



Response to the Isle of Man Superannuation Act 1984 - Consultation Document

A New Modernised Superannuation Act

Introduction

This evidence is submitted by Unite the Union. Unite is the UK's largest trade union with 2 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, energy generation, construction, transport and local government, agriculture, education, health and not for profit sectors.

Unite welcomes the chance to submit evidence and would be willing to make further written and verbal submissions about any of the issues raised.

Unite is being asked to consider its response to the proposal of the Council of Ministers of the Isle of Man to pass a new modernised Superannuation Act.

In doing so Unite makes the following points.

- a) Unite welcomes the opportunity to be consulted on these proposals. However Unite is of the view that they can not be taken in isolation but need to be read in conjunction with the proposals set out in the Independent Review of Public Servants Pensions on the Isle of Man as recently commissioned by the Isle of Man government from Hymans Robertson – entitled an Independent Review of Public Servant's Pensions - (May 2008).
- b) Unite makes the point, as already submitted by the Isle of Man Trades Council, there should be further consultation as to any future proposals arising from the Hymans Robertson LLP report

with the pensions experts of all the unions concerned, including Unite.

- c) Unite is also of the view that the method and manner of asking for a response to a consultation in this limited question an answer form as hereby required does not do justice to the importance of the matters under discussion and that any changes posed or otherwise to all or any of the pension schemes on the Isle of Man should be conducted if entered into at all by a process of collective bargaining with the totality of unions concerned.

Amending Public Service Superannuation Schemes

Do you agree that Tynwald should be responsible for the making and revoking of schemes and for significant amendments to such schemes? If not, please explain who you believe should hold this responsibility and why.

1. Unite does not agree that Tynwald alone should have this responsibility; pension provision requires a consensus that goes beyond the straightforward legislative process particularly in a democratic society. If the Isle of Man functions, as it say it does, on a non party political basis, then this consensus becomes doubly important.
2. The future of pensions is one of the most important challenges facing us today. It is difficult to deal with pensions in a non party political way because of the range of interests involved. In the UK most of the recent changes to occupational pension schemes have arisen as a result of considerable in depth and lengthy periods of negotiations between both employers, unions and the government with a view to arriving at sustainable and fair solutions that will last the distance. Pensions are part of the package on pay that our members agree and contract to work for and in the eyes of Unite pensions have always been seen both in practice and as a matter of policy as 'deferred pay'.
3. As such it would be inappropriate to approach any change to the pension schemes on the Isle of Man as if they were part of a State expenditure purely and solely in the hands of the executive or legislature.
4. Pensions are generally regarded by members as a part of the contractual relationship that should not be the subject of too much annual change and in which it is agreed that all parties both employer and employee have common interests. Many Unite members work on the basis that pension is a significant reward that may otherwise compensate for low pay or relatively low pay. It is a reward that encourages many workers to stay with a particular employer.
5. As such pensions are not something that can or should be altered except by free collective bargaining and negotiation.

6. That principal remains the same whether ultimately the provider is a government backed employer providing a state guarantee or a private sector employer maintaining a funded trust based pension scheme.

Do you agree that transfer of the power to approve scheme amendments could result in the smoother running of public sector pension schemes?

7. Unite does not view it as at all necessary to delegate the power to make scheme amendments. Unite does not believe that is at all necessary to break the link with the 'UK' pension schemes. Unite does not believe that the power to approve scheme amendments could result in the smoother running of public sector pension schemes.
8. There is no real evidence that these schemes are not running other than smoothly and properly.
9. UK Pension schemes have been updated and adapted in recent years to be both sustainable and modern giving now for example partners pensions to both certain co-habitees and civil registered partners.
10. UK schemes are generally amended by, for example in the Civil Service and its by analogy schemes, a process of direct negotiations through the CCSU and in the case of the Local Government Scheme by a de facto tri-partite negotiation between the State as 'regulator' the employers as scheme providers and by the unions as representatives of those paying employee contributions. Unite believes that this secures and maintains a necessary consensus for those changes that are introduced. These scheme amendments can then be mirrored and successfully transposed to the Isle of Man schemes.

Do you agree that the power to approve all scheme amendments (rather than just some) should be transferred? If not, how do you think it should be decided which amendments could be approved by the relevant body?

11. Unite does not believe that any power to approve scheme amendments should be delegated.

Do you have any views on the constraints within which the power of approval of scheme amendments might be transferred?

12. Unite believes that were any power to approve scheme amendments to be delegated or transferred then they should still be capable of being reviewed by some form of democratic process of accountability.

