

Unions waste no time in backing Mulvey Body's "HRA hours" recommendation

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Ahead of any Government announcement on the issue, public service unions moved swiftly earlier this week to welcome the recommendations of the Independent Body to restore working hours to pre-2013 Haddington Road Agreement (HRA) levels.

Application of the core recommendation would broadly see a return to the pre-July 2013 hours, but with a minimum working week of 35 hours.

Chaired by Kieran Mulvey, the Independent Body recommends a once-off implementation date of July, 2022 rather than opt for a complex phasing-in of the new working hours.

These recommendations "conclude any further negotiations to restore pay and other conditions ..."

An incremental approach towards implementation was seen by the Body as potentially causing "unnecessary and unavoidable operational and organisational challenges".

An envelope of €150m has been set aside under the Building Momentum agreement to cover the cost of the restoration, the cost of which will be recurring. The Body's report envisages an additional €30m will be sufficient to meet additional costs.

Minister for Public Expenditure & Reform, Michael McGrath, said he expects to receive the full report later this month. "On receipt", he will give it "detailed consideration and will bring a recommendation to government".

Known as the '*Independent Body Examining Additional Working Hours (HRA) in the Public Service*', the Kieran Mulvey-chaired Body was established under the Building Momentum agreement to make recommendations to address the additional working time introduced under the HRA.

Under that public service agreement – the final post-financial crash retrenchment deal – most public sector workers saw working hours increase in 2013, in lieu of another round of wage cuts.

POWER SHIFT?

The Body's report will be regarded as more than a concession secured under a collective agreement; it may be seen as a morale booster, across a broad spectrum, from visible front-line staff to those engaged in delivering pandemic benefits.

Arguably, it may also signal a shift in the power dynamic at this time. It is seen as the final roll back of the financial crash retrenchment measures, indicating that the public service unions enter talks this summer with a stronger hand than they have had for some time. The unions issued subtle, but clear messages to government on the HRA hours:- concessions are required to maintain the IR stability under these public service agreements.

Across trade union conferences, the 'HRA hours' had bubbled up from below as a burning issue for union members and activists. Initially, union leaders were sceptical, dampening down expectations because they felt restoring the hours wasn't feasible at that time. But the pressure mounted and the context changed.

Looking at this concession through a wider lens today, Ireland's economic success and the positive impact of that on the Exchequer is what, ultimately, will allow the state to concede ground it might have thought was secured.

VERBAL BRIEFINGS

While the Government is expected to accept the recommendations, it will take some time to consider the full Mulvey report before arriving at a formal decision.

The full report remains in draft form, but in a letter to both parties on Tuesday of this week, Mr Mulvey said the "substantive report of the Independent Body will be conveyed to all parties to the Agreement by the end of January, once the final editing process and design has been completed".

The chairman said the Body was anxious to meet the deadline for presenting the report "and hence their wish to forward to you as a matter of priority their final Conclusions and Recommendations".

These final recommendations and conclusions, seen by IRN, are dated January 6, 2022, and were sent to the parties on Tuesday of this week after they had received verbal briefings on the main recommendations.

MOVED FAST

These briefings took place late last week. At that stage, the unions still did not have full sight of the text of the Mulvey recommendations and conclusions of his report.

But union executive committees moved quickly, meeting to consider the verbally communicated recommendations and subsequently issued a series of press releases, warmly welcoming the report's key recommendations.

The speed of their reaction went beyond simple backing for the roll back on hours; it was also designed to secure “ownership” of the concession made after years of campaigning, triggered by membership pressure.

FINAL ELEMENT

The recommended changes will see much of the extra hours imposed eight years ago reversed. To recap, the additional working hours were imposed from 1st July 2013, when the standard working time of civil and public servants increased to 39 hours for those who previously worked between 35 and 37 hours, and to 37 hours for those who previously worked 35 hours or less. The hours of those working 39 hours or more per week remained the same.

The Body’s recommendation would see a return to the pre-July 2013 hours, albeit with a minimum working week of 35 hours.

This minimum means that some public servants who worked below 35 hours in 2013 will now stay on 35 hours.

There will be some exceptions in the case of hospital consultants, academics and primary and post-primary teachers (*see below*).

CONTINGENT FACTORS

The Body’s full report – when published - is also expected to set out the background to the HRA hours and provide an overview of the key criteria the Body was asked to consider. These include potential impacts on services and productivity.

Meanwhile, in its separate considerations around a special Covid reward for front-line workers, especially in health, the LEEF may factor the Mulvey Body’s recommendations into its calculations.

Undoubtedly, the reduced hours will benefit health care staff, especially nurses, putting them back on track towards restoring their pre-HRA, 37.5-hour week. If the HSE had to take into account concession of the current INMO extra leave claim, for example, that would add to its roster challenges. But there has been no indication as yet about what approach LEEF will take on the reward issue, so whether it will factor the Mulvey recommendations into its calculations remains a matter of speculation.

HOW COSTLY?

It was always doubtful whether the €150m set aside for the concession in Building Momentum would be sufficient to cover the costs of implementation. Mr Mulvey says that whereas the financial envelope of €150m “will be exceeded by our Recommendation”, any further delay in restoring the hours “would have caused a severe and negative reaction from the public service unions”.

