employee contributions or a reduction in benefits. That is essentially what could happen. Therefore, I believe it is essential that regulations setting those cost caps are subject to proper parliamentary scrutiny. We did not get assurances and agreement from the Minister on previous amendments, which would have put in the Bill safeguards that he wishes to see. I hope that he will at least accept that those regulations should be subject to the affirmative procedure.

I heard what the Minister said about consulting affected members and their representatives. We have seen some of that in the paperwork provided on the setting of the employer cost cap. However, I have to say that failure to accept our amendment to put that consultation in the Bill gives all the more reason to have the affirmative procedure in place, as parliamentary scrutiny is important.

I think the Minister would agree that these issues have the most impact on scheme members but, as he rightly said, they also have an impact on the taxpayer as the potential backstop. It is important that all hon. Members have the opportunity properly to scrutinise any proposed changes in future. With amendment 59 we are simply trying to ensure that parliamentary procedure is in place to take account of that and that Members have the opportunity of thorough scrutiny before any decisions are made.

Sajid Javid: The amendment would oblige Parliament to debate and formally approve the regulations that will set in place the size of the margins—the ceiling and floor—around the cost caps, and the level to which costs should return if the margins were breached. We recognise that the regulations will be of interest to scheme members, their representatives and parliamentarians, especially because they will specify the point to which costs will return in the event of a breach of the margins. To provide an effective control on the costs faced by the taxpayer, we intend to require schemes to return to the original level of the cost cap in the event that the 2% margins are breached.

The Government have made clear their commitment to the margin being set at 2% above and below the level of the cap. Parliament can therefore be assured of our intentions in relation to the cost cap. We consider it unnecessary to commit further parliamentary time to debating the regulations. The negative procedure balances the efficient use of parliamentary time with the need to achieve the correct level of scrutiny. Making the regulations subject to the negative procedure means that Parliament will still be able to scrutinise them before they are laid and debate them if parliamentarians consider it necessary. The use of the negative procedure is in line with the usual approach to making regulations on public service pay and pensions matters when the broad policy design is set out already in primary legislation.

I urge the hon. Lady to consider withdrawing her amendment.

Cathy Jamieson: I am concerned about what the Minister said. He said that the regulations were being dealt with in the usual way. A bold, brave Minister would have said that he would do something different and break new ground and, perhaps, give Parliament the opportunity to have a greater level of scrutiny.

I am genuinely concerned. Some issues have been raised before in relation to other clauses and amendments. The Minister mentioned the scheme costs rising by more than 2% above the cost cap, the point being that

"action will be taken to return costs to the level of the cap. This may be achieved via adjustments to member benefits accruing in respect of future service, adjustments to member contributions, or via some other method."

We are concerned about "some other method", because we do not know what is covered by those words. That wording is lifted from the summary of the paperwork that has been provided to us. Yet, as I have already mentioned, page 6 of that document elaborates on the point, stating that there is

"no intention to make changes to benefits already accrued via the cost cap mechanism."

As I said earlier, that is not as strong a statement as we would have liked. I should have thought that the Minister would welcome the opportunity to give additional scrutiny

[Cathy Jamieson]

in such circumstances. It would be no bad thing if there were more involvement in, and a higher level of awareness of, these issues among hon. Members from all parties, and if they were involved in the process.

I am disappointed that, once again, the Minister will not accept the amendment, which is relatively modest, straightforward, sensible, logical and would have sent a signal to those who are concerned about the Bill. Although I will not press the amendment, we may return to the matter. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause, as amended, stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 7—*Maximum annual public pension*—

'Employer contribution to any individual pension will cease when that pension accrued an actuarial value equivalent to an annual pension upon retirement age equivalent to two times national gross average earnings as derived from the Office for National Statistics.'.

Sajid Javid: A key objective of the reforms is to ensure that the cost of pensions remains sustainable. To achieve that, Lord Hutton recommended that the Government establish a mechanism to control the costs of pensions and ensure that the risks associated with pension provision are shared between members and taxpayers. The clause provides for such a mechanism by establishing an employer cost cap in the pension schemes made under the Bill. That will provide backstop protection for the taxpayer by ensuring that if there are significant and unexpected changes in the cost of providing pensions, action will be taken to ensure those costs remain sustainable.

9.30 am

On the detail of the clause, subsections (1) and (2) require scheme regulations to set an employer cost cap, defined as a percentage of pensionable earnings of the members of the scheme, to be used for measuring the cost of the scheme and any schemes connected with it.

Subsections (3) and (4) provide for Treasury directions to set out the technical details around how the cap will be set and how future costs, and changes in costs, will be measured against it. Changes to costs classed as employer costs will not be included when changes in costs are measured against the cap. That will mean that changes to financial assumptions, such as the discount rate used to value future benefits, will not lead to scheme changes.

To avoid schemes being required to make frequent changes due to small fluctuations in scheme costs, subsection (5) will require the Treasury to make regulations providing for margins on either side of the cap. Only if costs go beyond those margins—if they are higher or lower—must action be taken to bring them back to the level of the cap. Those margins will be set two percentage points either side of the cap.

If action does need to be taken, subsection (6) provides for consultation with scheme members, or their representatives, to reach agreement on the change needed to bring scheme costs back to the cap. That will ensure that the interests of members are fully considered when any such changes are contemplated. That adjustment may be an increase or decrease in the contributions that members make to the cost of the scheme, or an increase or decrease in their future benefits.

The clause is intended to be forward-looking, and not to affect any accrued rights. A number of protections exist for accrued rights, and we have discussed them before. They include the enhanced consultation procedure, the affirmative procedure requiring the consent of all relevant legislatures, and the European convention on human rights.

If there is no agreement, the clause requires scheme regulations to include a default mechanism to bring costs back in line with the cap. That will be required only if, after full consultation, agreement cannot be reached on a way to bring costs back under control.

Richard Fuller (Bedford) (Con): We are all in it together, and we now come to new clause 7, which stands in my name. It would put a cap on the contributions that taxpayers will make to those in public sector pension schemes who will receive an annual pension more than twice average national earnings. That strikes for fairness between rich and poor, and between the public sector and private sector. Most importantly, it would assist the Government in achieving their goal of a pension scheme with sustainable, stable costs.

I hope that Opposition Members will leap at the opportunity to support the new clause, and I shall be interested to hear the views of Opposition Front Benchers on it.

Sheila Gilmore (Edinburgh East) (Lab): Will the hon. Gentleman tell us whether similar provisions should be introduced in the private sector for people working in businesses of all kinds, such as insurance companies and banks, where, as we are all aware, there are some extremely generous pension arrangements?

Richard Fuller: That is a very good point. Those precautions are already in place; it is certainly within the purview of boards of directors of private companies to set pension arrangements for their senior executives. Putting in place caps and reducing the amounts involved is already perfectly feasible in the private sector. I would like to see that discipline put in place in public sector pension schemes, and not only through the new clause. I would argue, and have argued, for the affordability of pensions more generally through a fully funded scheme.

Chris Leslie (Nottingham East) (Lab/Co-op): I am intrigued by the hon. Gentleman's arguments. He obviously understands that the public sector—the taxpayer—provides a lot of tax relief on private sector pensions. Is he saying that that tax relief should be structured so that it no longer contributes to private pensions if they exceed twice annual earnings?

Richard Fuller: That is a fair question, but one for another day. Today we are arguing about the direct contribution that taxpayers make to the people who provide our public sector services. As I mentioned to the hon. Member for Edinburgh East, there are already many provisions within the arrangements for how a private sector company manages its own scheme.

Chris Leslie: Is there a tax relief cap?

Richard Fuller: I want to stick strictly to the new clause. The objectives in the new clause relate to the management of a pension scheme. Of course, the hon. Gentleman is right to raise the issue of whether the Government have the appropriate tax policies regarding tax relief on pension schemes. We will debate that issue in the November public statement and the Budget next year. There will be a time and place to debate that. This debate is about managing the public finances for the management of public sector schemes. I do not wish to be drawn by him into talk of other issues.

Alison McGovern (Wirral South) (Lab): Will the hon. Gentleman give way?

Richard Fuller: As long as I am not going to be drawn again, I am happy to give way.

Alison McGovern: I am trying to understand the hon. Gentleman's argument. Is the basis of his new clause that discipline is needed in public sector pensions that would match or be allied to that demonstrated in private sector schemes?

