



Public Consultation on Retired Workers Access to Industrial Relations Mechanisms for Pension Related Issues

The purpose of this consultation is to seek your views on proposals arising from a Private Members Bill for the introduction of a statutory right for retired persons to be included in collective trade disputes and how to balance the proposed new rights for retired persons with the current rights and interests of workers and employers who engage in the bargaining process, along with considering;

- What, if any, additionality could the proposals provide to the existing protections for retired persons including those provided by the Pensions Authority, the Financial Services and the Pensions Ombudsman;
- The effectiveness of the existing timeframe which already allows a retired person access to the industrial relations bodies in a period of 6-months post-retirement for matters arising pre-retirement please see section 26A [Revised Acts \(lawreform.ie\)](http://lawreform.ie) and
- Whether there is the potential for new or enhanced methods of consultation through the introduction of alternative systems, networks or fora which might assist retired workers in engaging more fully on pension related issues.

The document provides space for your responses to the questions set out.

Your Name: **John Moore** _____

Organisation (if applicable): Dublin Port Pensioner's Association

Telephone Number: **087 220 8178**

E-mail: **john.moore701@outlook.com** _____

Please indicate if this submission is made in a personal/employee capacity, an employer capacity or on behalf of your institution, organisation or group.

Name of company, institution, organisation or group covered by this submission:

Dublin Port Pensioner's Association

Respondents are requested to make their submissions by email to:

irsection@enterprise.gov.ie

The closing date for submissions is Friday 22nd April at 3pm.

Given the legal and regulatory obligations imposed on pension scheme trustees (see: [section 50 - prescribed guidance - version 3 february 2015 .pdf \(pensionsauthority.ie\)](#)), in particular, their fiduciary duty to serve all scheme members impartially, and the opportunity for member submissions as part of any scheme restructuring process, what is the effectiveness of the current arrangements and are there any other suggestions as to how the interests and concerns of retired workers could better inform trustees in their work consistent with the existing legal framework?

Answer to Q1:

Obligations of Trustees should be extended to take account of shortcomings of employers regarding rights of scheme members. Trustees should be proactive in seeking remedies in situations where legal obligations of employers are not being adhered to. Representative bodies acting on behalf of retired members should have necessary legal costs covered by the employer and/or trustees when acting in the best interests of scheme members.

Current arrangements are not effective mainly because retired workers have no voice. Structures need to be put in place to allow retired worker representatives discuss concerns with trustees and employers or the Board. It should be the norm when trustees, acting in the best interest of all members, refer issues of financial or legal nature for advice that all advice and briefings be shared with scheme members' representative bodies.

Question 2: Access to Industrial Relations Mechanisms for Retired Workers on Pension Matters

The 1990 Industrial Relations Act currently allows a retired person to access to the industrial relations bodies in a period of 6-month post-retirement for matters arising pre-retirement.

This 6-months is either from the date of retirement or the date from when it became known or should have been known, the time frame in which to make a complaint for matters arising post-retirement. This may be extended by the Labour Court in exceptional circumstances on a case-by-case basis, where the justice of the case so requires.

- A. Is there a need for the views of retired worker members of pension schemes to be included in the consideration of pension entitlements as part of collectively bargained agreements; if so, how can this be best achieved?**

- B. Are there any mechanisms that could provide a way for retired worker members of pension schemes to engage with pension trustees in advance of a separate collectively bargained agreement impacting on pensions?**

- C. Are there any disadvantages or challenges that introducing such a mechanism might impose on the voluntary dispute resolution mechanism? If so, what are these?**
- D. Could there be any deterrent effect of such a mechanism on the willingness of parties to engage in collectively bargained agreements and as part of the existing IR structures more generally?**

Answer 2A: Yes, there is a need for retired worker members to be included in the process. Terms and conditions of employment achieved by retired workers during their working lives should not be negotiated away without any involvement or engagement with them. Some legislation, for example the 1996 Harbours Act provides for consultation in the event of such changes, but it does not occur in practice. Where issues cannot be resolved at local level, retired workers should have access to the WRC or similar body.

Answer 2B: Trustees generally include representatives of management as well as retired workers and active members. It should incumbent on management to inform the trustees at the earliest opportunity of any discussions on pay and conditions taking place which may impact on the scheme members. The trustees should then engage with retired worker representatives on matters of interest prior to any agreements being signed so they have adequate time to review the proposed agreement's impact on their terms and conditions and to respond and accordingly. Failure to agree at local level would result in matters being referred to the WRC

Answer 2C: There can be no disadvantage to including all relevant parties in the process. Where insurmountable challenges arise referral to the WRC for decision would follow.

