

Top public service pay: Government continues to operate in a policy vacuum

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The proposed pay hike for the secretary general of the Department of Health was just the latest in a series of decisions taken in a policy vacuum, according to Des McDermott, who discusses the case for a return to a systematic, rational and independent process of review for top level pay in the public service.

Public sector recruitment campaigns do not normally attract the controversy that has attended the vacant job of secretary general of the Department of Health. But when the Minister for Public Expenditure and Reform, Michael McGrath TD, approved a salary of €292,000 for the vacant post, it seemed he lit a touch paper to widespread cynicism and anger.¹

Since 2009 the vast majority of top level jobs have had their pay arrangements settled by statute, and by caps and limits imposed by Government. For a number of reasons, usually related to recruitment, this structure has started to creak. ‘Bespoke packages’ had already been set for the roles of Garda Commissioner² and chief executive of the HSE³. The Governor of the Central Bank is also on a high salary⁴. But for some reason those determinations were made without stirring up a similar storm of critical comment.

This row is the result of pay being determined in a policy vacuum and an indicator of what may lie ahead

What we know is the Government is carrying out ad hoc reviews, leading to some salaries being positioned above previous caps and limits. It is clear there is no robust process underpinning any of these packages. If this is not already a problem in top level pay management, then it will be.

Last week the Minister appeared before the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach to defend the decision relating to the secretary general position in the Department of Health. What did we learn? Members’ questions manifested considerable disquiet about a number of issues, including who made the decision, and how, and why the particular rate of pay was set? The Minister’s answers did not appear convincing. No committee member of any political hue said they thought it was a correct decision, and none appeared to have any clear understanding of how it had been taken.

The Minister argued that the measure of the pay rate’s appropriateness would ultimately be seen in the success of the selection process in identifying a suitable candidate for appointment. The appointment to the top job at the HSE two years ago is plainly seen as a particular benchmark by the Minister and was referred to repeatedly:

“...In making the final decision I looked at other salaries at very senior levels across the public service. The final salary that has been arrived at is approximately 20% less than the current salary of the chief executive officer of the HSE. It is fair to say that there is an element of judgment involved as to what level one believes is appropriate to attract candidates of the very

highest calibre. It remains to be seen who has applied and ultimately who will come through the process ...”

A MATTER OF JUDGMENT

Pay decision-making in any environment cannot be scientific, but it should strive to be as perfect as it can be. The Minister is correct in saying that this is a matter of judgment, but it is important that such judgments are informed. There was no clear explanation of the process behind the Health salary proposal, including what analysis and data may have been used.

Any process for pay determination must be fair, and seen to be fair. Perception, not least among jobholders at the relevant levels, is critical. But there is another aspect to pay decisions for top public servants in particular. As the chairman of the Oireachtas Joint Committee said last week, these decisions are a matter of legitimate public concern. The processes employed must have credibility and public trust.

Over two hours last week the Minister stated, and restated, his rationale for sanctioning the ‘enhanced terms and conditions’ by referring to the factors such as:

- a highly complex role with a challenging brief, especially in the midst of a global pandemic;
- significant responsibilities including the ongoing management of the response to the Covid-19 public health emergency, implementing the Government’s ambition to deliver on Sláintecare and the management of the greatly increased budget of €22 billion for health in 2021;
- the responsibility of the successful candidate to fulfil the Department of Health’s mission to improve the health and well-being of the people of Ireland.

Most, if not all, posts at this level of the public service are ‘highly complex’ ones, and carry very challenging briefs. They operate in the eye of many storms e.g. the Departments of Finance and Foreign Affairs during the three and a half years of Brexit; Justice and An Garda Síochána experienced resigning Ministers and Commissioners. As far as the Health job is concerned, do the factors cited by the Minister justify any difference with other secretary general roles? Do they justify the significant difference in salary implied by the recent enhancement?

PAY SETTING IN A POLICY VACUUM

Why are such decisions being made without a proper policy framework to guide them? The framework that exists is largely statutory, consisting of the caps and limits imposed during the financial crisis of 2009-2011. It is proving inflexible and it is internally inconsistent. The unwinding of the FEMPI measures has already resulted in pay rates at all secretary general levels now exceeding €200,000, the cap previously imposed.

In the absence of a policy, are the costs and benefits of such ad hoc decisions fully understood? One set of issues relate to knock-on claims, relativities and differentials:

- The Minister has refused to accept that there could be knock-on claims arising from this particular salary adjustment. But officials in DPER’s Pay and Pensions Division raised

this as a specific risk with respect to others at secretary general levels I and II, and it is hard to disagree.