Richard Fuller: I think I am heading that way, yes. The objective is to try to provide some sense of discipline and affordability into the way in which public sector pension arrangements are made, which would match what we would like to see as best practice in the private sector. That would move us towards a funded public sector pension scheme, rather than a tax-as-you-go scheme. It would ensure that the assumptions that are made in the actuarial valuation of those pension schemes live up to the highest standards expected in the private sector. I would argue that we need a sense of balance between what in this instance could be termed our shareholders—the great British public—and the people who receive pensions.

In that regard, it is difficult for me to defend to the people of Bedford and Kempston the idea that it is appropriate to pass a Bill under which people will be able to take a pension from the public sector purse that is more than twice the earnings that they make each year as they go out to work, and which they fund. The workers in Bedford and Kempston fund the difference between the individual's contributions and these very high public sector pensions.

Alison McGovern: I thank the hon. Gentleman for his honest and frank answer. He has said that the basis of his new clause is the discipline demonstrated in the private sector over pension levels. Will he share the data he has about pensions available to those in private sector schemes and the figures that demonstrate that they show the discipline that he now asks the public sector to share?

Richard Fuller: Of course, we live in a free society where the people who provide that information and are responsible for it are the shareholders of the companies providing the pensions. My responsibility as a Member of Parliament is to act as guardian of the amounts charged to the individual taxpayer. That is my responsibility, and I think I am fulfilling it fully by questioning whether it is appropriate, as we look to set up a stable and sustainable public sector pension scheme at a time when the public finances have been left in such a parlous state by the Labour party, that I should go back to the people of Bedford and Kempston and tell them, "I know that your average earnings are £24,000 a year, but it is quite okay for someone to take £49,000 a year in their pension from the public purse to which you contribute as a taxpayer." It is perfectly fair and reasonable to question that.

Andrea Leadsom (South Northamptonshire) (Con): In my role as a councillor I discovered that certain people who, by dint of taking long-term sick leave, ended up retiring extremely early, had their public sector pension made up so that they did not lose out in their final retirement pension. That was completely unfair to taxpayers. Because it was possible to do it, councils voted for it, which was blatantly unfair.

Richard Fuller: I greatly appreciate my hon. Friend giving a direct example from her own experience about when people can fall down on their responsibilities to stand up for taxpayers and for the appropriate value that people should be given in certain circumstances. It is a bit disingenuous—I am not sure whether that is an unparliamentary term, so perhaps I should say that it is intriguing—that Labour Members make such observations about the private sector and drag us away from the core point here. Do they think it fair that we should permit people to take pensions from the public purse of £50,000 a year or more?

Let me give an example that might help Members consider the fairness here. I had an interesting walk around the judicial pensions scheme. I hope that no one here will be meeting a judge fairly soon; I certainly hope that I will not after what I am about to say. A note from July 2012 talks about the changes that are being made as a result of the negotiations between the Government and the judges' scheme and refers to:

> "Indicative proposed scheme member contributions of 7.35% for those judges earning up to £149,999 and 9% for those earning £150,000 and above."

This is about not only the gross amount of pension provided but the fact that a very large contribution is being requested from taxpayers. Those contribution rates also seem unfair when compared with contribution rates of some of the other people we have spoken about. The contribution rates for our firefighters are rising to 12% or 13% of their salaries and their salaries are but a fraction of the £149,999 salaries these judges earn.

Chris Leslie: I am grateful to the hon. Gentleman, especially considering the stress he is under having to do the casework of his neighbour the hon. Member for Mid Bedfordshire (Nadine Dorries).

We obviously have a number of banks that are currently in public sector ownership. In a sense, the taxpayer contribution comes through the tax reliefs given on some of their massive schemes. I take it that the hon. Gentleman implicitly argues for some cap on tax reliefs that could affect those in public ownership, for example.

Richard Fuller: I appreciate the hon. Gentleman raising the issue of the banks in public ownership. The arrangements for that were set by his right hon. Friend the Member for Kirkcaldy and Cowdenbeath (Mr Brown)—he could ask him if he could find him

[Richard Fuller]

somewhere. Perhaps he has moved down to Australia too. It was the last Government who set those arrangements and arranged those pay packets. It was the last Government who thought that was fair. Those are questions for the right hon. Gentleman if it is possible to find him.

Again, I find it intriguing that Labour Members are almost incapable of addressing the issue of fairness when it comes to asking taxpayers—hard-working taxpayers in the private and public sector on average or below-average earnings—to reach into their pockets to put some money aside each month so that a judge earning £150,000 a year can achieve a pension far in excess of what they will get without paying for it in any substantial way.

Graham Evans (Weaver Vale) (Con): My hon. Friend makes some important points. Does he agree that Labour Members never mention the 13,000 low-paid private sector workers who do not have a pension? They have no provision for their retirement. They pay taxes to pay for the very high earners in the public sector. Labour Members never mention them.

9.45 am

Richard Fuller: My hon. Friend makes an extremely good point. Let me just build on that. We have talked a number of times about the average pension that people get, but we forget that many private sector workers have to provide savings to achieve that sort of pension. We have talked about the average public sector pension, which is about £7,000 a year. It is true that that average is a bit misleading because it does not take into account the periodicity of time, but somebody in the private sector would have to save £140,000 to get an average pension of £7,000 a year.

I can see that you are keen, Mr Benton, to find out how much someone would have to pay for a pension of, say, £40,000 or £50,000. Well, for £40,000, which is slightly less than the cap I am proposing in the new clause, somebody would have to save £800,000. Unless somebody bought property in London about 15 years ago and was very lucky with the location, they are going to find it very difficult to raise £800,000 on average earnings. If they are on £50,000 in the private sector, they will find it extraordinarily difficult, when they have to meet their everyday expenses, to save £800,000.

Yet, despite the cost-cutting consensus we have on setting public sector pensions, with both sides agreeing to reasonable Government proposals, we are still not saying that we are going to do something about people on very high public sector pensions. We are not meeting our responsibilities as guardians of taxpayers, current and future.

When we look at participation, we can see that we are on to something. Rightly, Members on both sides of the Committee have said that the current and proposed public sector pensions are a good deal for public sector workers, and they are. We want people to participate in public sector pensions, because, rationally speaking, that is in their best interests. Page 79 of the 10 March 2011 report by the Hutton commission shows participation rates in public sector pension schemes by income bracket. Interestingly, however, it shows that those on lower incomes in the public sector participate less than those on higher incomes. Participation rates go up, however, when it is easier for people to contribute, when they see that for every 9% they put in the taxpayer puts in 41%, 42% or 43% of that amount, and when they can afford the amounts involved. Rightly, the Government's cost cap—the Minister will confirm this is true of the clause—will help those on low and middle incomes. New clause 7 is another stride towards achieving that fairness and responsibility in the public sector overall cost cap.

On the scale of the problem, if just one or two people were taking £50,000 or £60,000 a year in public sector pensions, that would not be worth talking about. However, the Intergenerational Foundation report "Are Government Pensions Unfair On the Younger Generation?" reviewed the schemes for the NHS, the civil service, teachers, the armed forces, local government and the police. It found that 148 people in the current pension schemes receive a public sector pension in excess of £100,000 a year. That is a cost each year of £15 million, which would pay for a number of things in each of our constituencies. More worryingly—this is the reason why the new clause refers to two times average earnings—there are more than 12,000 public servants receiving pensions between £50,000 to £100,000.

All those numbers are going to increase. We are talking about people who are already retired, but we have seen a significant increase in the number of public sector employees over the last 15 or 20 years. Over that period, average earnings in the public sector have also gone up relative to average earnings in the private sector. Therefore, the proportion of people in these brackets will go up. With 12,000 people on between £50,000 to £100,000, the taxpayer is being asked to pay something like £1 billion a year for people to receive an income that is twice the average income in my home town.

I will finish there and open up the discussion to see whether there are other Members who share that view, and then I will consider whether to press the new clause to a Division.

The Chair: May I clarify the position? We are debating this issue with clause stand part. So, for the benefit of the hon. Gentleman, he may move the new clause formally when we come to the new clauses at the end of our proceedings. I put this cautionary note to the members of the Committee because it is only today that they will have the opportunity to discuss new clause 7. When we come to it, we will ask the hon. Gentleman whether he is of a mind to move it formally. For the benefit of any Members who are new to the procedure, I point out that now is the opportunity to debate new clause 7.

