

Pensions Bill

The Committee consisted of the following Members:

Chairmen: † Sir Nicholas Winterton , Janet Anderson
Ainger, Nick (*Carmarthen, West and South Pembrokeshire*) (Lab)
Alexander, Danny (*Inverness, Nairn, Badenoch and Strathspey*) (LD)
† Banks, Gordon (*Ochil and South Perthshire*) (Lab)
† Borrow, Mr. David S. (*South Ribble*) (Lab)
Butler, Ms Dawn (*Brent, South*) (Lab)
† Cunningham, Mr. Jim (*Coventry, South*) (Lab)
† David, Mr. Wayne (*Caerphilly*) (Lab)
† Duddridge, James (*Rochford and Southend, East*) (Con)
† Ffello, Mr. Robert (*Stoke-on-Trent, South*) (Lab)
† Greenway, Mr. John (*Ryedale*) (Con)
† Keen, Alan (*Feltham and Heston*) (Lab/Co-op)
† Kirkbride, Miss Julie (*Bromsgrove*) (Con)
† O'Brien, Mr. Mike (*Minister for Pensions Reform*)
† Plaskitt, Mr. James (*Parliamentary Under-Secretary of State for Work and Pensions*)
† Rowen, Paul (*Rochdale*) (LD)
† Selous, Andrew (*South-West Bedfordshire*) (Con)
† Waterson, Mr. Nigel (*Eastbourne*) (Con)
Mark Hutton, *Committee Clerk*
† attended the Committee
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Public Bill Committee

Thursday 21 February 2008

(Morning)

[Sir Nicholas Winterton in the Chair]

[Pensions Bill](#)

9.30 am

The Chairman: I welcome members of the Committee to what I sense might be our penultimate sitting. I hope that they will note that new clause 16 has been withdrawn. I call Mr. Nigel Waterson.

New Clause 5

Provision for conditional indexation

- ‘(1) Schedule [Provision for conditionally indexed arrangements etc] which—
- (a) amends section 84 and Schedule 3 of the Pension Schemes Act 1993 (Basis of Revaluation);
 - (b) amends section 51 of the Pensions Act 1995 (annual increase in rate of pension);
 - (c) amends section 67 of the Pensions Act 1995 (restriction on powers to alter schemes);
 - (d) amends schedule 7 to the Pension Schemes Act 2004 (pension compensation provision); and
 - (e) makes provisions for consequential amendments for the operation of conditional indexation in relation to a scheme that satisfies prescribed conditions, has effect.
- (2) The amendments made by Schedule [Provision for conditionally indexed arrangements etc] do not apply in relation to any scheme or arrangement in existence prior to the coming into force of this section.
- (3) In this section conditional indexation relates to benefits provided by conditional indexed scheme, which—
- (a) was established after the coming into force of this section;
 - (b) is not a money purchase scheme as defined by section 181(1) of the Pension Schemes Act of 1993;
 - (c) Provides that indexation of pensions both in deferment and in payment may be modified in accordance with prescribed requirements; and
 - (d) complies with such other requirements as may be prescribed.’.—[*Mr. Waterson.*] *Brought up, and read the First time.*

Mr. Nigel Waterson (Eastbourne) (Con): I beg to move, That the clause be read a Second time.

The Chairman: With this it will be convenient to discuss new schedule 1—
‘Provision for conditional indexed arrangements etc —

Part 1

Basis of Revaluation

1 The Pension Schemes Act 1993 (c.48) (Basis of Revaluation) is amended as follows—

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In section 84 after subsection (3) there is added—

“(3A) If any benefit as is mentioned in paragraph (a) of section 83(1) is a conditional indexation benefit that benefit shall be revalued using the conditional indexation method”.

In Schedule 3 (Methods of Revaluation Accrued Pension Benefit) after paragraph 4 there is added—

“(4A) The conditional indexation method is to revalue the benefits which have accrued to the member in respect of the pre-pension period in such manner as may be prescribed”.

Part 2

Annual Increase in Rate of Pension

2 The Pensions Act 1995 (c.26) (Annual Increase in Rate of Pension) is amended as

follows—

After section 51(1)(iii) there is added “(iv) which is not a conditionally indexed scheme which complies with such requirements in relation to increases in the rate of a pension as may be prescribed”.

