SUBMISSION TO THE PUBLIC SERVICE PAY COMMISSION - RECRUITMENT AND RETENTION FOR SENIOR EXECUTIVE ROLES IN THE CIVIL AND PUBLIC SERVICE

DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM

INTRODUCTION:

This Department's opening submission to the Public Service Pay Commission ("the Commission") in December 2016 referred to evidence from the Public Appointments Service (PAS) that recruitment issues that may exist in the public service are at senior level and for specialist skills.

Subsequently, the first report of the Commission, published in May 2017, found that there is some evidence that it is becoming difficult to attract a sufficiently wide pool of suitable candidates for some senior level leadership positions, and that consideration could be given to commissioning a more comprehensive examination of underlying difficulties in recruitment and retention where difficulties are evident.

This submission outlines developments in the area since the opening submission, drawing on data available from PAS and the Top Level Appointments Committee (TLAC), and provides some context to the current situation in terms of remuneration at senior levels.

For the purposes of this submission, a senior level post is considered to be that with a remuneration level equivalent to or above that of Assistant Secretary in the civil service. This includes approximately 1,000 senior posts across the civil service, health, education, justice, defence and local government sectors, and Non-Commercial State Bodies.

CONTEXT:

Firstly, it is important to outline measures that have impacted on remuneration at senior levels in the public service since 2009, and some external factors that may be contributing to recruitment issues at this level.

FEMPI PAY REDUCTIONS

Between 2009 and 2013, five FEMPI Acts were passed to reduce both the public service pay and pensions bill (Table 1). These measures included reductions to basic salaries and allowances, and the introduction of a Pension-Related Deduction (PRD). In 2013, a reduction in remuneration was applied to public servants earning over €65,000 only.

Table 1: FEMPI pay reduction measures

Act	Provisions	Commencement Date
FEMPI Act 2009	Pension-Related Deduction applied to public servants.	March 2009
FEMPI (No. 2) Act 2009	Reductions in remuneration for public servants: Salaries up to €125,000: c.5%-8% Salaries in excess of €125,000: 8%-15%; Reduction in fixed allowances of 5%-8%.	January 2010
FEMPI Act 2010	Public Service Pension Reduction (PSPR) applied to public service pensioners; Additional reduction in remuneration for Taoiseach, Tánaiste and Ministers.	January 2011
FEMPI Act 2011	Reduction in remuneration for the Judiciary; Additional reduction in remuneration for Taoiseach, Tánaiste, Ministers, Ceann Comhairle, Leas-Cheann Comhairle, Attorney General and Comptroller and Auditor General.	January 2012
FEMPI Act 2013	Additional reduction in remuneration (salary plus allowances) for public servants earning over €65,000 (i.e. HRA cut)	July 2013

The reductions in remuneration and the introduction of PRD operated progressively i.e. the salaries of higher paid public servants were reduced to a greater extent in relative terms than lower paid cohorts. The effect of these measures on a range of salary levels is outlined in Table 2 below.

Table 2: FEMPI pay reductions as % of pre-FEMPI salary

Pre-FEMPI Salary Level	**€30,000**	**€50,000**	**€100,000**	**€200,000**	**€230,000**
Jan 2010 Salary	€28,500	€47,000	€92,500	€176,000	€195,000
Jul 2013 Salary	€28,500	€47,000	€87,100	€163,660	€181,300
2013 Salary net of PRD	€27,400	€44,050	€80,005	€148,526	€164,314
% Reduction	**9%**	**12%**	**20%**	**26%**	**29%**

NON-FEMPI MEASURES

In addition to the pay reductions under FEMPI, the Government introduced further measures during the economic crisis that affected remuneration packages of public servants.

- **Revised salaries**

In December 2009, the Government agreed to implement reduced salary rates for newly appointed Secretaries General and Deputy Secretaries in the civil service. This approach was expanded to reflect a more general policy on senior level remuneration. From December 2010, certain senior posts across the civil and public service (for example CEOs in Non-Commercial State Bodies) were reviewed and regraded downwards, unless a compelling reason to retain their previous salary was presented. In total, this policy affected approximately one third of Non-Commercial State Bodies (c. 28 bodies), with an average additional non-FEMPI reduction of approx. 10% applying. The majority of the posts that were regraded during this period had a remuneration level at or above the level of Assistant Secretary in the civil service.