Cathy Jamieson: Thank you very much for that clarification, Mr Benton. I await with interest to hear what the Minister will say in response to his colleague, the hon. Member for Bedford, who seems to be getting into some of the thinking as to where the Government might go if his current situation—I understand that he is covering not one but two constituencies, in respect of representing the taxpayer—continues. Perhaps he will be in a ministerial position at some stage and is anticipating where the Government will go.

I would perhaps take the hon. Gentleman's comment about the issue of fairness for private sector workers, which he raised and is concerned about, slightly more seriously if he had not been supportive of the cuts to

working tax credits for part-time workers who are working 16 hours a week. They are some of the least well-paid workers, who would surely have benefited from his support if he had stood up in Parliament to champion their cause at some stage. So his approach is perhaps not the best way to consider the issue of fairness.

My hon. Friends the Members for Edinburgh East and for Nottingham East rightly asked what the hon. Gentleman's intentions are in relation to the private sector and to banking, but their questions were not answered. If he were seriously proposing this new clause, surely he would be able to have some answers to those questions, particularly on the taxation regime.

My understanding is that, among the pension pots that have been approved for former employees of Royal Bank of Scotland, HBOS and other banks, there is certainly one where the promised annual pension is in the region of £1.4 million and the pension pot is worth more than £16 million. That seems to be top of the league table that has been put together in relation to those things. That figure goes down—if I can use that phrase—to a pension of around £220,000 a year, with a pension pot of around £2.41 million. I hope that the hon. Gentleman will give some consideration to those particular issues as well, because those banks are banks in which the taxpayer has a stake.

Richard Fuller: The hon. Lady is making a helpful contribution; I am actually quite intrigued by what she is saying. She mentioned the pensions for former bank employees. Obviously, at the time those contracts were made, those banks were in the private sector, but those bills will now be paid by the public sector. Therefore, does she think that those pension arrangements should be changed retrospectively? Just so I can be clear, is that what she is suggesting?

Cathy Jamieson: Perhaps the hon. Gentleman could give some clarity. Is that not what he himself is proposing should be done in the circumstances?

Richard Fuller: I think, as the hon. Lady said in an earlier contribution, that the path of retrospective legislation would not be a good path for us to go down. The proposal would be applied henceforth to people's contributions to public sector pensions. It would be difficult to pick off certain people and say that the provision should apply retrospectively when, in general, we are not doing so.

Cathy Jamieson: The hon. Gentleman tries to give us some clarity. His interest in not applying things retrospectively is something that will be noted for future reference, as will perhaps his lack of clarity on whether the new clause would have that effect. I am sure that the Minister will comment on that at some point.

I understand, Mr Benton, that we have the opportunity to discuss not only new clause 7, but clause 11 stand part, and I want to put on record that the Opposition tabled what we thought were three sensible amendments in order to give the necessary reassurance—I will not repeat all the arguments—to those most affected. We wanted assurances on consultation, approved benefits and parliamentary scrutiny.

I want to quote from "Establishing an employer cost cap in public service pension schemes". Paragraph 1.12 states:

> "Treasury consent will be required before the changes are implemented, in line with the general requirement for Treasury consent for scheme changes."

However, paragraph 1.13 states:

> "While the Government expects that agreement would be reached via this process, the Bill sets out that there may be a default action"—

to which the Minister referred earlier—

> "if this is not the case. Scheme regulations will therefore set out what should be changed if there is no agreement within a specified period."

Notwithstanding the Minister's good intentions, people are still concerned about what that would mean in practice. We still have some concerns about clause 11, but we may revisit the issues in future, so I will save my remarks until then.

Sajid Javid: Before I discuss new clause 7 in detail, can I say that I appreciate the comments of my hon. Friend the Member for Bedford and his desire to control the costs of public service pensions? Controlling such costs, as we have discussed, is an important part of the Bill and the Government have spent considerable time focusing on it. Lord Hutton recognised the need to balance the concerns of the taxpayer against the importance of providing decent levels of income in retirement for public sector workers. It is vital that the Government take steps to achieve that aim.

The Government's view is that the employer cost cap effectively controls the costs of the new schemes while ensuring that public service pensions remain among the best available. The Government, particularly my right hon. Friend the Chief Secretary, have discussed the reforms on several occasions, and it has been paramount among their objectives that public sector pensions remain among the best that can be achieved given the constraints on public finances.

Although the proposals of my hon. Friend the Member for Bedford may appear to be attractive to some hon. Members, they may not deliver the kind of cost control that is envisaged and could have an undesirable impact on recruitment and retention in the public sector. They could, for example, encourage individuals to game the system, where some individuals would be dodging from one scheme to another to avoid reaching such a cap. The Government would also be concerned that such a cap might run counter to the principles of fairness and simplicity that the Bill aims to deliver, and might discourage high-quality individuals from taking on vital roles in the public sector and remaining there once they have done so. As all Members have acknowledged, those roles are important, as is the principle of attracting good people to vital areas of public service, and retaining high standards.

10 am

When my hon. Friend made his case, he focused on a number of issues. One key point he made, which I can fully understand, was that many of his constituents will look at the generosity of public sector pensions, even after these reforms have gone through, and, if they

work in the private sector, as the vast majority of the public do, they might compare those pensions to their own and think that public sector pensions are still among the most generous and decent in terms of level of retirement income available. However, the Government have always said that, although it is valid to make comparisons between the public and private sectors, we do not intend to have a race to the bottom. We want to make sure that public sector pensions remain among the best available.

Richard Fuller: My hon. Friend is making the core of the Government's point: that, in these reforms, they have been very much focused on those on low and middle incomes, to ensure that there is the right balance between fairness of contributions being asked for from people on such income levels, and the very good pensions that the Government are protecting for people in the public sector.

I would like to take my hon. Friend back to the point he made about attracting and retaining talent at the top. In the private sector, we talk about that a lot, and the private sector sets its pay and pensions accordingly. However, in many private sector companies the focus has been on pay rather than deferred pay in the form of pensions. I would argue that the way the Government do their accounts could mean that, by putting more reliance on protecting these very large pensions—as I mentioned earlier, they are not accounted for in most forms of public sector accounts—we are passing the cost burden of attracting the best and brightest on to future generations, when we should be paying it for now. Does the Minister therefore agree that, for those on higher pay, the emphasis should be on immediate pay rather than deferred pay in the form of a pension, just from the point of view of having the appropriate balance between current and future taxpayers?

Sajid Javid: My hon. Friend makes a good point, and has clearly researched all the issues very carefully. He has brought up on a number of occasions the burden on future generations and the contributions they will have to make towards meeting these pension commitments. The Government have gone some way in trying to have more transparency and openness about what those burdens might be; for example, the publication of the whole of Government accounts tries to put a detailed number on the size of those liabilities. That is good and is something the Government need to take into account, as indeed do other stakeholders, when we look at the size of the burden on the Government and how that will be met by future generations.

Nevertheless, despite the good arguments that my hon. Friend has made, the Government's opinion on the principle of new clause 7 remains unchanged. We want to make sure that, after these reforms, we still have a fair and generous pension system that attracts the best talent but is affordable and sustainable in the long term for the taxpayer. I therefore ask my hon. Friend not to press new clause 7.

Question put and agreed to.

Clause 11, as amended, accordingly ordered to stand part of the Bill.

Clause 12

EMPLOYER CONTRIBUTIONS IN FUNDED SCHEMES

Sajid Javid: I beg to move amendment 11, in clause 12, page 7, line 26, leave out 'scheme' and insert 'pension fund'.

The Chair: With this it will be convenient to discuss the following:

Government amendment 12.

Amendment 60, in clause 12, page 7, line 29, at end insert

'or, where a pension scheme consists of more than one fund, separate actuarial valuations of each fund.'.

Sajid Javid: Amendments 11 and 12 clarify the objectives that must be met in setting employer contribution rates in funded public service pension schemes. Local government pension schemes are the only funded defined benefit schemes that we currently know will be made under the Bill. Clause 12 is for them, and it ensures that local fund valuations in that scheme will continue. If, as my hon. Friend the Member for Bedford would like, there were to be other funded schemes in the future, the clause would also apply to such schemes.