Part 3

Restriction on Powers to Alter Schemes

3 Section 67 of the Pensions Act 1995 (c.26) (Restriction to Alter Schemes), is amended as follows—

After section 67(3)(b) there is added “(c) for a prescribed purpose relating to the operation of a conditionally indexed scheme”.

Part 4

Pensions Compensation Provisions

4 Schedule 7 to the Pensions Act 2004 (c.35) (Pensions Compensation Provisions) is amended as follows—

After paragraph 2 to the Schedule there is added “2A This Schedule shall be modified in relation to a conditionally indexed scheme in such manner as may be prescribed.”.

Mr. Waterson: Thank you, Sir Nicholas. Whenever you summon someone to speak, I always expect a roll of drums as well. I welcome you to the Chair for what you rightly sense might well be our last day in Committee, after which all the guns will fall silent—at least for a short time. We are now skiing off piste and exploring those things that should have been in the Bill, and our proceedings are all the more interesting for that.

I take no credit for the draftsmanship involved in new clause 5 and new schedule 1, which is the work of the Association of Consulting Actuaries, particularly Mr. Ian Farr and his colleagues, and the Association of Pension Lawyers. I wish to make a small point on the drafting to spike the Minister’s guns if, as I suspect, he raises technical issues in that respect. If the principle of our proposals is accepted, it is always up to him to take them away and perfect them. That is not up to us. Opposition Members are not in the business of winning draftsmanship contests—we do not have the facilities. However, if the general principle of our proposal is accepted, as it should and must be, we can make progress.

Why have we tabled the new clause and the new schedule? We agree with the actuaries, who obviously have their fingers on the pulse of remaining defined benefit schemes, that there has not only been a massive shift away from DB schemes in this country, but that there will be a further acceleration of that process for

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two reasons. The Minister is fond of saying—and accurately so—that the move away from DB schemes started as a gentle downward course in the late 1960s. However, what we have seen, particularly since 1997, is a massive acceleration in that process. One thing on which we can all agree is that, in the world of pensions, if people are in a DB scheme, they are receiving the Rolls-Royce treatment and will end up with a relatively comfortable retirement, not least because, on average, contributions to defined contribution schemes are about half those to DB schemes.

It should be a policy aim of whoever is in government to maintain and protect DB schemes. That was the stated aim of the Pensions Act 2004, but that seemed to have the opposite effect by piling more cost and bureaucracy on to those who still run DB

schemes. I have mentioned two risks, and we have discussed one exhaustively in Committee: the risk to existing provision of bringing in personal accounts. We have tried all ways in which to safeguard existing provision because, on the whole, that is significantly more generous in respect of the employer contribution than the 3 per cent. envisaged in personal accounts. The year 2012—if it be that year, although I do not want to re-open that one—will be the moment when employers will focus their minds on whether to stay in the DB game.

We have also touched on the consultation document produced by the Pensions Regulator, which is a more recent development that has taken place in the past few days. I made a brave attempt to read it last night, but one has to be a certain sort of person to catch all its nuances. It is very much actuary speak. It talks principally about the assumptions of those who run schemes—the trustees, essentially—about their members' longevity. It contains much about what is rather depressingly called the “continuous mortality investigation”, which I think—but I am open to correction—is a process run by the actuarial profession that constantly reviews the levels of longevity in the country. It is, of course, good news that we are all living longer and, hopefully, healthier lives. I would never agree with those who go on about the demographic time bomb as though it were some horrible development not to be welcomed. Of course that is to be welcomed, but it has massive implications for pension funds.

There are all sorts of fascinating tables in the document, which you might wish to browse at your leisure Sir Nicholas, but although I searched high and low, it does not seem to come up with a figure as the new benchmark for male life expectancy, whether that be 87, 87-point-something or 89 years. However, some people estimate that if that sort of level were applied across the board to all pension funds, it could add an extra £75 billion or so in liabilities to pensioners. If that is the figure, that is the figure. If it is the necessary consequence of those life expectancy figures being accepted, there is no point arguing.

I think that it is fair to say that at almost every juncture in recent decades when the Government Actuary, or actuaries generally, have focused on projecting longevity, they have almost always understated it. That process might, of course, change with things like obesity and diabetes coming to the fore, but that is a matter for the future.

That is another

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major risk in terms of the attitude of sponsoring employers to stay in DB schemes when they start to do their sums based on what is, of course, a consultation document. However, it is clear from some of the press briefing of the past few days that that is where the regulator wants to end up in terms of across the board longevity projections.