- **Introduction of Pay Cap**

In addition to the pay reductions imposed on public servants under FEMPI, in 2011 the Government introduced a general pay ceiling of €200,000 for future appointments to senior positions across the public service. As an example, the effect of this was a further non-FEMPI reduction of 17% to the gross salary for the position of Secretary General (Level I). Taking into account the combined effect of (i) FEMPI pay reductions, (ii) the introduction of PRD and (iii) the reduced salary rates for new appointees, the annual salary (net of PRD) for the position of Secretary General (Level I) was reduced by 43% between September 2008 and July 2013.

- **Termination of Performance Related Awards**

Prior to the economic downturn of the late 2000s, Performance Related Awards had been a feature of certain senior level remuneration across the public service. In 2009, those performance related payments were terminated in the case of civil service grades (they applied at the level of Deputy Secretary and Assistant Secretary), and for related groups across the public service. The final report of the *Review Body on Higher Remuneration in the Public Sector*[1] (Report No. 44), published in December 2009, recommended that such payments be suspended for senior management grades across the

[1] The Review Body on Higher Remuneration in the Public Sector was established on a non-statutory basis in the 1960s and recommended on senior public service pay on an ad hoc basis, when commissioned to do so by the Minister for Finance, until 2009.

public service, in recognition of the very serious state of the public finances. Such payments have not since been reintroduced.

- **Reduced pension terms available to senior public servants**

Prior to the economic downturn, enhanced pension terms had been available to appointees to certain fixed-term senior posts in the public service. For Secretaries General in the civil service, these terms included immediate payment of pension without actuarial reduction at the completion of term of appointment, the provision of up to 10 added years of service, and severance payment of six months' pensionable remuneration. Similarly, County Managers in Local Authorities who ceased to hold office before the age of 65 were entitled to immediate payment of pension, and up to 10 added years of service for pension purposes. Where a County Manager's tenure expired before reaching retirement age a severance payment of up to six months' pensionable remuneration was payable. In certain circumstances, CEOs of Non-Commercial State Bodies (NCSBs) could avail of immediate payment of pension, up to 5 added years of service, and severance payment of up to six months' pensionable remuneration.

These terms reflected the strategic importance of the posts, their fixed-term nature, the need to attract a sufficiently wide pool of quality candidates and to reward appointees appropriately having regard to the increasing public exposure, complexity and challenge of such posts. In 2011, in the context of the State's economic situation at that time, the terms available to newly appointed Secretaries General in the civil service were reviewed and significantly reduced[2]. The terms available to County Managers were similarly reduced, and in the case of CEOs of NCSBs, the enhanced pension terms were revoked entirely.

The introduction of the Single Public Service Pension Scheme, a career average revalued earnings pension scheme, combined with the revision of the terms previously available to certain senior posts means that, when comparing with the private sector, the remuneration package on offer in the senior public service does not now enjoy the same degree of compensating support from pension terms as heretofore.

[2] The revised terms do not provide for any added years of service, no pension/lump sum is payable before preserved pension age, and where a Secretary General/County Manager is at or above minimum retirement age at end of their term, no severance is payable. Where tenure ceases before minimum retirement age, a severance payment of up to 1 year's salary is payable.

FEMPI UNWINDING AND POST-FEMPI POSITION

The unwinding of the various FEMPI measures began with FEMPI Act 2015 which provided the statutory basis for the implementation the Lansdowne Road Agreement (LRA). The 2015 Act provided for partial restoration of the FEMPI cuts and the amelioration of PRD thresholds and rates, focusing on lower paid public servants in the first instance (Table 3).