Amendment 11 clarifies that scheme regulations must provide for employer contribution rates to be set at levels that will ensure the solvency of the pension fund rather than that of the scheme. The amendment is designed to make it clear that where a pension scheme has more than one pension fund—as is the case in the local government schemes in Scotland, and in England and Wales—the solvency objective in clause 12(2) relates to each fund separately. As the clause stands, it would allow scheme regulations to specify that the objective to be met is the solvency of the scheme as a whole. The practical effect of that would be to allow the scheme regulations to provide that each local authority pension fund had to set its employer contribution rates with regard to meeting the solvency of the national local government scheme, which is not necessarily appropriate. It is clearly appropriate for each local authority pension fund to be responsible for the solvency of its part of the scheme. Naturally, when each fund meets that objective, the solvency of the scheme as a whole is secured.

Amendment 12 makes an equivalent change to the other funding objective in clause 12(2). It makes it clear that each pension fund must have regard to the long-term cost-efficiency of their part of the pension scheme when setting employer contribution rates. We will no doubt come to this in the stand part debate, but it might be helpful if I explain two key things about clause 12. First, it provides for each pension fund in a scheme to undertake an actuarial valuation and for that valuation to inform the employer contribution rates that it sets. Secondly, HM Treasury directions under clause 10 will not apply to those pension fund valuations.

Amendment 60 is clearly intended to put beyond doubt the fact that valuations are to be undertaken for each and every pension fund in a scheme, but the amendment is not necessary. The clause already requires that to happen, and amendments 11 and 12 clarify the matter further. Members will be familiar with the

Interpretation Act 1978, which in this case ensures that "pension fund" in subsections (1) and (3) shall be read as "pension funds" where necessary, because

"unless the contrary intention appears…words in the singular include the plural".

No other reading can therefore be applied to clause 12. The amendment might unintentionally make it harder to read other references in the Bill to "pension fund" in the plural where that is appropriate. For that reason, amendment 60 is unnecessary and therefore inappropriate, and I urge the hon. Member for Nottingham East not to press it to a vote.

Chris Leslie: I am grateful to the Minister for pre-empting my argument in favour of amendment 60. Before we come to that, however, Government amendments 11 and 12 are fairly straightforward minor drafting changes and I have no objection to them. I am glad that the Minister took the opportunity to draw them to the attention of the hon. Member for Bedford, who has made the case admirably for his own public sector pension contributions to be augmented by those of the hon. Member for Mid Bedfordshire (Nadine Dorries) while she is in the jungle. The Minister ought to consider that proposition.

I want to speak to amendment 60. The Minister rests on the arguments in the Interpretation Act 1978. That Act is an old favourite of Committees, and if I had a copy in front of me it would be interesting to go through the grammatical strictures that it places on various Acts of Parliament. The Minister was almost poetic in his quoting from that Act, saying that words in the singular apply in the plural; however, I understand where he is coming from. Rather helpfully, during last Tuesday's lunch period, he published the impressive piece of prose, "Actuarial valuations of public service pension schemes", which includes the commitment that:

"Individual local government pension funds will continue to carry out their own scheme valuations, as they do now."

That is a helpful commitment in the document, and the Minister's words are useful. Our amendment was designed to put that issue beyond doubt, because given the different demographics, employers, members, assets, investment strategies and so forth of each different local government fund, it was important that we clarified the need for each fund to be valued separately, and we thought that it was helpful to point the issue out to the Minister. It would have been better to put that in the Bill, as a little bit of a loophole has been left in the legislation. However, the Minister has done enough to put the Government's interpretation of the Interpretations Act on the record, so I am content to leave it at that and I will not press amendment 60.

Amendment 11 agreed to.

Amendment made: 12, in clause 12, page 7, line 27, at end insert

', so far as relating to the pension fund'.—*(Sajid Javid.)*

Question proposed, That the clause, as amended, stand part of the Bill.

Chris Leslie: Clause 12 covers the issue of the valuation of funded schemes more broadly, and in the document published by the Minister last week there are some helpful points about how that will work. We have had an assurance about separate valuations, which was our main point, but I have a couple of specific questions for the Minister. He might have to write to the Committee because I would not expect him necessarily to have the figures to hand, but it is not impossible.

A lot of valuation changes are involved in these measures, many of which are welcome, but I wonder if the Minister has put a cost on those changes to the valuation processes. Obviously, members will have to bear some of the costs involved. We will talk about the management, administrative costs and so forth later on, but I do not know whether any assessment has been made of whether the total cost of undertaking those valuations will remain broadly the same as under existing funds, or will be higher. If they are higher, presumably they will be deducted from scheme funds, so will the Minister tell us whether any assessment has been made along those lines?

I will not ask the Minister to explain the SCAPE fund process—superannuation contributions adjusted for past experience—a wonderful acronym that the Minister will be familiar with; but I notice that the process says that as the valuation changes, there will be increases, assumed in line with actual returns, but also a discounted rate process that will be set at 3% plus CPI. I gather that some process is going on, either at the Office for National Statistics or in the Treasury, to review the statistical methodology for the CPI and the RPI, on which so many policy areas depend. Will the Minister clarify that and update the Committee about the revision of the methodologies for the CPI and the RPI, which are relevant here? Is an announcement imminent? Is there a process and if so, what is it? Obviously, changes to the methodology for the CPI and the RPI are incredibly important and relevant to the valuation process.

10.15 am

Sajid Javid: It will be appropriate for me not only to answer the hon. Gentleman's questions, but to talk in more detail about clause 12. The clause is concerned with ensuring that appropriate employer contribution rates are set for local government pension funds. There are 89 pension funds in the local government scheme in England and Wales, 11 in Scotland and one in Northern Ireland. In Scotland, England and Wales, the funds are managed by local authorities; in Northern Ireland, the fund is managed by the Department of the Environment.

The funds exist to provide a mechanism for local authorities to set aside money to meet the future cost of paying pensions, allowing them to manage their liabilities and defray the costs of paying scheme benefits. Local authorities are appropriately accountable to their residents. The clause will ensure the continuation of the existing practice of undertaking regular and transparent valuations of the pension funds. It provides that the role of those valuations will continue to be about informing the rate at which employer contributions are set. It requires that those contributions are sufficient to meet the accruing liabilities of the pension fund and to address any deficits. The hon. Member for Nottingham East asked about the cost of the ongoing valuations. I do not have information about the estimated costs of the schemes to hand, but I am happy to look into it and, as he suggested, to provide that in writing.

[Sajid Javid]

The clause goes further than current arrangements in two ways. First, it provides that employer contributions not only will be sufficient to ensure the solvency of the pension fund, but must be set at a level ensuring the long-term cost-efficiency of the part of the pension scheme that relates to that fund. That will prevent any short-term suppression of contribution rates that would defer costs to the future and that would therefore fail to meet the liabilities of the scheme responsibly.

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

That is the right course of action. Local authorities should be free to determine how to meet their liabilities from their resources, and must do so openly and transparently. However, a backstop is needed, given the risks underfunding pension funds might have on scheme employers, local council tax payers and local government services. The Secretary of State will therefore have reserve powers to intervene if an identified problem is not addressed satisfactorily. In Northern Ireland, that power will be reserved to the Department of Finance and Personnel, given that the Department of the Environment rather than local government is responsible for that pension fund.

I understand why the hon. Gentleman asked about the ONS calculation of CPI and RPI. As he rightly pointed out, the rates have an impact on pensions, Government bonds and other things. Those are the correct rates to use, but I do not think this is the appropriate venue to discuss this matter. It is not part of the clause, and it would not be appropriate for me to say anything that might pre-empt any review.

Chris Leslie: I accept that this is a small aspect of the issues raised by clause 12. Obviously, valuations that rest on pricing indices are going to be affected by potential imminent changes to the methodology. I am not necessarily asking the Minister what the outcome of the reviews will be. I simply want him to confirm whether reports that the Government are reviewing RPI and CPI are correct, and to shed some light on the situation. If he cannot do that today, it would be sufficient for him to write to the Committee.

Sajid Javid: The hon. Gentleman raises this issue because he is rightly concerned, but I do not think it will be necessary for me to write to the Committee because there is nothing more that I could say in writing than I can say now. If the rates he mentioned are being reviewed, the Government will announce that and make the details available at the appropriate time, but this is not the time.

Question put and agreed to.

Clause 12, as amended, accordingly ordered to stand part of the Bill.

Clause 16

Closure of existing pension schemes

Chris Leslie: I beg to move amendment 65, in clause 16, page 9, line 33, leave out subsection (4) and insert—

'(4) The closing date is 5 April 2015 subject to subsection (7).'.