Before I get into the detail of the new clause and new schedule, I want to talk about the general issue of simplification or deregulation, which the Government, to their credit, have partly embraced as a necessary aspect of promoting and retaining a large number of DB schemes. There are measures in the Bill that we enthusiastically support that are on the same agenda, following the deregulation working group's report. More can be done, and one of the main things is conditional indexation. At the

end of the day, the Government can have no reasonable objection to the principle behind it. It happens in other countries—I can explain in detail what happens in Holland—and seems to be a useful tool for maintaining DB scheme membership at a relatively high level.

What harm can conditional indexation do? If not a single sponsoring company embraces the idea, and if, instead of moving straight from DB to DC—shifting all the risk from the employer to the employee, which we do not want to encourage—there is a third way, if I can use that expression, of conditional indexation, why not use it? Pensioners will be better off. What do the Government have to fear? The choice is between having a Rolls-Royce DB scheme and perhaps a Volvo or a Jaguar one. If people stick their heads in the sand—I am not suggesting that the Minister will do that—they could end up with no such pension scheme at all and fall back on to the personal accounts scheme. That scheme, although it has merits, does not have many for those who have no personal pension savings, but can be in a scheme where the employer contribution might be 10, 12 or 14 per cent.

So, what harm can it do? I make this offer to the Minister: if not a single sponsoring company takes advantage of this possibility, I will buy him a slap-up dinner in the restaurant of his choice. I cannot see any downside to these proposals—[*Interruption.*] I note that the Minister is pondering my offer.

The essence of new clause 5 is to end the ban on employers being able to offer new conditionally indexed pension schemes. It seems to me, the ACA and others that in around 2012, many employers will feel that they have no credible alternative but to move to DC pension provision and, if their existing scheme is still open to new members, or even existing members, to close it altogether and switch to DC, or simply move to personal accounts.

The actuaries have carried out work on the decline in membership of DB schemes.

They say:

“Since 1995, the number of employee members of open, private sector defined benefit schemes has declined from 5 million to just 900,000 now.”

That is a massive decline. They also refer to the latest National Association of Pension Funds survey, which was published at the end of 2007, that said that only 40 per cent. of employers with open defined benefit schemes were prepared to say they expected no changes in the next five years. Fifteen per cent. are already expected to switch to pure DC, and 22 per cent. are

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expected to modify their scheme while retaining some DB provision. The ACA’s 2007 pensions trend survey found that 68 per cent. of employers expected further levelling down of provision in the period ahead and that 76 per cent. thought that more “good” schemes would close.

It is a bit like the issue of compulsory annuitisation. Nobody else around the world seems to do this. The mandatory indexation of both deferred pensions and pensions in payment in defined benefit schemes is unique to the United Kingdom. No other legislature in the world has placed such an onerous obligation on private sector firms to take on such an open-ended commitment on costs and liabilities. While I cannot

claim to have made an exhaustive survey of European practices, I see the country that comes nearest is the Republic of Ireland, which requires indexation of deferred pensions only, and Germany, which requires it for pensions in payment only. It is also clear that since the CBI gave oral evidence to the Committee, it has reviewed its position and now supports the new clause and new schedule. It set that out in its e-mail to the Committee of 6 February. That endorses the backing already given to the measures by the NAPF, the Society of Pension Consultants, and the Association of British Insurers. All the big players in the pensions field support this proposition, which makes it more difficult for Ministers to resist it, although I am sure that they will have a shot at that.

We, as legislators, will be held responsible when a process speeds up again whereby 100 per cent. of all risks fall on not employers, but ordinary employees. What is the point of conditional indexation? New conditionally indexed schemes offer to many mid-sized and larger employers that are prepared to share risks with their employees a pension arrangement that will not only attract and retain employees, but cap employers' future costs. I do not think the ACA suggests that that would be particularly appropriate for smaller employers. The sobering thing that many major employers talk about is what is stretching into the distance: this ever-increasing escalator of liabilities based on year-on-year indexation. The ACA gave both written and oral evidence to the Committee. Of course, the Association of Pension Lawyers has looked at the legal issues in great detail, so I will not go too deeply into that. I am sure that it has made, or will make available, whatever thoughts it has on the technical side of things to officials.