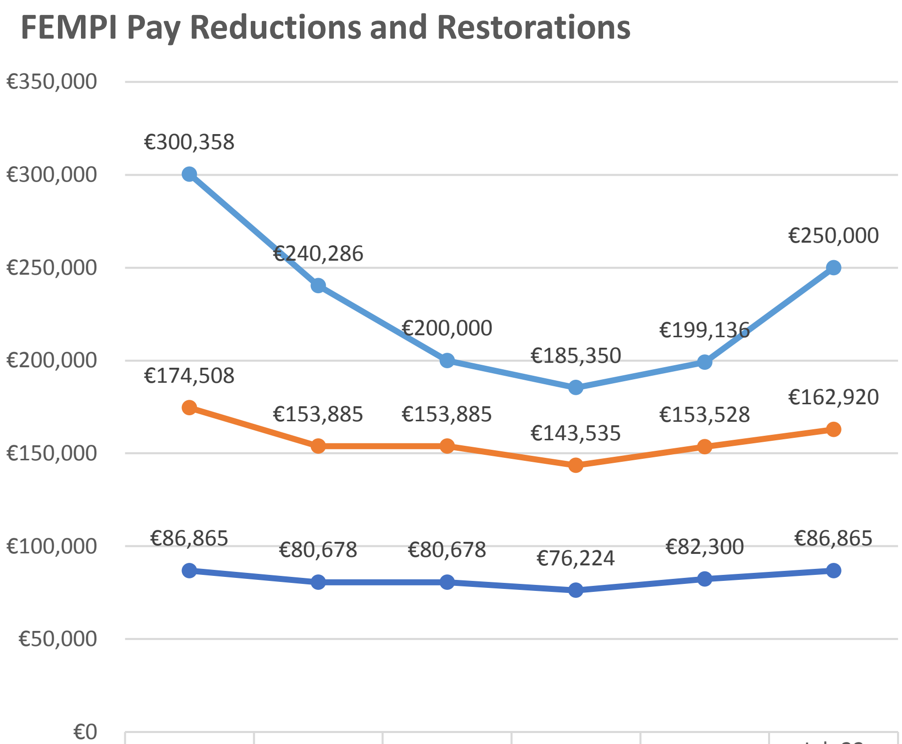
The process of unwinding continued under the Public Service Pay and Pensions Act 2017 (PSPP), which provides the statutory basis for the implementation of the Public Service Stability Agreement 2018-2020.

Table 3: FEMPI unwinding

Act	Provisions	Commencement Date
FEMPI Act 2015	Partial restoration of FEMPI cuts: Salaries up to €24,000: 2.5% increase Salaries up to €31,000: 1% increase Salaries up to €65,000: €1,000 increase Restoration of additional 2013 'HRA' cut: (Earning between €65,000 and €110,000) One half restoration One half restoration Restoration of additional 2013 'HRA' cut: (Earning over €110,000) One third restoration One third restoration One third restoration	 January 2016 January 2016 April 2017 April 2017 January 2018 April 2017 April 2018 April 2019
Public Service Pay and Pensions Act 2017	Further restoration of FEMPI cuts: All salaries: 1% increase All salaries: 1% increase Salaries up to €30,000: 1% increase All salaries: 1.75% increase Salaries up to €32,000: 0.5% increase All salaries: 2% increase Restoration of fixed allowances cut in 2010 Completion of remaining FEMPI restoration: Salaries up to €150,000 Salaries above €150,000	 January 2018 October 2018 January 2019 September 2019 January 2020 October 2020 No later than July 2021 July 2022

While the reductions in remuneration under the FEMPI Acts between 2009 and 2013 were progressive, the **restorations under FEMPI Act 2015 and the PSPP Act 2017 have been significantly weighted towards lower paid public servants** (Figure 1), who will achieve full pay restoration earlier than senior level grades. For example, all public servants earning up to €70,000 will have had their pay fully restored by October 2020. However, many senior public servants will **not have had their pay fully restored until July 2022**. In the case of Assistant and Deputy Secretaries and equivalents across the public service, while FEMPI based pay reductions will be fully unwound by October 2020, the Performance Related Award element of the pre-FEMPI remuneration package has not been reintroduced. The effect of the progressive nature of pay reductions, and the phased unwinding is illustrated in Figure 1 below for certain grades in the civil service.