The Chair: With this it will be convenient to discuss amendment 78, in schedule 5, page 38, leave out lines 34 to 40.

Chris Leslie: Given that we have already debated clauses 13 to 15, we have now skipped to this important clause on the closure of existing pension schemes. I am grateful for your wisdom in grouping the two amendments, Mr Benton, because they are closely related.

Clause 16 will close the vast majority of public service pension schemes, including the funded local government pension schemes. Amendment 78 would remove the local government pension funds from the list of schemes in schedule 5 that would be closed by clause 16, while amendment 65 correspondingly removes the reference to a closing date for local government schemes.

The amendments have arisen due to widespread concern that has been expressed, not least in our evidence sessions. Lord Hutton told the Committee that the way in which the provision dealing with scheme closures might affect local government pension schemes was a great concern, and that was a recurrent theme in our oral evidence. Jeff Houston of the Local Government Association and Bob Summers of the Chartered Institute of Public Finance and Accountancy, among others, expressed serious misgivings about the effects of clause 16 and the closure of local government pension funds.

The main concern was that closing the existing schemes by a set closing date would trigger what are known as section 75 debts in many local government schemes that are currently in deficit, meaning that each participating employer would immediately become liable for its share of the scheme's debts. Lord Hutton said of the possibility of closure:

"There could be a crystallisation of deficits at that point, and we really should avoid that if at all possible."—[*Official Report, Public Service Pensions Public Bill Committee,* 6 November 2012; c. 161, Q50.]

The crystallisation of scheme debts would almost certainly lead to some employers facing massive financial difficulty, and those small organisations that are part of the local government pension scheme might even face insolvency. That includes academies, which are now party to many of these local government schemes.

I have two significant secondary academies in my constituency, and new primaries are also coming on stream. They would be aghast at the prospect of suddenly being faced with a massive bill for the crystallisation of debts accruing as a result of the closure of the local government schemes that the Minister envisages under the clause. The sums could be hundreds of thousands of pounds in some circumstances, which would not be something that academies would welcome. As individual schools will be outwith the protections of normal local education authority arrangements, the burden could be considerable. The same goes for third sector organisations

and charities involved in those schemes. That is our most imminent anxiety about this provision, although obviously it would affect local authorities up and down the country too.

In his evidence to the Committee, Lord Hutton identified many other problems created by clause 16, all of which stem from the fact that closure—the word used in the Bill to close the funds—could create two separate schemes: an old scheme and a new scheme. Such a situation would create extra costs, such as because of the need for different advisers and auditors for both schemes. Lord Hutton said that he did not think that the Government intended to create such problems or the crystallisation of debts. He hoped, quite rightly, that clause 16 would be clarified in the future. I hope that we are reaching that point and that the Minister will table amendments on Report so that we avoid such problems.

This essentially boils down to the use of the word "close" which, in pensions law, means that a scheme is to be wound up, although it does not mean that a scheme will end all future accruals. When a scheme is closed, wind-up debts under section 75 of the Pensions Act 1995 are triggered if that scheme is in deficit. That section states:

"If, in the case of an occupational pension scheme which is not a money purchase scheme, the value at the applicable time of the assets of the scheme is less than the amount at that time of the liabilities of the scheme, an amount equal to the difference shall be treated as a debt due from the employer to the trustees or managers of the scheme."

It is pretty clear that the section 75 arrangement applies.

Jeff Houston of the Local Government Association told the Committee:

"I think there are unfortunate uses of the word "close". From conversations with the Bill team, I do not believe that the intention is to bring about a closure as under section 75 of the Pensions Act…I think the intention in clause 16 is to prevent further accrual rather than to close the scheme, although some of my colleagues who are pensions lawyers got very excited about that."—[*Official Report, Public Service Pensions Public Bill Committee,* 6 November 2012; c. 196, Q99.]

He later said that if the Bill was not meant to close, as in closure under section 75, its provisions needed to be changed to make that clear. I therefore look forward to the Minister's agreement that amendments will be brought forward on Report as a matter of priority. I understand that might take place on 3 December, which is not that far away.

Other witnesses spoke about the poor use of the word "close". Brian Strutton of the GMB spoke of the catastrophic consequences that could follow the closure of the local government funds and said:

"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."—[*Official Report, Public Service Pensions Public Bill Committee,* 6 November 2012; c. 152, Q30.]

Amendments 65 and 78 would simply remove references to the local government pension schemes from clause 16 and schedule 5, essentially so that the 89 funds are not closed by the Bill, but amended by it. They are fairly straightforward amendments, but they would save an awful lot of aggravation, cost and potential catastrophe, particularly for those small organisations that are part and parcel of the local government scheme. I commend the amendments to the Committee.

10.30 am

Sajid Javid: The amendments would remove the local government scheme from the requirement to close existing arrangements to future accruals which, as I am sure the hon. Gentleman agrees, could not be justified. However, I appreciate that several concerns have been raised about unintended consequences of including local government schemes in the provisions, so I welcome the opportunity to lay those concerns to rest. The hon. Gentleman's thoughtful contribution needs to be dealt with in some detail.

The Local Government Association, the GMB, Unison, Lord Hutton, the hon. Member for Nottingham East and others raised concern about the crystallisation of fund liabilities during the oral evidence sessions. My officials have met the Local Government Association and the trade unions, and the LGA has explained its concern in more detail. It explained that it was worried that clause 16, as drafted, could lead to the winding-up of a scheme under the Pensions Act 1995. If that were the case, the LGA believed that it could give rise to requirements to meet any shortfall in the funds by virtue of section 75 of the 1995 Act.

Allow me to explain why the Government believe that such concerns are unfounded. I can reassure the Committee that neither clause 16 nor any other part of the Bill requires local authority pension funds to be wound up. It only requires the closure of a local government pension scheme in so far as is specified in clause 16(1). Clause 16, as the Local Government Association and others have acknowledged, simply prevents benefits from being provided under the existing arrangements in respect of a person's service after the closing date.

In other contexts, when a funded pension scheme is wound up, section 75 of the 1995 Act requires any deficiency in the scheme funding to be identified and met immediately, which was the nub of the concerns raised during oral evidence. I assure the Committee that that concern is also unfounded. Not only are the local government pension schemes not being wound up, but section 75 of the 1995 Act does not apply to those schemes in any case, because of an exemption that has been made under section 75(9). The winding-up provisions do apply to other occupational pension schemes. They exist to protect members' interests in the event of employer insolvency or attempts to walk away from pension liabilities. Given the constitutional permanence of local government, the winding-up provisions that relate to other pension schemes do not apply here. I reassure the Committee that local authority pension funds will continue and will apply across both the old and new local government pension arrangements, and scheme regulations will make that clear.

I appreciate that that was a detailed explanation, but I am sure that the Committee will understand that it is important to set this out clearly and fully. There is no intention whatsoever of closing the existing local government pension funds and running separate arrangements for service after April 2014. To do so would be inefficient and there is no reason for it. If, however, having reflected on our reasons, the hon. Member for Nottingham East, the Local Government Association or other stakeholders still think that further clarification is needed, we will be happy to work through that with them. Indeed, my officials will continue to discuss the detail of this with the Local Government

[Sajid Javid]

Association and the trade union side. We believe that the clause is correct as it stands, but if any issues emerge through that detailed work, I will of course consider them and, if necessary, return to them at later stages of the Bill.

With those reassurances, I hope that the hon. Gentleman will consider withdrawing the amendment.

Chris Leslie: I am grateful to the Minister for elaborating on the Treasury's understanding of the measure. I do not wish in any way to denigrate or belittle the legal counsel that he has received from his officials, but it stands in stark contrast to the understanding that we heard from the Local Government Association and CIPFA, as well as Lord Hutton.

The Minister is essentially resting his case on section 75(9) of the 1995 Act. I will certainly look at that provision, but it would have been smarter to try to clarify in the Bill that the word "closure" would not necessarily mean closing the scheme as under that particular Act. I know that the Prime Minister does not like judicial reviews but, as the Minister knows, such matters are justiciable, and there are people who will challenge them from any number of different angles.

Section 75(9) of the 1995 Act does not apply to occupational pension schemes

"falling within a prescribed class or description."

Let us work on the assumption that Ministers will set out the prescription, at another date, that local government schemes are exempt. We can go through the read-across to the 1995 Act at another time—perhaps it would be sensible to do so before Report—but it simply seemed to me that it would be easier to clarify that the Government's intention was to amend schemes, rather than close and wind them down.