9.45 am

It also seems that conditional indexation schemes would offer employees a far less volatile pension benefit than pure DC. Pensions would perhaps be based on career average earnings linked to service, save on occasions when scheme funding falls into deficit, with the condition that pension benefits will be indexed in line with a scheme-specific index—typically, inflation up to a 2.5 per cent. a year cap. Restoring indexation would be the first priority when a scheme returns to service. I will speak in a moment about the experience of Holland regarding the extent to which employers actually make use of the availability of conditional indexation.

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Conditional indexation would not apply to the benefits offered by existing types of DB schemes. For the sake of simplicity, these amendments would apply only to new conditionally indexed arrangements that were set up after the Bill had become law. The provisions in no way interfere with existing types of risk-sharing arrangements or, indeed, with types that might be identified in the future. The Minister's approach might be to say that we have to look at this in the round, that there are various sorts of risk-sharing and that we should look at all of them together and have a review—in tune with the current Prime Minister's attitude to issues—but I do not think a review will do anything except put off the evil day. Why not do this, and then, if other ideas seem good, put them in as well?

I suspect that the Minister will argue that more time is needed to study the issue, but it has not suddenly popped up. This proposal has been floating around for a long time, and the ACA and the APL have made themselves available for detailed discussions

with Ministers and officials. It is certainly an issue that the industry has been talking about for quite a long time. The ACA's pensions trend survey over the last two years, to which I referred, has found that more than 70 per cent. of employers support the promotion of new risk-sharing schemes. I gather that next month a new survey conducted by HSBC and the Pensions Management Institute is to be published, and this survey—I have had a sneak preview—will show that more than 60 per cent. of employers favour arrangements whereby they can carry some or all of investment longevity and pensions inflation risk. I think we need to listen to that kind of evidence when it comes up.

I mentioned the ACA's evidence to the Committee. Mr. Farr said openly: "Conditional indexation—what we have proposed—is not a panacea. We and all the national pensions bodies that support this believe that it could stop the dramatic shift from defined benefit to defined contribution schemes that we have seen over the past 10 to 12 years."

He describes conditional indexation as "a genuine middle way between defined benefit and defined contribution; it has been well tried and tested in the Netherlands; it requires only small changes to the law; and it could be implemented quickly." —[*Official Report, Pensions Public Bill Committee*, 17 January 2008; c. 82, Q106.]

I agree with all of that, and the NAPF supports this. In its memorandum, it said: "The NAPF believe the Government should have considered more closely the option to introduce conditional indexation...The NAPF believes the Government should go further so that, for future accruals only, conditional indexation is granted depending on the current funding position of the scheme."

It was made clear in November that the members of the occupational pension schemes joint working group, which involves the ABI, the ACA, the APL, the IMA, the NAPF and the Society of Pension Consultants, all took the view, talking specifically about conditional indexation, that risk-sharing "would be a welcome step in the right direction to extending possible designs for risk sharing schemes."

The CBI has now changed its position. In its most recent briefing, Neil Carberry, its head of pensions and employment policy, said:

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"At our oral evidence session, the CBI indicated that while our members were in no way against the proposal for conditional indexation set out in new clause 5, they were more concerned by other issues...These issues should be a key part of the reform programme, and conditional indexation is certainly not a panacea. However, the introduction of such schemes will enable a minority of firms to choose to retain defined benefit style pensions where they might not otherwise have done so. This would be a valuable development. Following further consultation, therefore, CBI members feel that the inclusion of new clause 5 in this Bill would be beneficial as a way of presenting firms with another option for offering a high quality pension scheme."

Finally, I quote the latest briefing from the TUC:

“We regard a government-led review of risk-sharing approaches to be an urgent priority.”

It also says that it believes

“that opportunities should be explored for occupational pension arrangements which genuinely share the risk between employer and members, where the only alternative is closure of DB.”

I find that very encouraging.

Without showing my slides, as it were, I will take the Committee through my recent trip to Holland.

The Chairman: Fascinating.

Mr. Waterson: Good, I thought so. I will try to be brief—it was a brief trip. It seemed to me that if the Government were not taking much interest in what was happening in Holland, perhaps the official Opposition should. I have described Holland as, in pensions terms, not just a different country, but a different planet. The official figure is that 95 per cent. of all employees there belong to DB schemes, which is absolutely phenomenal.

