

**Irish Congress of Trade Unions**

**Submission of Congress Public Services  
Committee to the Public Service Pay  
Commission (PSPC), regarding the initial  
report of the PSPC**

**November 2016**



## **Introduction**

1. The Public Services Committee (PSC) of the Irish Congress of Trade Unions (ICTU) comprises 20 unions representing the overwhelming majority of the 300,000 workers in the public service.
2. On behalf of the 300,000 people concerned, the PSC welcomes the opportunity to make a submission to the Public Service Pay Commission (PSPC) in advance of its initial report. The PSC notes that this initial report arises in the context of the Financial Emergency Measures in the Public Interest (FEMPI) Acts 2009-2015.
3. There is considerable variety in the types of work carried out by the diverse grades and categories represented by the PSC's 20 affiliates. Therefore, this submission is not intended to be, and should not be interpreted as, a comprehensive account of the issues that arise for all public service grades and categories arising from the events since the economic difficulties after 2009. Indeed, the PSC would urge the PSPC to invite submissions from individual affiliated unions in order to gain a complete account of all such difficulties. This submission addresses the terms of reference of the PSPC, and deals with the broad, general issues raised for public servants by the FEMPI legislation and the related agreements reached during the economic crisis: The 'Croke Park Agreement (CPA), the Haddington Road Agreement (HRA), and the Lansdowne Road Agreement (LRA).

## **FEMPI Legislation**

4. The FEMPI legislation is a suite of acts that imposed deductions from, and reductions in, the remuneration of public servants. Two such acts were enacted in 2009, one in 2010, one in 2013, and one in 2015. Other related legislation includes the Workplace Relations Act of 2015, which amended section 2B of the 2009 FEMPI (No.2) Act, and the Ministers and Secretaries (Amendment) Act 2011, which was amended by the 2015 FEMPI Act.
5. For the purposes of this submission, the suite of legislation is referred to by the generic 'FEMPI' title.

6. In brief summary, it is worth recalling some of the principal features of this suite of legislation.

The first FEMPI Act of 2009 imposed the pension related deduction (PRD), known more commonly as the 'pension levy.' In fact, this levy was a pay cut. It varied in its severity but was, on average, about 7% across all public servants. It is unrelated to pension and applies to non-pensionable remuneration.

The second FEMPI Act of 2009 imposed a straight pay cut of more than 6% on average, on all public servants. As with the 'pension levy,' its effect increased with increasing income levels. The 2010 FEMPI Act reduced pensions in payment. The 2013 Act made a slight modification to the point at which the pension levy became payable, made provision for a lengthening of incremental periods, and provided for further temporary pay cuts, averaging about 6%, for the small number (about 13%) of public servants earning above €65,000 a year.

Other emergency measures of continuing concern to public servants were implemented in the same period, although they are not specifically provided for in this suite of legislation. They are:

- **Starting Pay for New Entrants** The then Minister for Finance determined in 2010 unilaterally and without the necessity of legislation, to reduce pay scales for all new entrants by 10% on all points of the scale. He also decreed that public service employers should no longer have latitude in respect of entry to a scale other than on the first point of an incremental scale. This position was modified when the PSC had a first chance to negotiate on the matter in the 2013 negotiations that led to the Haddington Road Agreement. The outcome was to merge the pre-existing scales with those imposed from 2011. This ensured that all public servants accessed the pre-existing scales, albeit with the addition of extra (ie, lower) scale points at the bottom of incremental scales. The effect is that those entering the public service from 2011 onwards enter their pay scales at least two points below those that applied to their pre-2011 colleagues, before proceeding along scales that eventually reach the same maxima. The people concerned are, therefore, behind where they would otherwise have been on the scales while progressing through their increments, though they reach the same

maxima as their colleagues eventually. This effect was compounded for some groups in 2012 by the unilateral abolition of universal allowances for new entrants. Because these allowances applied to all members of the relevant grade or category, they were, in effect, a part of basic pay. For example, a prison officer or fire fighter recruited from 2011, would not only have been placed on a scale that was longer than that of their colleagues but would also have lost a significant universal allowance that their colleagues retained. This issue has been addressed and, to a large extent, resolved through negotiations under the auspices of the LRA. However, the post-2013 solution to the 2010 alteration of scales for new (post-2011) entrants to the public service means that they remain on scale points behind those that applied previously.