Figure 1: Progressive FEMPI pay reductions, and phased restoration



	Pre FEMPI	Jan-10	Jun-11	Jul-13	Oct-18	Jul- 22 (Latest)
Secretary General Level I	€300,358	€240,286	€200,000	€185,350	€199,136	€250,000
Salary as % of Pre FEMPI rate	100%	80%	67%	62%	66%	83%
Assistant Secretary (NMAX)	€174,508	€153,885	€153,885	€143,535	€153,528	€162,920
Salary as % of Pre FEMPI rate	100%	88%	88%	82%	88%	93%
Assistant Principal (LSI 2)	€86,865	€80,678	€80,678	€76,224	€82,300	€86,865
Salary as % of Pre FEMPI rate	100%	93%	93%	88%	95%	100%

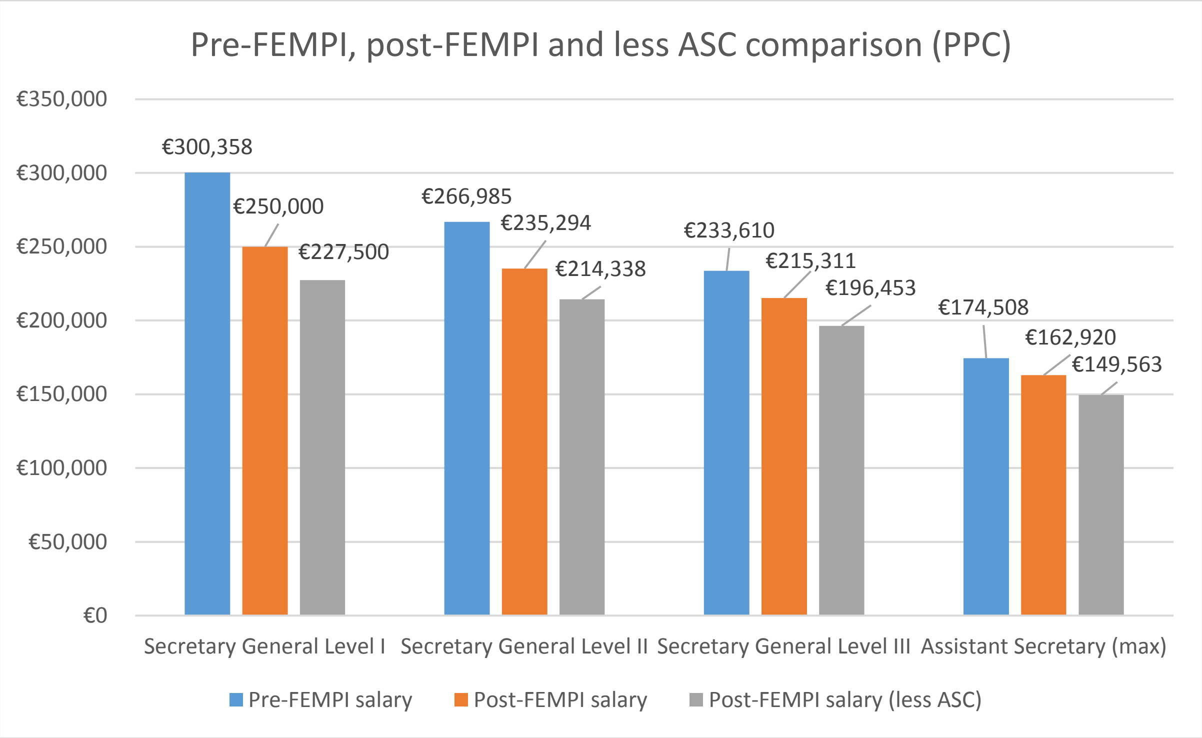
Note: The pre-FEMPI figure for Assistant Secretaries includes the PRA element of the remuneration package that was subsequently terminated. Prior to termination, Assistant Secretaries could avail of PRAs of up to 20% of salary. For the purposes of this illustration, the PRA is calculated at 10% of salary.