- Were it to be accepted that the Department of Health is the behemoth of the civil service, is there not then a *prima facie* case that at least some of the jobs at the next level of the organisation structure (graded deputy secretary and assistant secretary) in that department are also significantly larger than other jobs at the same grades in other departments? A proper determination might reject the notion, but any resolution should come through analysis and not by Ministerial assertion.

What about the 'demonstration effects' of top pay decisions? As the banking and fiscal crisis unfolded in 2009, the Review Body on Higher Remuneration in the Public Sector considered significant pay reductions at the top level. A Department of Finance submission highlighted the impact that pay movements at the senior level can have on overall public service pay:

"... - public sector workers at other levels are likely to bargain in order to preserve existing relativities. Given the much larger numbers at non-senior management grades, this would have a noticeable impact on the public finances (a negative impact in the case of wage increases at higher levels, and vice versa)."⁵

An inference to be drawn from such argument was that general reviews - resulting in pay rises - for top level public servants, of which there had been seven over the previous four decades, would be seen as an unhelpful disturbance to pay relativities or to a sense of equity right across the public service. This belief was clearly behind some of the questioning of the Minister last week, which referred to the pay of student nurses and midwives.

That is an abiding reality that the Government has to contend with. It is a challenge to communicate that a Review Body-type exercise, being focussed on the content of individual jobs and their external market valuation, is very different to a collective agreement covering many grades or sectors of employment, which relies on macroeconomic and public finance indicators to guide increases.

The Review Body was disbanded after 2009. Remuneration for senior posts in the public service was historically determined by Government on the recommendations of the Review Body. It owed its place to a policy position that pay for the most senior posts in the public service should be determined in a different manner to the normal industrial relations machinery used for other grades. The Review Body carried out a job evaluation and a market pricing exercise for almost all jobs within its remit and made recommendations on the basis of a particular positioning of pay against the private sector market.

For some jobs, the internal perspective provided by job evaluation may be more important than the external market perspective. It is important to know which matters more, and why.

Since 2009 there have been no reviews of top level pay. Instead it has been generally adjusted through statute (the FEMPI Acts and their amendment) and through collective negotiation (starting with the Lansdowne Road Agreement). However an element of review has recently been reintroduced. The Minister elaborated on the process to the members of the Joint Committee:

"For certain very senior public servants, however, it is open to Governments to arrive - and down the years Governments have arrived - at bespoke arrangements where they believe it is warranted in the given circumstances. There used to be a review body on higher remuneration

levels in the public service but as that body was discontinued in 2009, there is not any such body at this time. The statutory role is with the Minister and it has to be exercised judiciously.

In making the decision in this case, I consulted a number of people at senior level across the Government and within the pay division of my Department.”

To be precise, the statutory power to set terms and conditions for civil servants was reserved to the Minister and his predecessors, long before the Review Body was established.⁶ What is different now is that the power is being exercised without a systematic and independent process of review, advice and recommendation.

RATIONALE FOR THE INCREASE

The Minister also alluded to the rationale for the proposed increase, which appears to be based on a mixture of a sense of relative ‘job size’ and considerations of market competitiveness:

“The view I arrived at, in consultation with my colleagues, was that this level of salary, albeit high, is commensurate with the level of responsibilities required for the post. Therefore, I believe it was the right decision and it is to be hoped it will attract candidates of the very highest calibre who will make a real difference.”

All of this begs many more questions than it answers. These questions apply equally to the other roles for which bespoke packages have been specified:

- Why precisely is the job at Health the largest of all secretary general jobs?
- What market data were examined? If external candidates are to be attracted, were international remuneration packages for similar roles considered?
- How then was this job compared to others in the market?

Were the jobs of chief executive at the HSE and Garda Commissioner also ‘larger’ than the jobs done by their predecessors, or larger than when previously evaluated and, if so, by how much?

While there was a clear case made for an external appointee in the case of An Garda Síochána, these packages – and the ultimate appointees - support a view that there were no suitable internal successors. However in the case of Health, one of the options discounted by the Minister and his colleagues was “an open TLAC competition based on the existing remuneration package, which would attract a field of serving Assistant Secretaries from within the civil service ...”. As people who operate at this level are exceptionally able and experienced, does this not call into question the value that strategic human resource management has brought to the civil service in leadership development and succession planning? What is missing in this cadre that requires a recruitment campaign specifically set up to attract external candidates? If there is a talent deficit, why not be explicit about that, and also tell us what is being done about it

HARDER TO MANAGE EFFECTIVELY

The Department of Public Expenditure and Reform has already admitted there is no policy framework. In a submission to the Public Service Pay Commission (PSPC), it conceded that:

“... revised salaries for certain senior posts are effectively being arrived at on an individual basis without a robust underlying and credible sizing exercise, except a sense that a higher salary is required to attract more candidates ...”