- **Working Hours** In 2013, the HRA cut the pay of public servants earning above €65,000 a year. To protect against the potential for a third, significant cut to the basic pay of those earning below that amount, the HRA provided for additional, unremunerated, working hours. On average, an additional 2.5 working hours were added to the working week. While the agreement made provision for the restoration of income lost due to the third reduction in pay for those earning above €65,000 a year, the enormously contentious issue of additional, unremunerated working time remains unresolved and will have to be addressed. While the effect of this increase varies depending on pre-existing working hours, all public servants who worked less than 39 hours a week experienced an unpaid increase in their working time. In the case of many clerical and administrative staff, the increase in working time was more than 7%. This unremunerated additional time had a financial or service value to the employer, which needs to be taken into account when evaluating the changes to public service pay and working conditions in recent years.
- **Overtime & Premium Payments** Some grades and categories lost premium payments, either in part or whole, as a result of the 2012 review of allowances or the 2013 HRA. It would be appropriate for the individual unions whose members were affected by such changes to have an opportunity to raise these issues directly with the PSPC. However, the HRA also introduced significant disimprovements in overtime arrangements across the public service, most particularly a reduction in the premium rate to time and a

quarter and a requirement for some staff to work an hour of unpaid overtime each week.

7. Section six above is a brief summary of the main impositions on public servants since 2009. As well as substantial cuts to their incomes and significant increases in their working time, public servants have experienced disimprovements in other terms and conditions not provided for explicitly in the terms of reference of the PSPC, including sick leave and annual leave. New (post-2013) entrants have also been subject to significant disimprovements in their superannuation arrangements through the introduction of a career average scheme to replace the final salary scheme. Furthermore, a number of awards made or recommended by third party bodies were not implemented during the emergency period and remain unresolved.

While public servants are fully aware that most citizens suffered during the economic crash, unwarranted and sometimes extreme criticism of public servants (by some politicians, and by sections of the media, academia and the commentariat) have added to a considerable sense of betrayal and anger. The PSC has worked to manage the crisis of recent years by maintaining stability in industrial relations through engagement and negotiation. This approach has been informed by a belief that the economic recovery will yield benefits for all citizens, including public servants, and that the impositions on public servants can and will be unwound as the economic recovery and exchequer position strengthens.

## **Next Steps**

8. The PSC believes that a comprehensive analysis, which includes fair and appropriate comparisons with private sector and overseas rates of remuneration, would be a valuable exercise. However, such comparisons will not be credible or acceptable unless they are conducted on a genuine like-for-like comparison basis. We believe this type of comprehensive analysis could provide a long-term basis for public service pay determination. However, the PSC agrees that the immediate initial priority is to provide recommendations in the context of the FEMPI acts and related developments, in accordance with the PSPC terms of reference.
9. In the short term, the PSC believes that the PSPC can establish a road map out of the FEMPI legislation (and related matters), which would be acceptable

to public servants and the country at large and which would ensure continued orderly industrial relations in the sector.

10. The PSC has a determined ambition to see the complete unwinding of FEMPI impositions and related disimprovements on public servants as quickly as possible. As can be seen from the table below, this is a more complex challenge than simply “removing the FEMPI legislation,” and it requires an orderly, rational and negotiated outcome. This table shows the amounts outstanding, due to FEMPI pay reductions, after the application of HRA and LRA increases.

Salary	Levy	Pay	Total
22000	0	+392	+392
30000	-125	-322	-447
40000	-1125	-1432	-2557
50000	-2125	-2243	-4368
60000	-3125	-3054	-6179
65000	-3625	-3550	-7175
100000* (After HRA restoration)	-7825	-7500	-14825
125000* (After HRA restoration)	-9950	-10000	-19950

11. Furthermore, and as the accompanying table illustrates, the simple removal of the FEMPI legislation without any other actions would be of little or no benefit to those public servants on the lowest incomes, while delivering substantial benefits to the small number of highly paid public servants. The PSC firmly believes that an approach is required that brings significant benefits to all public servants, including those on lower incomes. We propose an early engagement with a view to negotiating a pay round with the objective of unwinding the FEMPI provisions, while providing increases in remuneration for lower paid workers for whom FEMPI is no longer applicable. As with the LRA, we believe that this can be achieved through a combination of pension levy reductions and pay restorations. It will also allow the parties to engage on issues such as the pay of new entrants, increased working

hours, reduced premium payments and disimproved overtime arrangements.