- **Additional Superannuation Contribution**

While the PSPP Act 2017 abolished PRD with effect from 1 January 2019, it has been replaced by a **permanent "Additional Superannuation Contribution" (ASC)** payable by public servants on their pensionable pay. Similar to PRD, the rates of **ASC payable are progressive**, meaning senior public servants pay more. For senior public servants who are not members of the Single Scheme, the ASC can range from approx. 7-9% of gross salary[3]. The ASC is in addition to the standard pension contributions of approx. 4-6% of salary[4].

It is important to note that, although the 2017 Act provides for the complete unwinding of FEMPI, the non-FEMPI salary reductions that applied to senior public servants, and the introduction of the permanent ASC mean that their salaries will not return to their pre-FEMPI level. This is illustrated for senior roles in the civil service in Figure 2 below.

Figure 2: Comparison of pre- and post-FEMPI salaries



Note: The pre-FEMPI figure for Assistant Secretaries includes the PRA element of the remuneration package that was subsequently terminated. Prior to termination, Assistant Secretaries could avail of PRAs of up to 20% of salary. For the purposes of this illustration, the PRA is calculated at 10% of salary.

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[3] Rates applicable from 1 January 2020 for public servants who are members of pre-2013 Pension Schemes with standard accrual terms. ASC amounts to 7.4% for a gross salary of €120,000, rising to 9% for a salary of €250,000. For members of the Single Public Service Pension Scheme, the ASC will amount to approximately 3% of gross salary.

[4] Officers appointed on or after 6 April 1995 pay pension contributions at a rate of 3.0% of gross remuneration, and 3.5% of net remuneration. Members of the Single Scheme also pay 3% of gross pensionable remuneration, and 3.5% of net pensionable remuneration.

In summary, the measures that have impacted on remuneration at senior levels in the public service since 2009 include:

- **Pay reductions** that applied under a series of FEMPI Acts, which by acting progressively, reduced the remuneration at senior levels to a greater extent in relative terms than lower paid cohorts.

- **Reduced salary rates introduced** for certain senior grades (including newly appointed Secretaries General and Deputy Secretaries in the civil service) and the extended **policy to regrade downwards** certain posts across the civil and public service (for example CEOs in Non-Commercial State Bodies).

- **The public service pay cap** which in 2011 introduced a general pay ceiling of €200,000 for future appointments to senior positions across the public service.

- **The termination of Performance Related Awards**, which had been a feature of senior level remuneration across the public service.

- **Reduced pension terms** for certain fixed-term senior posts.

- The introduction of the **permanent "Additional Superannuation Contribution" (ASC)** which can range from approx. 7-9% of gross salary for senior public servants who are not members of the Single Scheme.

- The **timing of the phased unwinding of FEMPI** reductions, being significantly weighted towards lower paid public servants, means that under current arrangements many senior public servants will not have their pay fully restored until July 2022.