Let me take a chunk out of the Minister’s speech for him: there are differences between the two countries, although there are many significant similarities. Holland has big sectoral schemes covering whole sectors of the economy, and there are a lot of legislative and other pressures for existing smaller schemes to keep merging and getting bigger, so it has enormous economies of scale. It is very much in the European social model, regarding the involvement of the trade unions as part of how those large pension schemes are run. They have different funding rules—they do not have the privilege of having a pension protection fund, for example—and they have a different approach to funding. So, there are differences, and I am sure that the Minister will come up with others with his own researchers.

First, let me put on record my thanks to Watson Wyatt. Its Dutch office was extremely helpful in putting the trip together and giving me a lot of the background. According to Watson Wyatt, only 5 per cent. of all pension liabilities in Holland are in DC, rather than DB, and I have already said that 95 per cent. of people are in DB schemes. About 10 years ago, things began to change. Like every other developed economy, Holland began to recognise the intense and growing burden that was being placed on pension schemes by various factors. It became the consensus that indexation must be conditional. Dutch law makes no requirements of any indexation in pension schemes. Incidentally, there is no auto-enrolment as such, but the vast majority of people join in any event.

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I had a useful meeting with several bodies, including sectoral funds, the Ministry of Social Affairs and Employment, and so on. I went to see the employers’ organisation, which explained that there was a tradition of these matters being dealt with as a social partnership between unions and employers. Again, it emphasised the lack of movement towards DC. The Dutch association of industry-wide pension funds—I will not try to pronounce its name in Dutch—was in many ways the most interesting body. About 75 per cent. of all workers in Holland are in one of the industry-wide massive

pension funds, which they describe as a matter of their culture. What I thought was really interesting, which may allay some of the natural concerns of trade unions in this country and Labour Committee members, is the extent to which conditional indexation is taken advantage of.

The Dutch association of industry-wide pension funds produced some interesting figures that it had only recently collated. It asked all its members about indexation in the years 2002 to 2006 when, as in every other part of the world, pension funds were under a lot of pressure. It discovered that the average pension paid by one of its members was indexed by 10.7 per cent. between those years, while price inflation was 10.9 per cent. The indexation almost exactly mirrored inflation rate. The association says:

“Some pension funds gave extra indexation in the years 2005 and 2006 to catch up the shortcoming of indexation in the years 2002-2004. In 2007 and 2008 more and more pension funds start giving extra indexations.”

That is relevant and interesting because in Holland it seems that the mere existence of conditional indexation is enough for employers to continue in the DB system. It is almost like a “Break glass in emergency” notice: it is there on the wall. If employers want to—if things are really tough—they can stop indexing their pensions. However, many have simply carried on indexing at the rate of inflation and others have, perhaps, indexed at 1 per cent. a year or something. In just about every other case, in any major scheme where employers have cut down the indexation, they have made it up retrospectively. The fears of some people, particularly those in this country’s trade union movement, that members would miss out in the long run might be misplaced. I apologise for going into such detail, but this is an important issue. If the Minister and the Government will not accept our proposals, we will certainly pencil them in for a pensions Bill in 2009 or 2010.

On Monday, the *Financial Times* published an interesting article by Pauline Skypala, the editor of “FTfm”, in which she tackles this issue. That shows how salient it has now become. She wrote:

“Only 31 per cent. of UK private sector DB schemes remain open to new entrants” and mentioned developments in accounting standards, life expectancy assumptions and all the extra pressures on the continued survival of the DB schemes. She continued:

“The UK’s unusual strictness on DB pension benefit indexation is underlined by a new book from the Organisation for Economic Co-operation and Development (Protecting Pensions: policy analysis and examples from OECD countries). This notes that a requirement to index benefits is rare in OECD

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countries...The OECD is worried about the gradual disappearance of DB schemes in the US and UK in particular”.

She cited Denmark, Iceland and the Netherlands

“as examples of countries with risk-sharing schemes that have proved resilient in recent adverse market conditions”.

She also mentioned the proposals and the ACA’s lobbying on the subject, and concluded by saying:

“The ACA is not asking for indexation on existing schemes to be axed, but only for new schemes to take a different approach. It deserves immediate consideration.”

That is what brings us here today. I want to stress that the proposal that I am talking about is for new schemes so that at the moment when employers are thinking of moving from DB to DC, another option will be available. They might choose not to take it, for various reasons, but they should have the option.