12. The thoughts of the PSPC on the mechanics of such an approach would be helpful and welcome.
13. Any engagement with our employer will have to go beyond the issue of basic pay (see Point 6). We recognise that this is challenging in the context of limitations on what the employer is capable of doing in any given time frame. However, it is necessary to achieve an agreed outcome that is acceptable to public servants in the context of economic and exchequer conditions that are significantly better than envisaged when the LRA was agreed.

## **International Comparisons**

14. We believe that fair and appropriate international comparisons of public service pay could inform a long-term basis for pay determination in Ireland. However, the PSC agrees that the immediate initial priority is to provide recommendations in the context of the FEMPI acts and related developments, in accordance with the PSPC terms of reference.
15. The PSC believes strongly that any international comparisons must be comparisons of equivalent jobs or work of equal value, and must take account of cost of living in the countries being reviewed. Commentators who claim that Irish public servants are highly paid by international and EU comparison tend not to take account of the cost of living in the states compared.

The idea that it is acceptable to compare the income of a public servant in Ireland with counterparts in many of the emerging countries of the EU, within which the cost of living is significantly below that of Ireland, is absurd.

16. No comprehensive inter-country comparison of public servants' earnings, that compares 'like work' takes full and proper account of the relative costs of living in the countries compared, has been undertaken. It is, therefore, difficult to be overly prescriptive about the methodology to be used. However, it does seem logical to follow the well-established principles of fair comparison that have underpinned the setting of public service salaries within Ireland. In the international context, it would be logical for comparisons be made with countries within the Eurozone that are at similar levels of

economic development. Comparisons outside the Eurozone are prone to the distorting impact of currency fluctuation. Eurostat publishes regular comparative information on the costs of living in the countries, with whom the Irish experience can be compared validly.

## **Private Sector Comparisons**

17. The PSC believes that comparisons of the pay of equivalent jobs, or work of equal value, in the public and private sectors should continue to inform public service pay determination. However, while a further comprehensive analysis could provide a basis for public service pay determination, the PSC agrees that the immediate initial priority is to provide recommendations in the context of the FEMPI acts and related developments, in accordance with the PSPC terms of reference.
18. We repeat the point made in our submission on the PSPC's terms of reference that any comparison of public and private sector pay must be on a true like-for-like basis if it is to have credibility. Therefore, the only comparison that is valid in the determination of pay is one that looks at the work of a grade in the public service and the work of an exact equivalent, or work of equal value, in the private sector and then makes a comparison. Generalised, comparative analyses are useless for the purpose of determining appropriate pay rates for specific jobs. They may have other uses in providing broad data for the purposes of public policy but they have no role in respect of determining appropriate pay rates. Like-for-like comparison ensures that public servants are paid in line with private sector workers doing like work or work of equivalent value. This is fair for public servants and for those who pay for public services. It is the traditional basis for determining pay for the public service, as is the longstanding principle of the public service as a good employer. To this end, public-private comparisons have always been tempered to avoid the excesses of the private sector, where we have seen widening and unjustifiable gaps between the incomes of the lowest and the highest paid in recent years, both in discrete organisations and across the economy as a whole. In the case of low paid public service workers in particular, comparisons with sections of the private sector where remuneration levels are unjustifiably low would not be acceptable.