“Under our own cost modelling projections our recommendations involve the order of a potential €30m additional cost,” he says. “We are of the view that some other cost considerations which we outline below will have cost benefits to the exchequer and our public finances and will potentially mitigate these costs.”

As recently as June 30, 2021, the Department of Public Expenditure & Reform (DPER) told the Body this would cost €645m. The HSE, the Department of Education, the Higher Education Authority, Tusla and Local Government all submitted detailed costings at the same time.

REDUCED ESTIMATE

A stand-out feature of those official submissions in mid-2021 was a focus on the value of the extra hours across the entire sector and the implicit difficulty of doing without the extra working time, especially in health.

While DPER had reached agreement on Building Momentum, the line taken in the various official submissions was more akin to one of opposition to the move, rather than proposing how this part of the BM agreement might be implemented.

However, this week DPER now estimates that the recommendations will cost about €180 million this year (in line with the Body’s report). Whatever calculations are used, this is considerably below the €645m estimate given to the independent body last summer.

PROTECTING CHANGE

A larger concern for the government side in any future public service deal – the unions have flagged up fresh talks in May, 2022 – will be to ensure that no further concessions agreed in the post-financial crash period will be reversed. These include major changes in areas like public service pensions and sick leave, which involve long term savings and efficiencies.

The Body’s comment in its conclusions may provide comfort for the official side with regard to such fears, where it concludes that these recommendations, “effectively conclude any further negotiations to restore pay and other conditions of employment, either imposed by a combination of FEMPI legislative enactments, or agreed through a difficult series of overarching Public Sector Agreements addressing pay, pensions, working hours and public service modernisation requirements over the last decade.”

Separately, concerns about the impact of reduced hours in the health service were expressed last year by HSE CEO, Paul Reid. In the HSE submission to the Body, the extra hours were described as of being “immense assistance at times of scarce resources” and in the context of the Covid-19 pandemic.

‘RECOMMENDATIONS & CONCLUSIONS’

Outlining its recommendations and conclusions (January 6, 2022), the Independent Body acknowledges the longevity of the additional hours being worked and the “truly committed

efforts of staff during the last two years” in meeting patient, healthcare, population vaccine, security needs and the requirements of delivery for existing and new social welfare and pandemic payment measures.

The Body takes the view that the role of healthcare staff in the totality of the healthcare system “can best be recognised by restoring the Haddington Road Agreement hours at the earliest possible date”. It says this decision will also help towards making the task of recruitment in key frontline grades more attractive – a point emphasised by the INMO in its welcome for the recommendations.

The Body is “conscious of the fact that the date recommended” (i.e. July 1, 2022) will be the final date on which all FEMPI measures will have ceased “and will constitute the 9th anniversary of the introduction of all Haddington Road extended working hours and for which no compensatory financial measures were sought, considered or introduced”.

Remarking that the Body undertook its deliberations during a period of disruption in workplaces that was unprecedented in terms of scale and longevity, it says it is also cognisant that current employment patterns and practices continue to be fluid “during these tumultuous times”.

RETURN OF HOURS

The Body observes that Paragraph 4.2.1 of Building Momentum, and the Terms of Reference of the Independent Body, “states that the Independent Body can make recommendations which enable commencement of such recommendations during 2022”.

The Body says it is also aware of the agreement between the parties to Building Momentum that on the publication of the report, an envelope of €150m will be made available, under this Agreement, across all affected grades, groups, categories, and sectors.

Furthermore, it says, paragraph 4.2.2. of Building Momentum and the Terms of Reference of the Independent Body, “provide for the roll out of the Body’s recommendations to be initiated within the lifetime of the above agreement”.

The options available to it were “to recommend a continuation of the additional hours for a further period in 2022 and 2023 or to restore the hours in a manner which would cause the least operational disruption which would arise by having to adjust rosters and hours twice over a relatively short period of time”.

SERVICE DELIVERY

In light of the above considerations, the Body said it is cognisant of:

- the need to provide services that meet the needs and service level expectations of the public;

- the accelerated and continued impact of technology on service delivery and the future of organisation of work, beyond Covid, and the imperative to provide further online services to the public for Government services;
- emerging practice in terms of managing employee engagement, health and wellbeing and productivity;
- cost considerations; and
- the strain and demands upon individual staff in frontline services over the last two years.

'CONSIDERABLE VALUE'

The Body says additional hours have undoubtedly contributed significantly to the national effort to recover from the global crisis of the last decade. "They have also been of considerable value to the increased productivity and new service delivery reforms which have been achieved throughout our public services during a period when recruitment restrictions were in place."

As the Terms of Reference of the Independent Body require an "equitable application of any recommendations", the Independent Body recommends that:

- HRA hours implemented in 2013 will be restored in all civil and public service employments with effect from July 1st 2022, with the exception of those cohorts listed below.
- Working hours for any grade will not be less than the level that applied prior to the HRA, in this regard a minimum floor of 35 hours per week will apply.