Clause 3(1) allows schemes to be amended rather than closed, so closure is not absolutely necessary. It states:

"Scheme regulations may, subject to this Act, make such provision in relation to a scheme under section 1 as the responsible authority considers appropriate."

That means that new regulations can amend scheme rules to ensure that all future benefits are accrued according to the provisions of the Bill and the negotiated terms, which will put an end to accrual under the old rules. Perhaps therefore the Bill does not have to be totally unpicked and there are ways in which we can preserve the overarching design and architecture of the legislation.

However, the problem is not just the crystallisation of debts, because there is also a question about having the two separate schemes—the old and the new—running in parallel, thus leading to management and administrative costs. Lord Hutton pointed out that that was a cause for anxiety. There are also further arguments that I am not sure that the Minister absolutely addressed by his reference to section 75(9) of the 1995 Act.

I am, however, cognisant of the fact that the Minister says that he is happy to work through these questions and, if necessary, to look at making clarifications prior to Report. He has therefore given a prudent commitment, so I do not want to push the issue at this stage. I make it clear, however, that if we have not had clarification by Report, it will be incumbent on us to continue to press the point. This is an issue for further dialogue, but it would be far more sensible to avoid all such questions by avoiding the reference to closure in the normal sense. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Chris Leslie: I think that we have dealt broadly with most of the issues raised by clause 16. We shall move on to consider schedule 5, and I do not have many particular points to raise now.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Schedule 5

Existing pension schemes

Sajid Javid: I beg to move amendment 29, in schedule 5, page 40, line 3, at end insert 'and compensation benefits'.

The Chair: With this it will be convenient to discuss Government amendment 30.

Sajid Javid: The amendments ensure that compensation schemes made under powers in the Reserve Forces Act 1996, in line with injury benefit schemes made under those powers, are not automatically stopped from providing benefits in 2015 as a result of the passing of this Bill. It is intended not that the Bill will automatically close compensation schemes, but rather that it will to allow scheme regulations to close compensation schemes should a new compensation scheme be made using powers in the Bill. The amendments simply bring compensation schemes that are made under powers in the Reserve Forces Act 1996 in line with that intention.

Amendment 29 agreed to.

Question proposed, That the schedule, as amended, be the Fifth schedule to the Bill.

Sajid Javid: Schedule 5 lists the existing public service pension schemes that are to cease providing future pension benefits for all persons except those who are afforded transitional protection. That does not include defined contribution schemes, or schemes for the payment of compensation or injury benefits, which are outside the scope of these pension reforms.

The schedule, in combination with clause 16, ensures that existing powers to create pension schemes for the main public service work forces are shut down for future use. It will not shut down the schemes that have been created under them, but will instead ensure that they are not used to create new schemes, and that no future benefits are accrued in existing schemes unless members are permitted to do so by transitional measures. Those schemes will be replaced with new pension schemes that are created under the affordable and sustainable framework provided by the Bill.

Question put and agreed to.

Schedule 5, as amended, accordingly agreed to.

Clause 17

CLOSURE OF EXISTING INJURY AND COMPENSATION SCHEMES

Question proposed, That the clause stand part of the Bill.

Sajid Javid: If I may, I would like to speak to clause 17 and schedule 6 together. Clause 17 permits scheme regulations made under section 1 of the Bill to close connected injury and compensation schemes listed in schedule 6. Connected schemes are defined as those that make provisions for the same groups of people, which means that clause 17 will touch upon the existing injury and compensation schemes in place for the public servants listed in schedule 1. It is important to remember that there is no obligation to close down those schemes; the Bill simply allows for that to be done if desired. The clause is consistent with injury and compensation scheme-making powers included in the Bill, enabling regulations made under the Bill that create a new injury or compensation scheme also to close the current one.

The Bill provides injury and compensation scheme-making powers, which is in line with current pension legislation given the clear, and sometimes legislative, links with pension schemes. As the Bill's powers allow for injury and compensation schemes to be created, it would be legislatively burdensome to require a different set of regulations for closing the schemes that would be replaced. I must emphasize again, however, that there are no current plans for wholesale reform to the existing injury and compensation schemes. That is outside of the scope of our reforms to the pension schemes. The clause simply allows for a consolidation of the legislative landscape.

Furthermore, the Bill does not affect existing powers, which may still be used to close or amend existing injury and compensation schemes if appropriate. Subsection (3) also allows for transitional arrangements, should they be necessary if the powers are used. I commend the clause to the Committee.

10.45 am

Chris Leslie: Clause 17 deals with the closure of existing injury and compensation schemes. It allows scheme regulations to make such closures to schemes listed in schedule 6. Worryingly, however, the Bill does not provide for the automatic replacement of those schemes. Schedule 3 allows for the new scheme regulations made in clause 1 to provide compensation payments in the event of injury or redundancy, but the schedule is only permissive, and crucially, no scheme regulations can be made without Treasury consent, under clause 3(4).

The explanatory notes to clause 17 state:

"Subsection (1) permits scheme regulations to provide for the closure or restriction of existing schemes that provide for the payment of benefits relating to compensation for loss of office on grounds of redundancy, and for injury benefits, as listed in Schedule 6. No date has been set for the closure of these injury and compensation schemes."

The schemes listed in schedule 6 relate to employment in the armed forces, the civil service, the fire service, local government, the NHS, the police and teaching. If such schemes are closed, clause 1 provides powers for replacement schemes to be made for those work forces in future. That is the point that the Minister discussed when he said that the measures were consolidating and that the Government do not have any plans at this point in time. The key question for the Minister is this: will the permissive powers under clause 1 and schedule 3 be used to replace injury and compensation schemes closed by clause 17? If so, will those replacement schemes provide the same level of benefits?

As so often in these discussions, it boils down to the question of trust and of the confidence that public service employees have in the Government and their motives and commitments. It is vital that police officers, firefighters and Army personnel, for example, are reassured that the Bill will not reduce their compensations should they be injured in the line of duty. That is the level of commitment that we seek from the Government. We have heard the usual formula "I have no plans to make those changes." As I am sure you will recall, Mr Benton, the noble Lord Heseltine used the phrase "I have no plans" only a few days before he launched his bid for leadership of the Conservative party, so phraseologies such as "I have no plans" are often taken with a pinch of salt by members of the public, particularly when it comes to questions of compensation for injury in the line of duty. Members of the armed forces, firefighters, police officers and others might raise an eyebrow—maybe two eyebrows—at the notion that the Minister is taking significant powers under clause 17 to close the schemes.

When we debated these questions earlier under a suite of amendments tabled by my hon. Friend the Member for Kilmarnock and Loudoun, she asked the Minister again for reassurance that no one will suffer any detriment or be less likely to receive the same level of benefits in compensation for injuries and so forth, but he did not really offer reassurance on that occasion. He spoke of it as a technical issue of governance of those injury and compensation schemes, rather than saying what most serving officers, firefighters and police officers would want to hear, which is "We will make sure that we protect injury and compensation benefits in that way."

I ask the Minister again. This is a moment where we need assurances. Public service employees want to hear what the Government's commitment is. Can he say clearly and in no uncertain terms what his plans are?

Sajid Javid: I thank the hon. Gentleman for the points he raised. First, I reassure him that the effect of the clause is just what I would call good regulation. As he knows, the Bill is about public sector pensions, not injury and compensation schemes, but it makes sense to have framework powers in the Bill that allow those running schemes to change them in future, or to close them, if they wish to do so. I reassure him that, as far as the Government are concerned, there are no plans whatever to change injury and compensation schemes. That is for future discussion, and is not part of the Bill. I do not think that there should be any suggestion whatever, either from the Opposition or the Government, that injury and compensation schemes will be changed in any way. That is not covered by the Bill, although the Bill provides flexibility to manage new schemes for the long term. The Government have no plans to change injury and compensation schemes.

Chris Leslie: I am vaguely reassured by the Minister's comments, but I still have a little lingering anxiety about the phrase, "we have no plans." Nevertheless, I think

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that we have made the point, and have put down a marker to show that we are watching very closely what happens with regard to injury and compensation for those injured in the line of duty. That is an incredibly important point; this is very emotive for those affected. We are talking about public service duty that often requires those in the public sector to step in and make sure that people do not suffer unduly as a result of their service. I think that we have made our point on clause 17, but we reserve the right to raise the issue again on another occasion.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Schedule 6

EXISTING INJURY AND COMPENSATION SCHEMES

Amendment made: 30, in schedule 6, page 41, line 27, at end insert 'and compensation benefits'.—*(Sajid Javid.)*

Schedule 6, as amended, agreed to.