Answer 2D: All parties must recognise that retired workers are stakeholders in the Company just as the employees, trustees, relevant departments, etc. Retired workers should have a voice in collective bargaining insofar as their terms and conditions are affected. Bearing in mind that pension payment are equivalent to deferred pay, it is clearly in the interest of current employees to engage in this process given that they will one day be retired workers too. There is no downside to amending existing IR practices to take into account stakeholder views.

Question 3: Retired Workers and Collective Bargaining

- A. The existing legal position is that industrial relations is about the relationship between employers and workers. Could the views of retired workers be balanced with those of workers and employers engaged in negotiations to reach collectively bargained agreements? If so, on what basis?**

B. In the event that a majority of retired workers were opposed to pension changes proposed as part of a collectively bargained pay agreement which a majority of workers wished to accept, could these competing positions be reasonably resolved within the context of the current IR landscape and legislative provisions?

Answer 3A: Yes, a balance between active workers and retired workers can be achieved through the process of engagement with mutual recognition under a revised legal framework which recognises the right of retired workers to engage in collective bargaining on matters that impact the terms and conditions enshrined in their retirement contracts whether written or through established custom and practice. The important point here is that retired workers must have the legal right to engage with trustees and employers on matters of mutual concern.

Answer 3B: No, the existing IR landscape and Legal provisions are not geared for managing a situation where agreement through negotiation and discussion is not possible. Therefore, it is imperative to have recourse to a binding opinion from the Labour Court

Question 4: Implications for Workers and Employers

If you are an employer or worker, do you believe that including the views of retired workers on changes to pension entitlements proposed as part of collectively bargained agreements, would have any implications (including costs) for either the effectiveness of the current structure for dispute resolution/IR agreements (e.g. positive or negative impacts on industrial harmony) or on the level of pension cover?

Answer 4 N/A

Question 5: Redress Mechanisms for Retired Workers

There already exists safeguards to retired workers to protect their pension rights. Accrued pension entitlements represent property rights which can be vindicated in the courts. Members of occupational pensions schemes also currently have recourse to the offices of the Pensions Authority and the Financial Services and Pensions Ombudsman.

How effective are the current redress mechanisms for retired workers?

Q5 Answer: Currently, local or in-house mechanisms are totally ineffective for retired workers. This is because they don't have the backing of legislation or regulation which is often ignored by trustees/companies and pensioner groups do not have the financial resources to seek redress in the courts. The Pensions Authority have a regulatory role in relation to administration of pension schemes and providing information on pensions. The Financial Services and Pensions Ombudsman is an independent, impartial, fair and free service that helps resolve complaints from consumers, including small businesses and other organisations, against financial service providers and pension providers. What is needed in this instance is a statutory basis for recognising the right of retired workers to have access to the industrial relations machinery of the State in the same way and under similar conditions that active employees have.

Any other comments including the potential for new or enhanced methods for consultation:

We believe that retired workers should be represented on the Boards of state-owned companies and that this can be achieved relatively quickly under an amendment to the legislation that allows for employee directors. An elected retired worker-director would have the same duties and fiduciary responsibilities as all other directors. This move would enhance inclusiveness on boards and be a pro-active step in ensuring all stakeholders are represented at board level.

Company management should meet with representatives of retired workers at least once-a-year to consult and discuss matters of interest. Additionally, a separate meeting between representatives and the Chairman of the Board should take place without the presence of Management. This is to ensure that any issues of a sensitive nature can be raised in confidence.

Retired workers representatives must have the right to meet with the group of trustees or the Chairperson within a fortnight of a letter requesting the meeting being sent or at the next trustee meeting following a meeting request being sent, depending on the urgency of the matter.

Most trade union organisations have a section for retired members, and we believe that those members should have the same rights under industrial relations legislation as their colleagues who are still actively employed.

A paragraph in the note attached to the submission states that , 'The 1990 Industrial Relations Act currently allows a retired person to access to the industrial relations bodies in a period of 6-month post-retirement for matters arising pre-retirement. '

It is our view that six months is an arbitrary and completely inadequate time limit for matters arising post-retirement. For example, an actual situation has arisen involving retired scheme members who worked in an organisation for 40 years. They retired between six and ten months before negotiations on a general pay increase which included 12 months retrospective pay was agreed. Negotiations had been going on for the previous 3 years. The company is denying that the workers concerned are entitled to the increase in their pension at retirement date, even though they were working full time at the period to which the pay increase has been backdated. They are now outside the arbitrary limit imposed on them by the Act. They had no way of knowing the company would not honour previous arrangements before the six months post retirement had elapsed. We believe that there should be no time limit imposed in such cases.

