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26 November 2015

Dear MLA

LEGISLATIVE CONSENT MOTION: ENTERPRISE BILL (PUBLIC SECTOR EMPLOYMENT – RESTRICTIONS ON EXIT PAYMENTS), COMMITTEE FOR FINANCE AND PERSONNEL REPORT 18 NOVEMBER 2015

We, the undersigned, are writing to you on behalf of UNISON, who have members across the Public Services in Health and Education in Northern Ireland who will be impacted upon by the LCM, should it be adopted.

Margaret McKee (UNISON NEC Northern Ireland member)
Alistair Long (UNISON NEC Northern Ireland member)
Lucia McKeever (UNISON NEC Northern Ireland member)

Denis Keatings (UNISON Northern Ireland Regional Convenor)
Maura McKenna (Joint Chair, UNISON Health Committee)
Noel Muldoon (Joint Chair, UNISON Health Committee)
Eoin Stewart (Joint Chair, UNISON Nurses Forum)
Marion Ritchie (Joint Chair, UNISON Nurses Forum)
Roberta Magee (Joint Chair, UNISON Social Care Forum)
Joe Lynch (Joint Chair, UNISON Social Care Forum)

Anne Brown (Joint Chair, UNISON Women's Committee)
Roisin McKinley (Joint Chair, UNISON Women's Committee)

Gabrielle Carton (UNISON Regional Northern Ireland Convenor)
Maggie Montgomery (Chair, UNISON Local Government & Education Committee)

Individual Trade Unions provided responses to the Committee and to the HMT Consultation exercise, as did NICICTU. The detail of these submissions can be found on the DFP Assembly Committee pages. This letter sets out some comments related to the paragraphs of the DFP Committee Report and also seeks to summarise the grounds for opposition to both the LCM and the Westminster Government's proposals for capping the totality of any public service exit payment to £95,000 from 1 April 2016, including actuarial costs for early release of accrued pension entitlements.

Assembly DFP Committee Report

Para 1

UNISON wholly opposes the use of an LCM on this matter that is devolved to the Stormont Legislative Assembly. This is especially so in respect of this LCM which we consider to be an abuse of process, our basis for making this specific statement includes:-

The use of the Small Business and Enterprise Bill is a flag of convenience as it has nothing to do per se with public servants terms and conditions, including pensions.

It was added to the Bill late in the day on the singular basis of being applicable from 1 April 2016. In so doing it corrupted both the required consultation process with the Public Service Trade Unions both in NI and in GB.

It has frustrated the NI Assembly consultation process; and

It has left many questions unanswered and leaves matters with DFP without either proper scrutiny or TUS engagement.

It breaches the Government's commitment to not change Public Service Pensions for 25 years, given the changes introduced from 1 April this year.

Para 2

The consultation process was truncated, 4 weeks over August.

The Government chose to ignore the vast bulk of the 4,000 responses that expressed opposition to the proposals.

It wholly is in breach of the Wolfe/Gunning principles on consultation.

There has been no detailed engagement with the NI trade unions, one brief discussion at a meeting in mid October.

Failure of DFP to conduct a full Section 75 EQIA, we would refer you to the Equality Commission letter of 9 November to the DFP Committee.

Para 6

See point above regarding need for a full EQIA.

Para 7

DFP failed both in the evidence it provided orally and subsequently in writing to address the questions of the Committee and the concerns of TUS. Furthermore, the letter of 11 November is erroneous as it does impact upon accrued pension entitlements eg within NILGOSC/LGPS there is a regulatory entitlement to an immediate and unreduced pension in the event of redundancy (voluntary or compulsory) from age 55 onwards.

The legal advice to TUS is that the proposals would not only represent a breach of statutory entitlement, as in the NILGOSC example above but would also be a breach of contract for most public servants.

Para 8

The problems with waivers, both individual and sectoral/organisational are detailed in the TU submissions and the evidence given to the Committee on the 12 November. Waivers are likely to result in numerous challenges, including on many Section 75 grounds ie discrimination on Community background, gender for example.

Para 11

See points above at 7 regarding DFP's erroneous information to the Committee.

TU OPPOSITION ON 1 APRIL 2016 APPLICATION DATE

In addition to the points above the Trade unions are opposed to LCM on the basis that in Northern Ireland (with the possible exception of the NICS) a 1 April 2016 application of the cap will be discriminatory as it will treat those who left up to 31 March 2016 more favourably than those who exist post 1 April 2016. This is likely to be to the disadvantage of lower graded staff and to public servants vis-à-vis civil servants, as the VER exercises are not as well advanced in those sectors.

The cap would hit public servants earning in the region of £25,000 who have given 20 years or more of dedicated public service.

Conclusion

UNISON is asking you to oppose the LCM as it:-

- Is a clear abuse of process and Assembly responsibility
- the consultation process was flawed, inadequate and superficial
- it ignores the specific Northern Ireland public service reorganisation issues linked to VER and RPA
- waivers are liable to result in numerous tribunal and other legal cases
- it represents both breaches of contract and statutory entitlements
- the detail on application is missing
- it provides for further detrimental changes to contractual rights for all public servants
- it favours certain groups eg already TUPE transferred staff over mainstream public servants
- It breaks the no change 25 year commitment on Public Service Pensions.

Should you require further information please contact:-

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Yours sincerely



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UNISON Head of Bargaining & Representation