19. The principles for fair comparison between public and private employment benefits are well established. Such comparisons should be with a representative cross sample of large employers (because the public service is a large employer) in the middle to upper quartile of employment benefits. The traditional point of comparison, (abandoned inexplicably in the report of the Public Service Benchmarking Body in 2007), is the mid-point of relevant pay scales. In cases of individual grades or categories, the comparisons should not be with crude averages across the entire private sector but, rather, with workers in the employments described above who do equivalent work or work of an equivalent value.
20. For example, the pay of an engineer in the public service should be compared with that of engineers, in the middle to upper quartile of employment benefits, in large private sector organisations, and not to an average pay rate across the private sector, calculated simply by dividing earnings in the entire sector by the number of employees in the sector. Likewise for other grades and professions. To engage in comparisons with a crude average in the private sector is not just absurd, it is harmful to public discourse as it creates a false narrative about comparative pay arrangements. Potentially, it also generates recruitment and retention problems.
21. While it is essential that the PSPC carries out its own detailed research on earnings in the private sector for comparison purposes, it is an established fact that, for competitiveness reasons, private sector employers are wary of sharing such information if they believe it is likely to be published. This creates tensions between the objectives of transparency and accurate comparison of data from the public and private sector. This genuine difficulty was used to denigrate the work of the first Benchmarking Body, because the thorough research undertaken on a true 'like-for-like' basis did not result in the outcome that many would have wished. Yet, it remains a fact that the two benchmarking exercises mark the only occasions in recent years when comprehensive 'like-for-like' comparisons were carried out between identified public service grades and private sector comparators doing like work or work of equivalent value. It is our view that accuracy in making fair comparison must be given priority over other considerations. However, we stress the point that, under no circumstances, should it be deemed acceptable for comparisons to be made with some of the deplorable practices in the private sector.

## Pensions

22. Since 2010, public service pensioners have been subjected to reductions in their pensions. Based on figures for the civil service, almost 50% of public service pensioners are in receipt of pensions of less than €20,000 a year. For this reason, as part of the LRA process, the PSC was happy to lend its support to the Alliance of Public Service Pensioners in its attempt to undo the cuts to public service pensions at a faster rate than pay for serving workers. The PSC continues to support that principle and urges the PSPC to assist in its progression.
23. The PSC recognises that the PSPC's terms of reference require that superannuation benefits be taken into account in reaching any findings. In this regard, a 12% discount was applied by the 2007 Benchmarking Body.
24. Traditionally, comparisons for marker grades in the public service with their private sector counterparts applied a 5% 'discount' to public service pay rates in recognition of the value of public service pension arrangements. We believe that the Benchmarking Body's decision to increase this to 12% was excessive.
25. In any event, the situation has changed significantly and the value of public service pension arrangements has declined substantially in recent years. All staff appointed since 2004 – obviously a much higher number and greater percentage of staff overall than in 2007 – have a raised minimum retirement age of 65. All staff appointed since 2013 are in a career average scheme, with an effective minimum retirement age of 68.
26. In the civil service alone, 17% of staff are post-2004 employees and 10% of staff are covered by the 2013 'career average scheme'. While we do not have figures for all other parts of the public service, it is likely that the percentage is significantly higher in health and education given the scale of staff turnover and essential recruitment in certain professions, during the period of the public service recruitment moratorium.

## **Security of Tenure**

27. All the concessions made by the PSC in the course of the recent crisis were motivated primarily by an overwhelming desire to protect employment and to prevent any permanent public servant from being made redundant on a compulsory basis. Each agreement reached since the 2010 Croke Park agreement recognised this and it would be unacceptable to use this against public servants when considering the value of security of tenure. Had public servants not made the concessions in remuneration and working conditions that they did, effectively in exchange for job protection, the question of 'security of tenure' would be unlikely to feature now as an issue in any consideration by the PSPC.
28. The PSPC will also want to consider that fact that many non-permanent staff in the public service were not protected from redundancy in the crisis period. The significant numbers involved highlight the fact that tenure is a considerably less significant factor in any external comparison than it was in the past.

## **Public Service Reform**

29. Agreement to specific and general productivity measures, as well as 'ongoing change' in work practices, has been a consistent feature of pay agreements in the public service. The issue of reform is not, therefore, of major consequence in terms of the remuneration of public servants. However, given the huge variety of tasks and functions performed in the public service, this is a matter best left for negotiation and implementation, where necessary and agreed, at local level. Obviously, any general agreement to cooperation with reform is subject to discussion, variation and local agreement on details of implementation.

