

DRAFT

Consultation on Exit Payment Cap
Committee for Finance & Personnel
Parliament Buildings
Stormont
BT4 3XX

28 October 2015

Dear Clarita

CONSULTATION ON A PUBLIC SECTOR EXIT CAP

I am setting out here the response of the Northern Ireland Committee of the Irish Congress of Trade Unions (NIC-ICTU) to the above consultation.

The Northern Ireland Committee (NIC) of the ICTU is the representative body for 32 trade unions with over 215,000 members across Northern Ireland. In membership terms, it is the largest civil society organisation in Northern Ireland.

As the paper clearly highlights the issue is one for determination by the devolved administrations and NIC-ICTU is therefore in total opposition to the use of the legislative consent mechanism. NIC-ICTU will be raising our opposition to legislative consent with the parties represented in the Northern Ireland Assembly. In so doing we will be raising issues of potential indirect discrimination on the grounds of religion/political opinion and gender, which would be contrary to Section 75 of the Northern Ireland Act.

Within the developing context of the Government's and the Northern Ireland Executive's Voluntary Exit Scheme, this proposition is wholly illogical and liable to skew any workforce cuts to those in grades that fall below the £95k cap. Anyone affected by the application of the cap is not likely to agree to any voluntary scheme that would result in the cap being applied to them.

The proposal for many public servants would represent a breach of contract. In addition for specific schemes such as the Northern Ireland Review of Public Administration it would (i) breach specific agreements on severance and (ii) see differential treatment of staff both between and within sectors depending upon the date of application of any cap.

It is of considerable concern to NIC-ICTU that the paper indicates yet further biased initiatives are to follow:-

“the Government is therefore considering further reforms to the calculation of compensation terms and to employer-funded early retirement in circumstances of redundancy.”

This is on top of recent actions, such as the diminishment of the Civil Service Compensation Scheme. Clearly the Government has further actions in mind and it should at least be honest and transparent as to what these are, rather than salami slicing its approach to the eradication of public servants terms and conditions of employment.

The comments which follow relate to the specific sections of the consultation document. It is highly questionable of course as to the genuine nature of the supposed consultation and NIC-ICTU is of the view that there is no intent by the Government to apply the Wolfe/Gunning principles of consultation.

1.1 Scope

There can be no case for the exemptions listed. There has already been unjustifiable favourable treatment given to the Armed Forces under the reform of public service pensions.

The list of financial institutions, bailed out by public service money, to which bonus payments and other enhancements have been made such as large pay increases, confirms that there is one rule for public servants and another for

those responsible for the economic crash. It is wholly unacceptable to provide enhanced special category status to all the organisations listed as being exempt.

1.2 How Will It Work

It is unacceptable to include payments for compensation of pay in lieu of notice as this represents a separate contractual entitlement, likewise it is wrong to include payment for untaken leave, as again this is contractual and been accumulated on the basis of the amount of weeks/months employed in that particular leave year.

1.3 Waiver Process

This is highly problematic and would result in unjustifiable differential approaches being taken. This would be especially so within and between Local Authorities (Councils). See also points made above on the general principle of exemptions.

1.4 Devolution

See comments above.

1.5 Fire & Rescue Service (and other specific affiliates)

The Fire Brigades Union (FBU) is concerned about a category of firefighters whose normal pension age is currently 60 and the potential impact that this Legislative Consent Motion (LCM) could have on them.

In response to the HM Treasury consultation on the Public Sector Exit Payment, the FBU raised concerns about the impact on these firefighters if they were unable to maintain operational fitness beyond age 55.

The HM Treasury response to this consultation in September 2015 took cognisance of this and decided that payments to those firefighters affected by "...certain fitness-related requirements." would not be in scope and therefore not subject to the cap.

This response is confirmed by Mark Francois MP, English Fire Minister, in his letter to the FBU General Secretary, Matt Wrack (attached).

Confirmation is required that this 'exemption' is to be applied to affected firefighters in Northern Ireland if the LCM is applied.

I have also attached the response made to the original HM Treasury submission from NICVA and the FDA.

2.1 Policy Background

Given the scale of political enforced job losses throughout the public services it is not possible to secure alternative employment. The Government is seeking to ensure that it has it every which way but loose, in that it seeks to shred the public workforce but doesn't want to pay the price for doing so. Yet again, therefore, its approach is to legislate to negate public servants terms and conditions of employment.

3.1 Definitions and Terms

The application of any cap would result in fewer IT 'out of court' settlements, unless the intention is of course to fetter the existing rights of Tribunals to make awards.

3.3 Overall Cost of Redundancy Payments

This gets to the heart of the issue, ie the petty minded, vindictive anti-public servant mantra of the government. It also exposes the naivety of the likes of the £700m loan package under the Stormont House Agreement in that the cap would result in fewer applicants for voluntary severance at the levels subject to the cap and thus reduce the value of future pay bill savings on staffing, unless of course it, as will be the likely case, result in an even greater number of job losses at lower levels.

It has also the potential to result in greater application of compulsory redundancies.

Q7 Ex-Public Sector Employees Working in the Private Sector

The implication here is for some form of retrospective changes to the TUPE protections. This amounts to yet further erosions of the Acquired Rights Directive and is liable to be contrary to European law.

Conclusion

NIC-ICTU is wholly opposed to any changes and introduction of a cap, furthermore this is a matter for the devolved administration in Northern Ireland and therefore there can be no question of the use of the legislative consent mechanism.