DPER envisaged that remuneration levels for these senior posts would continue to be managed in an individualised way and that:

“Without an objective mechanism for pay determination at these levels, the issues encountered with senior leadership remuneration will become increasingly difficult to manage effectively.”⁷

This is proving to be the case. The current controversy is both the result of having to determine pay levels in a policy vacuum and an indicator of what may lie ahead. In its final report, the PSPC was plainly influenced by DPER’s submission, saying it “would support the employer’s view that this approach is neither desirable nor sustainable.”

The PSPC went on to recommend that, should the Government decide to review senior level pay, the Review Body should “be reconstituted for this purpose, given the complexity and variety of the posts under discussion, as well as the range of issues affecting them.” Nothing appears to have come of this recommendation.⁸ Recent utterances from the Minister refer to the Review Body in historical terms.

LONG OVERDUE

The last review of senior public service posts was the seventh general review carried out by the Review Body in 2007. A review is long overdue, not least because the essential elements of independence and robustness are missing.

Until now there have been three levels of secretary general defined for pay purposes. There are four now, but that is not unprecedented. Whether there are three or four levels is unimportant. What matters is that there is a fair and consistent rationale for the allocation of secretary general roles to one level or another. While the later Review Body processes were very detailed, the approach now being used for pay management in the private sector is to put more resources into market pricing but underpin that by a formal job evaluation process.⁹

Job evaluation and market pricing are essentially comparative. One is internally focussed, the other provides an external perspective, where necessary. Working through it properly requires answers to many questions, including:

- How does the job in question compare to a benchmark job, one that is well understood?
- In the present case, what are the benchmark secretary general roles at Levels I, II;
- Is there a commonly understood and accepted set of factors and or competencies to describe the roles and/or people who might fill them?
- Can they be evaluated or sized, and what factors might be used?

A number of factors would need to be considered, not all of them straightforward, as an exchange at the Joint Committee on the fine points of accountability proved.

There is one curious aspect to the current controversy. The fixation on salary, high as it is in public service terms, is puzzling and not helpful. As a result, scant attention is paid to the value of the total remuneration package. Total remuneration for this post is the sum of the salary and the pension benefit, as there are no other remuneration elements of significance.¹⁰ This quantum may be at least as important as the controversial base salary. The paradox here is that while the base salary has been enhanced, and is fixed, the value of the retirement benefit would vary, depending on where the appointee comes from.

A new entrant to the civil service in this case has the option of joining the Single Scheme, where the pension benefit is based on career average earnings, or alternatively having a contribution of salary made to a nominated pension scheme. A serving public servant who had joined before 2013 would almost certainly be a member of one of the pre-existing public service schemes. This means they would have a retirement benefit calculated on final salary and his or her accumulated service. The latter would be a more valuable benefit. This aspect of the topic may yet come in for additional comment after we know the identity of the appointee.

After the Review Body had been asked to look at senior public service salaries for the first time in 1971, an editorial in *The Irish Times* commented: "No one can deny that all these salaries are of the gravest public concern. Adjustments should be fair and be seen to be fair." The words are as true today as they were 50 years ago. Unfortunately for the Minister and for DPER, nobody could describe the recent decision in this way.

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1. See reports by Martin Frawley in [IRN 02 – 14/01/2021,03 - 21/01/2021](#).
2. €250,000 on appointment in 2018.
3. €350,000 on appointment in 2018; currently €363,000.
4. €286,790 on appointment in 2019; currently €298,000.
5. Brian Sheehan, "Top public sector pay curb would send out 'positive signal'", [IRN 31 - 02/09/2009](#).
6. Section 17 of the Civil Service Regulation Act 1956 gave this power to the Minister for Finance. The function was transferred to the Minister for Public Expenditure and Reform by s.9 of the Minister and Secretaries (Amendment) Act 2011.
7. Submission of DPER dated 28 May 2019 available at <https://paycommission.gov.ie/submissions/phase-2/july-2019-report/>
8. Report of the Public Service Pay Commission: Recruitment and Retention Module 2, July 2019 at p.2 available at <https://paycommission.gov.ie/wp-content/uploads/Report-of-the-PSPC.pdf>
9. Des McDermott, "Pragmatic and tailored: the emerging new forms of job evaluation", [IRN 22 - 07/06/2018](#).
10. Security of tenure for public servants has often come in for mention but neither the Review Body nor the Public Service Benchmarking Body attempted a valuation.
11. *The Irish Times*, 5 April 1971.