## **Recruitment and Retention**

30. The issue of new entrants' pay referred to in point six above (and, in many cases, pay rates generally) impacts upon the ability of public service organisations to recruit staff and requires consideration by the PSPC. The exact consequences vary from grade to grade and from category to category. While there is an issue of principle involved, it is also the case that there is difficulty in recruiting into many grades and categories. The exact

implications for each grade and category are best dealt with by individual submissions to the PSPC from the unions involved directly.

31. For obvious reasons, retention has not been a huge matter of consequence in recent years. However, as the labour market becomes more positive, the imperative to ensure that the remuneration of public servants does not fall behind their private sector counterparts will become more pressing. This matter can only be advanced by the PSPC by a re-statement of the necessity for 'like-for-like' comparisons as set out in this submission.

## **Competitiveness, National Finance & Equity**

32. The PSPC's terms of reference provide that remuneration have regard to national competitiveness, sustainable national finances and equity considerations. These need to be considered in turn.

- **National Competitiveness** The concept of competitiveness is often confused in public discourse with 'inexpensive labour'. In this context, it is interesting to note that salary levels do not feature in the 12 'pillars' used in the evaluation used to calculate the Global Competitiveness Index. Indeed, most of the 12 pillars are related to the effectiveness of the public sector, either directly in areas like institutions, infrastructure, health, education and training, or indirectly in areas like technological readiness and macro environment, which are outcomes of public policy. Added to this, a state that is unable to recruit and to retain its fair share of the brightest and the best' will not be in a position to ensure the infrastructure and public service support that a competitive economy requires. Indeed, if the cost of public service pay is viewed as the only valid marker of competitiveness, one might be tempted to wonder why countries in the developing world are unable to attract the sort of inward investment that Ireland, often referred to by the same commentators as a 'high wage' economy, can attract with comparative ease. The truth is that a state which aspires to compete in the developed world requires a strong public service. Scandinavian countries feature highly in all international competitiveness tables, despite high salaries commensurate with high living costs, because they have highly developed public sectors which contribute to strong economic and social performance. Indeed, the

world leader in competitiveness is Switzerland, which is a high wage economy.

A competitive economy depends on an effective public sector. This requires that our public service is in a position to recruit and to retain, at the very least, its share of the 'brightest and best'. This cannot be achieved if competitiveness is viewed solely in the narrow sense of labour costs and if, as a consequence, labour costs in the public service are seen as no more than an overhead to be driven down. That course will make Ireland less competitive.

- **Sustainable National Finances** Fiscal conditions cannot be ignored when looking at public service pay levels and determination. While the PSC recognises that the PSC must consider the ability of the State to pay its employees, there is no single objective figure or set of figures that can be said to mark the point of sustainability. The ability of the State to pay its employees is dependent upon its ability to raise revenue and a growing economy generates additional revenue. All current predictions foresee a growth in revenue outturns in the coming years and it is our contention that a fair proportion of this should be allocated to the restoration of pay that was reduced in what was defined legally as an 'emergency'.

The level of available revenue is also dependent on the State's willingness to raise revenue, which is a matter of choice. Likewise, the amount of state revenue allocated to pay the people who deliver public services is a matter of choice.

There can be no dispute that we faced a fiscal crisis in 2009. The then Government made what were, no doubt, difficult choices at that time. One of them was to target public servants' pay for a very substantial amount of the fiscal correction that was demanded. Other countries faced with fiscal collapse made different choices. Iceland worked its way out of fiscal crisis mainly through additional taxation. Portugal's Supreme Court blocked its Government from targeting public servants' pay because they acknowledged that hitting the incomes of one part of the workforce, rather than spreading the cost of adjustment across the entire population, was fundamentally unfair.

The public service pay bill is determined not just by the rates of pay but also the numbers employed. This is ultimately a matter for Government. However, it is neither fair nor tenable to suggest that the

cost of additional public employees (or other investment in public services) should be borne by public servants, through the suppression of their wages, rather than through taxation which is paid by public servants and all other citizens and users of public services.