MITIGATING THE IMPACT

The Independent Body says its assessment "suggests that the cost of implementing the recommendation will exceed the €150m" - but it is satisfied that any excess can be mitigated/adjusted by the fact that:

- **A standardised minimum working week of 35 hours will now be in place across the civil and public service** and which removes employment hour variables in the system.
- Replacement costs will not arise in all cases or sectors, but particularly in the case of posts **at managerial level where both management and unions agree that this cohort of staff work in excess of contract hours, often during unsocial hours and without compensatory payment.**
- The Independent Body recommends that both Government and the PSC/ICTU agree that **no compensatory claims will be pursued or conceded in respect of any**

grade arising from the implementation of the recommendation to restore the HRA hours.

- In the absence of any detailed submissions from either party, the Independent Body is of the view that **the “overtime divisor” should be a matter for further direct discussions between the parties.** *(IRN emphasis in bold)*

EXCEPTIONS

The Body refers to further considerations it gave in respect of Academic Grades, Hospital Consultants, Primary & Post-Primary Teachers.

It is of the opinion that no recommendation regarding working/contract hours involving **Academic Grades** is appropriate at this stage “given that this sector is currently under review by both the OECD and the Department of Higher Education and Research and which may lead to new contractual arrangements for academic staff”.

Regarding **Hospital Consultants**, it says that as negotiations are underway on a new Hospital Consultant contract, the Independent Body “expects that any specific working hours arrangements will be dealt with in these negotiations”.

With regard to **Primary and Post Primary Teachers**, it says it is cognisant that both primary and post primary teachers are paid an additional allowance “which is built into their salary and pension arrangements for performing supervision and substitution duties and sees no basis to adjust this agreed arrangement arrived at under previous Agreements”.

CONCLUSION

The Body says these recommendations effectively conclude any further negotiations to restore pay and other conditions of employment.

What it describes as the “orderly return to the public finances” has been achieved “without any serious disruption to services, a continued commitment to industrial peace, and adherence to the processes surrounding collective bargaining”. These achievements should not be underestimated, it says.

It says that it recognised that, on balance, “a partial or incremental approach towards implementing the restoration of working hours could cause unnecessary and unavoidable operational and organisational challenges”. In addition, this would potentially lead to a negative employee reaction, given the circumstances outlined above, particularly if there was any continued uncertainty and a need for further negotiations on a final decision on the restoration of the HRA hours.

The Body was conscious of the added importance of making recommendations which “will contribute towards creating a strong and positive atmosphere and attitude among Government and Unions, as parties to Building Momentum, its sectoral negotiations and treating all civil and public staff in a fair and transparent manner”.

It says that its recommendations “will assist the parties to continue to collaborate and co-operate in meeting the challenges facing our public services currently and that they remain in a position to ensure rapid responses can be put in place to meet the needs and requirements of the public”.

The Body concludes that recommendations “should potentially lead to the conditions by which a successor agreement to Building Momentum should be negotiated”.

UNION RESPONSES

Fórsa, welcoming the Mulvey recommendation, noted that “it will unwind the final element of the HRA’s austerity measures”.

The union also pointed out that temporary pay cuts for more senior public servants, also introduced under the HRA, “have been restored in recent years, and pay restoration for the very top earners is set to be implemented in July this year”.

Cuts to overtime and premium payments introduced under the HRA have also been restored, it said, along with other cuts introduced under the HRA.

The union’s general secretary Kevin Callinan said the recommendation would remove “a longstanding and debilitating drain on morale and productivity” across the civil and public service.

The additional hours “fell hardest on women with caring responsibilities”, he said. The recommendation “allows the Government to remove the HRA’s final outstanding austerity-era measure and, with it, a deep grievance among many – mostly lower-paid – public servants”.

REMOVING OBSTACLE TO TALKS

SIPTU deputy general secretary, John King, said the recommendation, if accepted by the Minister, will be welcomed by those public servants affected. “They are mainly women and lower paid workers who have had a deep felt annoyance and frustration over the imposition of unpaid working time.”

Mr Callinan, who also chairs the ICTU public services committee (PSC), which negotiates on behalf of all public service affiliates, claimed that acceptance of the recommendation by Government, “would also significantly enhance the prospect for continued stability in public service delivery and quality, not least by removing a huge obstacle to the successful negotiation of a public service agreement to replace Building Momentum when it expires later this year”.

He expressed confidence that the change could be achieved without excessive cost or damage to public service quality or output, arguing that “it has never been correct to assume that increased working time equals increased productivity”. Civil service

departments temporarily reduced the working day to seven hours from 7.24 during the Covid-19 pandemic, “largely to facilitate social distancing, and productivity was at an all-time high during that period”, he said.

INMO general secretary, Phil Ní Sheaghdha, said the recommendation will benefit the retention of nurses and midwives. “The additional hours have disproportionately impacted our largely female workforce. The additional hours have pushed many nurses and midwives into part-time work due to the additional pressure that was put on caring responsibilities,” she said.

Ms Ní Sheaghdha noted that INMO members voted to accept the Building Momentum agreement, observing that its full implementation now “will pave the way for new public service agreement negotiations to begin later this year”.