Mr. John Greenway (Ryedale) (Con): I do not want to detain the Committee unduly. I congratulate my hon. Friend on his lucid and compelling summary of the case for conditional indexation. The Minister will know that I spoke strongly in favour of that on Second Reading. I will not repeat anything that my hon. Friend said—it is all on the record—because I simply want to support strongly what he said.

I am slightly concerned for my hon. Friend's wallet because the argument is so compelling that even if this Minister does not feel obliged to accept the proposal today, a Government Minister in another place might feel compelled to do so. My hon. Friend may well find that his slap-up dinner offer is taken up, despite the fact that the measure may be implemented in another place.

10 am

To take this matter seriously, I want to make two extremely serious points in support of my hon. Friend. First, we must get away from the problem that we face at the moment: with defined benefit schemes, all the risk lies with the employer, whereas with defined contribution schemes, it lies with the employee. We must find some middle ground and this is undoubtedly one way in which we can achieve that. The issue is urgent. The Government can rightly claim that there has been some stemming of the haemorrhage of defined benefit schemes. Despite that, very few employees in the private sector are being rolled into defined benefit pension schemes, even in firms where such a scheme exists for other employees. My hon. Friend's point that this measure is for new employees and does not affect existing entitlements is a compelling argument for why we need to do something.

My second point is that we should listen to the actuaries. This week we are concentrating on what has gone wrong at Northern Rock and what should be done about it. I am in no doubt that if the board of Northern Rock had listened more carefully to the actuaries, and had stress tested the business plan to the point of what would happen if all the available credit in the banking sector dried up, that business plan would have been different. I am convinced that the actuaries will privately be saying, "We told you so, but nobody would listen," about the debacle at Northern Rock.

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In this instance, the actuaries are right. They have acted by bringing forward the proposal—through my hon. Friend's new clause, to which I have put my name—and asked the Committee to debate the matter today. I suspect that in further proceedings on the Bill, we will see that they might be slightly ahead of opinion elsewhere. The most encouraging thing that my hon. Friend has said has been about the reaction of organisations that, even during the public evidence session in the Boothroyd Room, were perhaps a little lukewarm, or even cool, on the proposal, but are now beginning to see the sense of the argument. That is all to the good, and it adds to the importance of us receiving a more positive response from the Minister today. Again, I congratulate my hon. Friend—if he had not tabled the new clause, I would have done so. The argument stands on record as compelling. We must do something about this

issue.

Paul Rowen (Rochdale) (LD): May I echo what the hon. Member for Ryedale said about the hon. Member for Eastbourne's proposal? The exposition of the arguments made by the hon. Member for Eastbourne for conditional indexation was very compelling.

We started our consideration of the Bill with evidence sessions and, as the hon. Member for Ryedale said, it is clear that the idea of such sessions and of having a dialogue with stakeholders has developed. In this case, it has proved its worth in that organisations that were initially lukewarm about conditional indexation have now accepted that it has a role to play.

We are all here for one purpose and one purpose only: to ensure that people's pension provision is improved and developed. We have spent a lot of the time talking about personal accounts and expressed some concerns about what might happen if employers decide to switch from their own contributory pension schemes to personal accounts. We know that there has been move away from defined benefit to defined contribution schemes. Here we have an opportunity to provide an alternative that guarantees to employees a better form of pension than they could get. We are not prescribing a route, or saying that that is what must be followed, but providing an option.

As the hon. Member for Eastbourne said, it is important that the new clause would affect new members, not existing members. It would allow a company to look at the way in which its pension scheme was developing and the associated risks, and, if necessary, enable it to share some of that risk. It would be far preferable for there to be some risk sharing, if that resulted in people getting a better income in retirement, rather than a straightforward choice between one scheme or another, which is the situation at the moment.

This excellent new clause considerably enhances the scope of what we are seeking to do in the Bill. So far, the Ministers have listened and been prepared to make amendments, when necessary, in the light of our discussions. I hope that the Minister will accept new clause 5 and realise the benefits that it offers to the community that we all seek to serve.

The Minister for Pensions Reform (Mr. Mike O'Brien): It is a pleasure to welcome you back to the Chair, Sir Nicholas.

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I do not disagree a great deal with the general argument put forward by the Opposition spokespeople and the hon. Member for Ryedale, but I disagree with the new clause and the suggestion that we should legislate now, rather than having proper discussion and consultation before we start to legislate.