Clause 18

FINAL SALARY LINK

Question proposed, That the clause stand part of the Bill.

Chris Leslie: This is a fairly technical clause, which triggers schedule 7; we have an amendment to consider, and a discussion to come, on that. The clause essentially ensures that the final salary link is retained on an ongoing basis for members of schemes closed under clauses 16 or 28, and that means that the benefits can be calculated in relation to the member's final salary at the point at which they retire or otherwise leave pensionable service, not the point at which their final salary scheme was closed. That is an important provision. However, I wonder whether the Minister can help on what might be a technical error in clause 18; it triggers schedule 7 only in respect of schemes closed under clause 16. It does not seem to trigger the schedule in respect of clause 28 arrangements, which are obviously also relevant to this arrangement. Can the Minister confirm that that is a drafting error that will be corrected later? I would have thought that schedule 7 also needs to relate to schemes that will be affected by clause 28.

Sajid Javid: Clause 18 simply provides for schedule 7 the final salary link, which was one of Lord Hutton's main recommendations. It provides that final salary pension benefits accrued in the current public service pension schemes will be based on final salary at retirement from public service, not final salary when service in the old scheme ends. All the details of that link are included in schedule 7, which I look forward to debating along with amendment 79. In response to the hon. Gentleman's question about whether there is a drafting error, I do not believe that there is. If he will allow me, when we get to schedule 7 I will try to answer that question in more detail.

Chris Leslie: That is a reasonable offer. I believe there might be an error and there ought to be a reference to clause 28, but if we are able to talk about that when we debate schedule 7 imminently, that might be sensible.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Schedule 7

FINAL SALARY LINK

Chris Leslie: I beg to move amendment 79, in schedule 7, page 42, line 23 at end insert 'and

(iii) the definition of pensionable earnings under the new scheme will be the same definition as under the old scheme.'.

There are a number of provisions in respect of persons who remain in an old scheme for past service, and we seek to insert the provision in the amendment. It comes down to the question of how we define pensionable earnings. Schedule 7 provides transitional protection for employees whose schemes are closed by clauses 16 or 28, as we have discussed. Under schedule 7, a member's final salary for the purposes of the old scheme is their final salary under the new scheme. As the explanatory notes set out,

"in determining the person's final salary for the purposes of the old scheme, their service in the old scheme is to be regarded as having ended when their service in the new scheme ends".

Amendment 79 would ensure that the final salary link is fully preserved between new and old pension schemes by providing that the definition of pensionable earnings under the new scheme is the same as it was under the old. The definition of "pensionable salary" is very important in defined benefit schemes, because a more restricted definition can result in a significantly reduced final salary and thus a substantially reduced pension. For example, to put it in more accessible terms, an old scheme might well include overtime or bonuses in the definition of pensionable earnings, but the new scheme might not. It is important to have a read-across from the definition of pensionable earnings in the old scheme to that in the new scheme. The explanatory notes for schedule 7 state that members'

"pensionable earnings from their new scheme service are to be regarded as derived from the old scheme service."

Amendment 79 should therefore be uncontroversial as it would give statutory effect to the Government's implied intentions. It would be better to clarify the matter in the Bill, and for those reasons I commend the amendment to the Committee.

Sajid Javid: The Committee will be aware that one of Lord Hutton's recommendations to reform public service pensions is to maintain the final salary link for past service. This is an important means of honouring widespread expectations among public servants that the final salary link will be maintained for past service.

11 am

That link is set out in schedule 7. It provides that final salary pension benefits accrued in current public service pension schemes will be based on final salary at retirement from public service, not final salary when service in the old scheme ends. As drafted, the calculation of the final

salary on leaving the new scheme will be based on the definition of pensionable earnings in the new scheme. I welcome the hon. Gentleman's thoughtful concerns that that could allow for some kind of sinister undermining of the link if the definition is made less beneficial, but I hope that I can reassure him and the rest of the Committee that that is not the intention.

A key feature of these reforms is modernisation, to achieve not only modern pensions for a work force that live longer but modernisation and rationalisation of underlying legislation. That is seen in the Bill, where we have consolidated provisions from several statutes to provide a central framework for all public service pension schemes in the future, and in the scheme regulations, which will set out the details of the schemes.

One of those details concerns the definitions of pensionable earnings, which in the current regulations can appear outdated and archaic. The new scheme regulations are likely to modernise language and definitions of things such as pensionable earnings. However, it is important to note that this does not necessarily mean that the new scheme regulations will change the underlying calculation in any way or impact upon the actual value of the benefits.

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

Chris Leslie: I just want to clarify something. The explanatory notes said that pensionable earnings in the new scheme service are to be regarded as being derived from the old scheme service, but the Minister seems to be leaving open quite a large door here for the definition of pensionable earnings to change. If, under the old arrangement, overtime or bonus arrangements were part of that definition, is he saying that it might be possible for them not to be part of that definition under the new scheme? Surely that would be something that he does not intend to happen.

Sajid Javid: The hon. Gentleman is right; that is not my intention and nor is it the Government's intention. That is why, in responding to the proposed amendment, it is useful to point out just how difficult and unlikely it would be that a pension scheme would make the kind of changes that he is concerned about. If the definitions change, it makes sense for that modernised definition to apply to the calculation of a member's benefits accrued in a new scheme for all purposes. This is simple and transparent, and it also avoids the not insignificant administrative burden of forcing schemes to operate with separate definitions applying in parallel to the same earnings as well as the confusion that that could cause for the member.

I hope that I have addressed the concerns that the hon. Gentleman has raised. This schedule is not about trying to erode people's rights; quite the opposite—it is about ensuring that we honour people's expectations about the value of their benefits.

I turn for a moment to the issue that the hon. Gentleman raised earlier about clause 28 and its application. Clause 28(11) refers to schedule 7, so I do not think that there is a drafting error, as he suggested. However, I will look at that carefully and if there is a drafting error, I will table any necessary amendment. I hope that reassures the hon. Gentleman and that he will therefore withdraw the amendment.

Chris Leslie: I am grateful to the Minister for his comments. Obviously, our point is about ensuring that, for people who have made saving arrangements for their pension based on overtime and bonus considerations, the definition of pensionable earnings is carried forward into the new scheme, and that there is nothing underhand or any trick about altering that definition. It would have been better to have that in the Bill, but I hear the commitments he has given.

I am also grateful to the Minister for his clarification of the wording of clause 18 in relation to schedule 7. I agree that clause 28 refers to schedule 7, but that has not been carried across into clause 18. As he will appreciate, the Opposition want any little crumb of comfort—any change, any amendment, anything—that we can possibly rack up as a major achievement. Sometimes I even cling to drafting errors, if I can. I want to leave my mark on legislation, and if that is by the correction of a drafting error, so be it. I am grateful to the Minister for agreeing to consider that issue, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 7 agreed to.

Clause 19

CONSULTATION

Question proposed, That the clause stand part of the Bill.

Sajid Javid: The clause sets out the arrangements for consultation on scheme regulations. It provides for standardised requirements across all the schemes and removes the current discrepancies between different ones, as was recommended by Lord Hutton's Independent Public Service Pensions Commission. The clause will ensure that, before scheme regulations are made, the responsible authority consults the people, or their representatives, who are likely to be affected by them. The responsible authority must consult the same people before any changes are made to regulations.

The Bill will ensure that all the relevant people are consulted transparently and consistently, by requiring the responsible authority to publish a list of those people who the authority anticipates would normally be consulted as part of such an obligation. Authorities will be required to keep an up-to-date list, so that scheme members are clear which organisations normally represent their interests. Schemes will not need to wait until the commencement of the provision before they consult on scheme regulations; an earlier consultation will still satisfy the requirements of the clause provided it complies in all other respects.

Chris Leslie: This and the next clause relate to consultation. My hon. Friend the Member for Kilmarnock and Loudoun has already referred to the fact that consultations are often disregarded. The Prime Minister has evolving ideas on how consultation should be truncated,

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because it is wasteful and burdensome. That was in his speech to the CBI yesterday, but I want to set aside such thoughts for the sake of the Bill.