In summary, if the PSC is to consider the question of sustainability, as it is required to do so, when considering the issue of public service pay rates, it cannot do so in any form of absolutism. We suggest that the most important criterion for a fair determination of pay rates is that which involves the sort of fair comparison referred to elsewhere in this submission. That is fair to public servants, it is fair to those who pay for public services and, by ensuring that public servants' pay rates never exceed those of their private sector counterparts, it assists with both sustainability and acceptability.

- **Equity** Equity between the pay of public servants and their private sector counterparts is a consequence of a fair comparison exercise. Equity also implies that all citizens fund the cost of public services according to their ability to pay through taxation and that no additional burden is placed on public servants by the imposition of suppressed levels of income.

It is also the firm view of the PSC that equity demands that all groups of public servants are treated fairly and equally in the process of income recovery.

Equity within the public service requires that the pay determination system should be flexible enough to facilitate the resolution of anomalies and to deal with the consequences of changed circumstances. This requires a means of processing claims through negotiating machinery in such situations. It also requires that a means be provided for job evaluations to take place, where issues of grading of work arise, to allow the knowledge, skills and responsibilities of particular jobs to be assessed (where necessary) and rewarded appropriately. Such a system exists in Local Government and needs to be extended to the rest of the public service.

## Definition of Remuneration

33. It is the declared intention of the PSC to seek to have all disimprovements in remuneration rolled back as quickly as possible. This includes not just disimprovements in basic pay but also other disimprovements including starting pay for new entrants, additional unremunerated working time, changes in overtime rates and other more specific measures. We are aware that this has a financial cost and can, therefore, only happen as increased exchequer resources become available, as is now happening. However, in any discussions that follow the publication of the PSPC's initial report, it will be our intention to list all matters for negotiation. All such matters fall within the definition of remuneration and we welcome any assistance that the PSPC can offer to assist with a positive outcome.

## Conclusion

34. Like other sections of the workforce, public servants have come through a very difficult time during the greatest economic and fiscal crisis that the State has ever faced. Most public servants accept that the loss of income, and disimprovements in working conditions, that they experienced in this period cannot be put right in one fell swoop or in a very short timeframe. However, the country's economic and fiscal position is improving. In 2017 the Government had an additional €1.2 billion of 'fiscal space' available. In 2018, 2019 and 2020 the Government's 'fiscal space' is expected to be even greater. In short, there is, and will be, significant capacity to tackle the consequences of FEMPI legislation and related measures in the coming period. The issue to be determined is the willingness of the state as an employer to do this, rather than its capacity to act.
35. The PSC believes the Government (as the employer of public servants) must act in the interest of fairness and to underpin industrial relations stability in the sector. This requires a timely negotiation of the pace and quantum of public service pay recovery. While the PSC will, as always, be constructive in such negotiations, it is our firm view that the focus of negotiations must be the acceleration of the unwinding of FEMPI and related measures. Our objective will be to reach an agreement that will establish when the overwhelming bulk of public servants will cease to be subject to FEMPI impositions.
- Other issues related to FEMPI, which are addressed in this submission, will also be part of our agenda and progress will be sought in respect of them.

We understand that all negotiations involve a balance between the interests of the parties and that Government, in considering issues of public expenditure, has a range of factors and responsibilities to take into account. However, all employers – including the Government – have an obligation to treat their employees in a fair way and this demands that account be taken of the fact that public servants were subjected to two, (and, in some cases, three), income cuts over the past seven years. All public servants have also been obliged to work additional unremunerated hours, and all public servants have seen disimprovements in working conditions which, in many cases, involved further reductions in income. These impositions took place in what was defined legally as an ‘emergency’; an emergency from which we are emerging at a faster rate than expected when the LRA was signed. It is now time for structured, orderly, timely and negotiated income restoration. The PSPC has a role in this regard and we very much welcome its assistance.

36. The PSC is happy to take up this invitation to meet the PSPC and we look forward to expanding on the points outlined in this submission. We would welcome an invitation to make further submissions, subsequent to the PSPC’s initial report. Finally, we would like to reiterate the request that individual unions affiliated to the PSC be afforded the opportunity to make submissions to, and meet, the PSPC on some of the detailed issues that are referred to briefly in this submission.

**Irish Congress of Trade Unions**

**November 2016**