We are interested in conditional indexation and risk sharing. We welcome the work of the ACA and I extend my thanks to Ian Farr for attending the oral evidence session and raising what we all recognise as an issue with some potential. We need to identify precisely the extent and nature of that potential. However, because the issue is both important and complex, I am not prepared to rush through legislation for conditionally

indexed schemes until we and stakeholders have had time to consider all the issues fully and to consult properly. We should bear in mind that Lord Turner said in his report that our pension system was possibly the most complex in the world. We need to be sure that we carefully consider any measure that would increase that complexity, which the new clause clearly would.

On a recent visit to the Netherlands, for example, one of my officials was told by a Dutch representative that the intricacy of the new conditional indexation system means that schemes are understood by fewer members than ever before—they have become more complex. One of our aims throughout the programme of reform has been to encourage people to take personal responsibility for saving for retirement. Adding complexity to occupational pension schemes would not sit well with that aim. If people are to take personal responsibility, it is important that they understand the scheme in which they are saving. Conditional indexation and risk sharing add to complexity, but they might be a necessary complexity. We need to look at the way in which we take the issue forward.

I do not disagree with the generality of the argument. I merely say that we should look at the issue with more care and consideration, rather than rushing through legislation now. First, we do not know enough about the impact of the proposals. At such a delicate time for defined benefit schemes, it would be irresponsible not to take a bit more time to assess and to be clear about the impact on existing provision and the potential impact on the members of such schemes.

As the hon. Member for Ryedale rightly pointed out, the move away from DB schemes has steadied recently. That has given us some time. I hope that the deregulatory proposals in the Bill will continue to produce that steadying so that employers know that there may be changes in the future that will help them. We are further looking at more deregulatory measures, but we are also putting forward in this Bill deregulatory measures that will be of assistance to them.

As David Yeandle, of the Engineering Employers Federation acknowledged in his oral evidence to us, there is limited interest among employers for risk sharing. There is not an enormous demand for conditional indexation. A number of other witnesses commented that more work should be done, and that any changes were probably not for this Bill. Jeannie Drake, who was also a member of the Pensions Commission, said:

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“My immediate point on the conditional indexing is that it should be looked at rather than put in the current Bill.”—[*Official Report, Pensions Public Bill Committee*, 17 January 2008; c. 110, Q135.]

We do not want to add another layer of legislation if it might do little in practice to encourage continuing defined benefit provision. I take the point that in Holland, where there is a different culture in relation to pensions savings, they have not used conditional indexation very much. However, it is there as a fall-back position, if they should need it. I take that point, but that does not mean that our different culture might not result in employers taking a different approach. We just do not know what might happen, and I think that we need to find out a little more.

As the Government have always made clear, we are serious about encouraging good quality provision by removing unnecessary burdens. That was why we brought forward the deregulatory review. I realise that when the hon. Member for Eastbourne tabled the new clause and new schedule, he did so with the assistance of outside organisations, so I shall not comment too much on the drafting. There are some problems with it, but I take his point that it is not his job to get the drafting right. We are happy to do that, so I will not make that point. However, this clause would not be ideal if we were going to do implement such a proposal, and I am suggesting is that we should not do that just yet.

I am also concerned that the references citing the Netherlands as some sort of ideal example are not terribly helpful, especially given that the *Financial Times* last week highlighted the case of claims that were made in the Netherlands that a particular major international company, which is also very active here, had not been increasing its contributions to the appropriate level to target the payment of indexation genuinely. Although the board of that company denies any wrongdoing, the matter is now being taken forward in court. I make no comment about the accuracy of the claims and I use the example only to point out that this is not some sort of failsafe way to avoid controversy on employers' contributions. On the contrary, it seems to be very controversial indeed.

Similarly, the proposals before us involve complex legislative changes to a number of different requirements. When I spoke to Ian Farr, he seemed to suggest that these changes could be brought about through limited amendments to our legislation. I am very sceptical about that. I actually think that we would be creating a new area of shared risk if we decided to go ahead in that way. That could well produce a whole series of legal complexities. This is an area of law that can be subject to quite a lot of litigation. Unless we get measures right and give them full and proper consideration, we are going to end up with rushed legislation that has not been properly consulted on.