The consultation provisions in clause 19 set a lower hurdle than those in relation to the consultation required on protected elements of the Bill. For example, clause 20(2)(a) refers to consultation of the persons specified

"with a view to reaching agreement with them".

That is more what I would define as meaningful consultation. If there is a consultation, it is best done as it is set out in that clause, which does not seem to be the case under clause 19. Will the Minister explain why he has not made the same commitment to meaningful consultation under this clause? He will not be surprised that it raises a question about what the Government are up to. Why are they not looking to make a commitment that consultations should be part and parcel of a dialogue that heads in a particular direction and is part of a process that will hopefully lead to a more amicable conclusion, so that the various parties involved will feel a settlement has been reached as part of a dialectical process reaching a particular conclusion, which might be acceptable to all parties involved in the consultation process? He has not made that commitment under clause 19, and therefore there are limitations to these arrangements. Will the Minister say what is going on? Why has there not been that level of commitment under this clause?

Sajid Javid: The hon. Gentleman suggests that there is some kind of significant weakening on consultation or consent requirements when it is compared to the old scheme. I do not believe that is the case. First, the clause formalises and reflects existing practices and expectations. It balances the current discrepancies in consultation requirements across the schemes, requiring that all those who are likely to be affected are consulted, either individually or through their representatives. It provides what I believe to be a comprehensive and fair consultation standard. I would also point out that, when the consultations occur with a responsible authority, one cannot just decide the type of consultation and the standards it must meet.

All scheme consultations on regulations will be done in line with the Government's consultation principles, as set out by the Cabinet Office. As set out in the guidance, the time frames for consultation will be proportionate and the time required will depend on the nature and the impact of the proposal. I do believe that the consultations will be meaningful in every case. The hon. Gentleman asked about language used in previous legislation. For the reasons I have set out—the Government's approach to the matter and the consultation principles set out by the Cabinet Office—consultations will be meaningful in every case, as they should be.

Chris Leslie: I am not quite sure that sheds a great deal more light on the deficiency. After all, the Minister relies so heavily on the Cabinet Office principles and protocols of consultation—12-week processes, and so on—which we just heard the Prime Minister wants to rip up because they are too burdensome. It is part of the Government's big, new idea—we have had the big society, and all of those things—which is to put the country on a wartime footing and push to one side such encumbrances as consultation arrangements and Cabinet Office protocols. They were dismissed by the Prime Minister yesterday. It matters because the Minister references his commitment to consultation according to commitments made in the Cabinet Office protocols and documentation, which have the sword of Damocles hanging over them as we speak. I do not think that is good enough.

If we have commitments in clause 20 to have consultations with a view to reaching agreements, I do not see why that cannot be written on to the face of the Bill in respect of clause 19. The public are fed up to the back teeth with politicians promising to consult and then doing absolutely zero in response to their carefully worked arguments. On a number of occasions now, the public have seen Ministers going through the motions of a consultation but getting absolutely nowhere. If we are going to rebuild confidence and trust in the public policy making process, it would have been useful if the Minister could have made that particular commitment in clause 19. However, he did not, and we will have to find a way of encouraging Ministers to reflect on those issues on another occasion.

I do not wish to press the point on clause 19; we are coming to another, longer discussion about consultation arrangements in clause 20, and I hope we can move on to that.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20

CONSULTATION AND REPORT

11.15 am

Chris Leslie: I beg to move amendment 66, in clause 20, page 11, line 11, leave out 'significant'.

The Chair: With this it will be convenient to discuss the following:

Amendment 67, in clause 20, page 11, line 35, at end insert

'or in the case of the Local Government Pension Scheme the period of 26 years beginning with 1 April 2014'.

Amendment 68, in clause 20, page 11, line 40, at end insert—

'(d) the scheme's definition of pensionable earnings;

(e) ill-health benefits;

(f) early retirement rights.'.

Amendment 69, in clause 20, page 11, line 41, leave out subsection (6).

Chris Leslie: We have four amendments in this grouping, all relating to how we feel the provisions for consultation and reporting under clause 20 should be enhanced and improved. The protections in clause 20 do not apply to adverse retrospective changes to any of the non-protected elements of public service schemes, and only if the adverse effect is deemed to be "significant" do the protections in the clause kick in.

I turn first to amendment 66, which would leave the word "significant" out of subsection (1)(b). As Members can see, subsection (1)(b) applies to the "responsible authority" if it is proposing to make

"scheme regulations containing retrospective provision which appears to the responsible authority to have significant adverse effects in relation to members of the scheme."

That formulation leaves so much in question that we felt it important to ensure that there were consultation arrangements in every and any circumstance where adverse retrospective changes are being proposed.

We have already heard that the Government have refused to make changes to tighten up the provisions on retrospectivity in the Bill. That has raised a significant question mark in the minds of many public service employees about whether some of the savings that they have put to one side—the deferred wages that they are entitled to—are going to be clawed back unfairly somehow by retrospective changes. The issue is also relevant to the non-protected elements of public service schemes.

Sheila Gilmore: A word such as "significant", which is not defined in the Bill, in lots of ways cannot be defined and so would be matter for interpretation. Could putting such a term into the Bill give rise to significant legal challenges, which could cause more trouble than simply consulting in the first instance?

Chris Leslie: Indeed. It is an unnecessary risk to the best interests of public service employees to have a provision that lets the responsible authority off the hook when it comes to consulting on changes that might have an adverse effect on members, especially given that the provision relates to retrospective changes. I do not think it is necessary to have that protection for the authority on the employer side. If we are going to have consultation arrangements, these are surely circumstances where such arrangements are particularly justified.

There are only three protected elements in subsection (5): the extent to which the scheme is a career average defined benefit scheme; members' contribution rates; and benefit accrual rates. That means that there are some important elements of a pension scheme that are not protected by clause 20 in terms of consultation arrangements. Most notably, these include the definition of pensionable earnings that we discussed a moment ago, early retirement rights and ill health benefits. On those non-protected elements of the scheme, it is important, if the employer side is to make changes, particularly if they are retrospective and have an adverse effect, that there should at least be meaningful consultation.

If a responsible authority decides to make adverse, retrospective changes to something as important as ill health retirement benefits or the definition of pensionable earnings, the Bill would allow them to do so with only the weakest of consultation requirements, provided that such changes are deemed to have an adverse effect but not a significant adverse effect. It is unacceptable for such adverse, retrospective changes to be excluded from the protections of clause 20. Like so many other provisions in the Bill, that will severely undermine the trust of millions of public service workers and reduce the security of their future retirement provisions.

Amendment 67 turns to the question raised in line 35 of clause 20 of what is called the "protected period". Clause 16 would close the local government pension scheme on 1 April 2014 and all other schemes on 5 April 2015. Clause 20 defines the protected period as 25 years, beginning on 1 April 2015. That means that there is a rather strange window of just over a year when, bizarrely, the protections under clause 20 will not apply to the local government pension scheme.

Amendment 67 seeks to correct what must surely be a drafting error, by ensuring there is no such window during which the protective elements of the local government pension scheme are not protected by clause 20. It would be very odd if there were a protected period in future but an imminent one-year gap where no protections exist. The Minister will be familiar with the helpful intent of the Opposition to ensure that we plug any loopholes and drafting anomalies that we spot in the clause. I hope that amendment 67 will be useful in that respect. That amendment also aligns the protective period for the local government pension scheme with the protective period of all other schemes, so that both come to an end at the same time. That would again be a useful change for those of us still around in 25 years' time when we next debate these issues. Hon. Members might want to put down a marker at this stage to say that they want to serve on the Committee for that piece of legislation. That is something they might want to put in their long-term calendars.

It is not an unfair advantage for the local government pension scheme to have 26 years of protected period compared with 25, as all other public service workers will enjoy an additional year under their old schemes compared with local government workers under this particular scheme. I hope that amendment 67 is useful to the Minister in that respect.

Turning to amendment 68, Members will see that from line 37 of clause 20 there are a number of elements to which the concept of protection relates: career average revalued earnings schemes, members' contribution rates and benefit accrual rates under the scheme. The amendment seeks to ensure that those other elements that ought to be protected are inserted at the end of that subsection: the definition of pensionable earnings, ill health benefits and early retirement rights.

Clause 20 offers some protection to the so-called protected elements of pension schemes by requiring the responsible authority to consult specified persons with a view to reaching agreement, as we debated earlier on clause 19, and also to lay a report before Parliament.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.