Do you agree with the proposal to establish a statutory board with the responsibility for public sector superannuation? If not, who do you think should be responsible for making decisions in relation to public sector superannuation?

13. Unite does not believe that a statutory board should be established with responsibility for public sector 'remuneration'. Certainly any such Board must not be given the responsibility as suggested for making, amending or revoking any of the public sector pension schemes covered by any modernized Act. Notwithstanding any promise that such delegation should be subject to ongoing reporting to the Council of Ministers.

Do you foresee any problems with the practical enforcement and implementation of the proposed policy? Are there any alternative approaches to implementation?

14. Yes it will run into the concerted opposition of this trade union and others. An alternative is not to proceed to develop or implement this policy.

Do you foresee any unintended consequences resulting from the legislation upon which we are consulting? If so, please highlight these in your response.

15. Unite believes that to develop these proposals in any concrete form that moves towards breaking the link with the UK runs a real risk of alienating and upsetting a major section of public sector workers on the Isle of Man. Those workers who are currently provided with final salary pension schemes that are the envy of many other workers. The current arrangements reward both long service and loyalty. The particular model of a final salary pension with a government guarantee behind it is both seen and valued as the "gold standard" of pension provision.

Do you have any other comments on the issues raised in this section?

16. There should be no need to find a 'one size fits all' solution to public sector schemes on the Isle of Man. It would be wrong in principle to start from a basis that all public sector pension schemes should operate in the same way in respect of 'sustainability'. There are fundamental differences such as the nature of the schemes etc. For example The Civil Service Nuvos scheme in the UK is a CARE option which was the preferred solution for a 'new look' Civil Service Pension Scheme. The Teachers Pension Scheme is a full final salary pension scheme. There are also important differences between public sector schemes such as current levels of employee contributions.
17. The LGPS as a funded scheme should be seen as a unique and distinct entity not particularly analogous by comparison to other public sector pension schemes.

Scheme Maintenance and Administration

Do you agree that accountability for the maintenance and administration of public sector pension schemes would be improved if the lines of responsibility and delegation were clearly defined in the Act?

18. This could be an opportunity to go make amendments to the existing governance of schemes to give effect to greater member participation. The union seeks such moves in developing the LGPS for example in the UK. Good governance and proper administration are essential aspects of pension provisions.
19. Active member participation and voting rights for scheme members is a core principle for trust-based schemes, introduced in the Pensions Act 2004, which was itself guided by the 2003/41 EU Directive, known as the IORP Directive (Institutions for Occupational Retirement Provision).
20. Scheme member involvement in investment matters of funded schemes is also a central principle of the Myners Review, whose findings were adopted by UK Government. Myners argued that the protection of beneficiaries' interests against the often conflicted interests of employers and fund managers was best ensured by the participation of member-nominated trustees (MNTs) with good training and adequate facility time and support.
21. If members were genuinely to be involved in the scheme, they would be able to make representations about all aspects of the fund in which they participate; this includes how the fund is governed.
22. A modernised Act could implement a greater degree of active member participation
23. There would need to be equal status for both councillor and member representatives. Scheme member representatives in a funded scheme would have to be fully involved in investment matters (a principal central to the Myners Review). Scheme member representatives would need to be adequately supported with access to good quality training, faculty time, indemnity insurance and time of with pay to attend to their duties.

Do you envisage any problems with the transfer of responsibility for the ongoing running of schemes to a statutory board if such a board with responsibility for public sector superannuation were to be established?

24. There is a concern that this could lead to the introduction of automatic 'risk – sharing mechanisms' that would inevitably seek to by pass established arrangements for collective bargaining on pensions. Pension risk sharing mechanisms can often be about no more than shifting 'risk' on to the employees concerned to their major detriment.

Do you foresee any problems with the practical enforcement and implementation of the stated policy? Are there any alternative approaches to implementation?

Do you foresee any unintended consequences resulting from the legislation upon which we are consulting? If so, please highlight these in your response.

Do you have any other comments on the issues raised in this section?

Financing and Cashflows

Do you foresee any problems with the practical enforcement and implementation of the stated policy? Are there any alternative approaches to implementation?

25. There is a danger in moving to a delegated board and of breaking the link with the UK that there will be a future attack on the benefit structures of all or any of the schemes.
26. Equally there is a danger at in moving towards funded schemes that those scheme will take the risk of poor investment returns which will then be passed on to the members. At present in an unfunded scheme the tax payer provides a government guarantee and the government adopts a pay as you go means of funding. If the Isle of Man has its current contingency fund to provide for potential future escalating cost then this is both and extra safeguard and a guarantee.
27. There is no reason to have a funded scheme in pricipal, indeed it does not of itself save any costs as it needs always to be funded on a prudential basis which may well be more than the actual costs. The reason that schemes generally are funded in the private sector is because sponsoring companies come and go and a fund provides long term security for the duration of a pension scheme which may be must greater than that of say a manufacturing company. That is not true of governments who are around for the long term.