I suspect that we will need not just a few tweaks to our legislation, but quite a careful setting out of a new area of risk sharing for pensions, which might be quite a complex area of law. In addition to the provisions tabled, there will need to be changes to a wide range of other measures relating to employer debt, scheme funding, surplus transfer values and disclosure. The impact of all the other changes that would be consequential on making this change would also need

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to be given careful consideration. This is not the kind of radical legislative change that ought to be left to secondary legislation, so I do not accept that we can just put forward something broad and leave it all to secondary legislation. Such a measure would be quite complex and could be subject to litigation, so it would be better to include it in primary legislation.

10.15 am

I want to make it clear that I have listened to the ACA, the CBI, the NAPF, the EEF and others and that I value their important contributions, so I hope that the Committee will lend its support to a full consideration of the various approaches to risk sharing. I have asked my officials to undertake a detailed analysis of it.

I can also announce that we aim to issue a full consultation paper in June. We plan to allow 12 weeks for thoughtful and full responses to the issues. It is important that the issues are given full and proper consultation, and we will report on the consultation in the autumn. We can then take informed decisions that, I hope, will be built on a consensus after proper consultation. If we need to make primary legislative changes—we probably will—we will have to find a timetable to do so, perhaps in a fourth-Session Bill, subject, of course, to the will of the House.

I want to put on record my commitment to the process, because I see clearly the potential of risk sharing. However, we do not want to introduce something without a detailed consideration of the issues and a full understanding of the impact of the changes on scheme members. I therefore urge the Committee to lend its support to the consultation that I have outlined, in order to support perhaps the idea, but not this particular new clause.

Mr. Waterson: There we have it: another review—marvellous. I feel that all my efforts have brought forward a mouse, and although I do not want to blacken our last jolly day in Committee, I must disagree with the Minister. If the Government have not given detailed consideration to those matters, it is not because they have not had the opportunity; they have simply chosen not to. If the review—the Minister said it would start in June, but I do not know when it will finish—is to be anything like the Lewin-Sweeney affair, we will be better off without it, because, with no personal criticism of Messrs. Lewis and Sweeney, they were just doomed to disagree on all the big issues, and they duly did. Their report, as I have already said, was very timid, and the Government built a new layer of timidity on top of it.

My offer of a slap-up dinner is non-transferable. Despite my hon. Friend the Member for Ryedale trying to add a new clause to it, it does not apply to a Minister in the Lords. I shall not press the new clause to a Division, but we will return to it on Report. More importantly, judging from the reaction so far of some of their lordships, and having heard the hon. Member for Rochdale speak for the Liberal Democrats, it sounds like a Minister in the Lords would have a claim on that offer of dinner, but I want to make it clear that they do not, so it would be far better for the Minister for Pensions Reform to concede the point now.

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I am delighted that the Minister welcomes the work of the ACA and the APL—he is right to do so. However, it is a bit churlish to say that the idea has some potential, and then to lecture us about rushed legislation. There is no rush. Many serious-minded individuals have considered the issues closely. The only problem is that the Department for Work and Pensions has not—yet. I am talking about the NAPF, the SPC, the ACA, the APL, the CBI and any other acronym or set of initials that one can think of. All those people are lined up on my side of the argument; it is the Government who have been slow to catch on.

Mr. O'Brien: May I assure the hon. Gentleman that the DWP has given full and due consideration to the issue? Before he claims that all the people whom he cited are lined up on his side of the argument, he should consult them, because he will find that they will welcome the announcement that I shall hold a full and proper consultation

on the issue with those very people.

Mr. Waterson: I am sure that, *faute de mieux*, they will welcome a consultation, but they would much prefer some action, as indeed would we. We intend to press the matter—in future debates, if not today.

The Minister suggested that the issue was much more complex than our new clause and new schedule suggest, but the Association of Pension Lawyers just does not agree—it is as simple as that. The Department must focus on the matter because DB schemes are in the last chance saloon and there is no point messing about with further consultations when we could be getting on with things.

The Minister suggested that Holland was not the garden of Eden, and I am the first to accept that. Of course there may be problems in the Dutch system, but it is staggering how much more advanced it is in the penetration of DB schemes in the work force. I have conceded that there are structural reasons for that, and I am delighted that his officials have followed my well-trodden path over there to talk to some people. I assume that, if they spoke to the same people as I did, those people will have said the same things that they did to me, and I have taken the Committee through their views.

Surely there must be something that we can learn from a system that has a 95 per cent. penetration of DB membership. Surely whatever they are doing is working and, frankly, whatever we are doing here is not working. That is a matter for not just today, but another day. I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.