Do you foresee any unintended consequences resulting from the legislation upon which we are consulting? If so, please highlight these in your response.

Do you have any other comments on the issues raised in this section?

Enabling Powers and Flexibility

Do you agree that the same degree of flexibility should be afforded to each of the schemes covered by the Act?

Do you foresee any problems with the practical enforcement and implementation of the stated policy? Are there any alternative approaches to implementation?

Do you foresee any unintended consequences resulting from the legislation upon which we are consulting? If so, please highlight these in your response.

Do you have any other comments on the issues raised in this section?

28. Unite notes the position that amendments to the Act to modernize it do not currently affect any of the benefits strut cures under the pension schemes themselves. However Unite does note that these proposed power and flexibilities will lay the legislative groundwork for future changes to happen more easily than would currently be the case.
29. Unite notes the proposition put forward by the Chief Minister that Hymans Robertson have been retained and are to report back by December 2008 as to a 'way forward'. Unite notes that Hymens Robertson have notified to the Council of Ministers that they propose as a way forward
30. Rationalization of schemes to create a unified scheme for most staff that is no longer linked to the design of UK schemes.
31. The retention of a 'final salary' scheme design basis ; and
32. Moving from the current unfunded arrangement to a full funding arrangement.
33. Unite wishes to let it be known that it is totally opposed to bullet point 1 in whatever form it may take.

Dispute Resolution

Do you agree that the IDRP requirements should cover these groups?

34. Unite agrees with the proposition that all schemes must be covered by internal dispute resolution procedures which is the case for all UK public sector schemes at this present moment in time.

Are there other groups of individuals that you think should be entitled to raise disputes under the IDRPs rules?

35. All scheme members, including all active members deferred members and pensioners as well as potential members and relatives of members or potential members should be allowed to access a schemes internal disputes resolution procedures.

Do you agree that each scheme should specify its own resolution body? If not, please explain, with reasons, who you think should have the power to determine the resolution body for each scheme.

36. Each scheme should have its own disputes resolution procedures.

Do you foresee any problems with the practical enforcement and implementation of the stated policy? Are there any alternative approaches to implementation?

Do you foresee any unintended consequences resulting from the legislation upon which we are consulting? If so, please highlight these in your response.

37. There may be a need to set up some form of independent overseeing dispute resolution procedure similar to the UK Pension Ombudsman Scheme. As well as a pensions advisory service similar to TPAS the Pensions Advisory Service.

Do you have any other comments on the IDRPs proposals?

38. Unite believes it is reasonable that schemes should be obliged to acknowledge receipt of all applications. The numbers of complaints should in most cases be small and an acknowledgement represents good practice and can be argued to be in the interests of the scheme as it will help put often annoyed and/or anxious complainants at their ease. It would also provide an opportunity for schemes to manage expectations as to when a full response will be forthcoming.

39. Unite believes that all disputes should be dealt with within a 'reasonable time'. This should not be more than two months from the date of submission of the complaint for a determination of the first stage of a dispute.

40. Unite believes that there should be a two stage procedure for determining disputes. In a two stage procedure, the first stage often allows for the facts, issues and arguments in the dispute to be clarified. Members have an opportunity to reflect on the first stage response and consider whether they wish to press the original argument or refine the basis of the complaint in the light of new information which has emerged. It is not clear how this beneficial opportunity for reconsideration can be accommodated within a single time limit for the completion of the whole process.

Transitional Arrangements

Do you agree that new legislation should incorporate transitional provisions sufficient to cope with future changes to the public sector superannuation regime? If not, please explain why you think this is inappropriate.

N/A see above

Are there any particular transitional issues to which you would like to call attention?

N/A see above

Do you foresee any problems with the practical enforcement and implementation of the stated policy? Are there any alternative approaches to implementation?

N/A see above

Do you foresee any unintended consequences resulting from the legislation upon which we are consulting? If so, please highlight these in your response.

N/A see above

8th October 2008

Peter Smith, National Pensions Officer

Mrs Brenda Skillcorn

Chief Officer

Personnel Office

Goldie House

1-4 Goldie Terrace

Douglas

Isle of Man 1M1 1EB

Closing date for submission 17th of October 2008