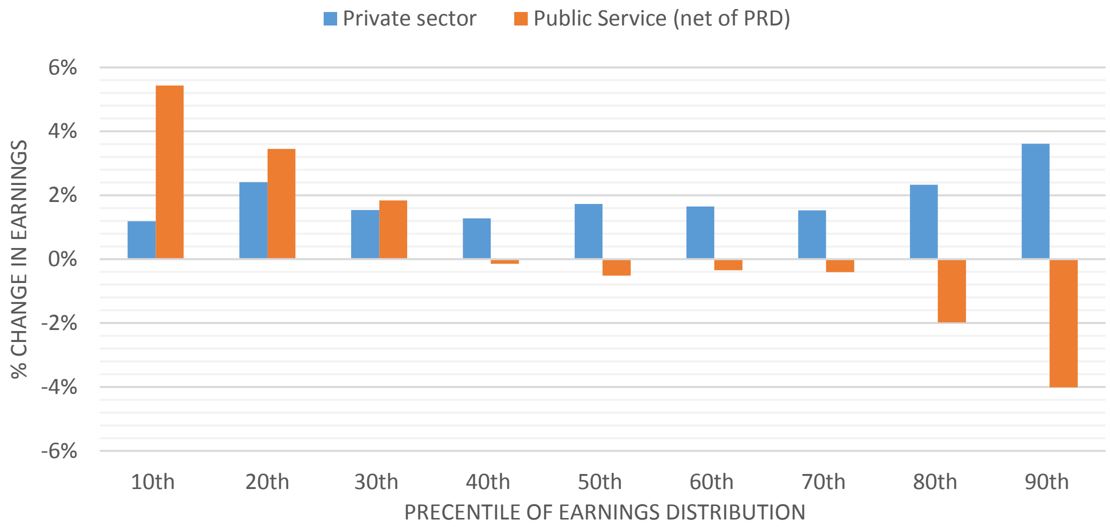
It is also important to note that, despite the scheduled unwinding of the reductions imposed by the FEMPI legislation, there is currently no provision for the reinstatement of the non-FEMPI related reductions in the remuneration package i.e. Performance Related Awards and the pension/severance terms previously available for certain senior grades.

PRIVATE SECTOR DEVELOPMENTS

Fundamental differences between public and private sector organisations make "like for like" comparisons difficult. However, data has traditionally shown that in the public sector there is a pay premium at lower levels and a discount at higher levels relative to pay levels in the private sector. The most recent analysis of the public/private sector pay differential by the CSO[5] which was published in 2017, supports this, pointing to a discount of 12.5% when comparing pay at higher levels in the public and private sector.

The first report of the Commission concluded that there is a pay deficit for senior executive grades in comparison to their private sector counterparts, and identified that private sector earnings above the 90th percentile had increased by 3.6% in the years 2011-2014, while, in contrast, public service earnings in this percentile decreased by 4.0%.

Figure 3: Percentage Change in Percentile Earnings of the Public Service and Private Sector, 2011 to 2014[6]



It is further noted that performance-related pay arrangements and other perquisites (e.g. car allowances etc.) are common features of the remuneration package at senior levels in the private sector. As referenced earlier, Performance Related Awards have not been a feature of senior level remuneration in the public service since 2009.

[5] CSO Research Paper - Econometric analysis of the public/private sector pay differential (2011 to 2014). It is understood that the CSO intend to publish updated analysis in September 2019.
[6] PSPC report, figure 5.5, pg. 45.

RECRUITMENT AT SENIOR LEVELS: DEVELOPMENTS AND TRENDS

This Department's opening submission to the Commission in December 2016 outlined some trends in recruitment at senior levels in recent years, including evidence from PAS that for Senior Executive Campaigns completed in 2015 the average number of applications for senior positions had declined, and that private sector applications had declined from 45% to 22% overall (vs. 2014).

For a number of specialist roles at senior levels, feedback from their executive search function also suggested that while candidates have been very interested in these roles, the challenge had been that the remuneration (salary and benefits) the candidates currently earn is at least 30% higher than that on offer in the civil service.

A similar trend has continued in the years since.

The 2016 Annual Report from PAS[7] referred to recruitment for a number of specialist roles at senior levels in government departments and the broader civil service, noting again that remuneration (salary and benefits) on offer continued to be a challenge despite the interest of candidates in the roles.

The 5th Top Level Appointments Committee (TLAC) Report to the Minister for PER[8], examining developments and trends in 2016, found that while the majority of TLAC posts advertised in 2016 attracted a good number of applications, some posts were not attracting as many candidates as had been hoped for. It also highlighted a concern that the demands and public exposure of the senior roles is acting as a deterrent to some of the potential candidates, and that smaller numbers of candidates making it to preliminary and final interview may be another indicator of this.

The report also makes mention of the strength of the economy and the more competitive remuneration packages available in the private sector as a possible explanation for the reducing number of applicants from the private sector, and the likelihood that this will continue to influence the applicants for top level positions in the civil service.

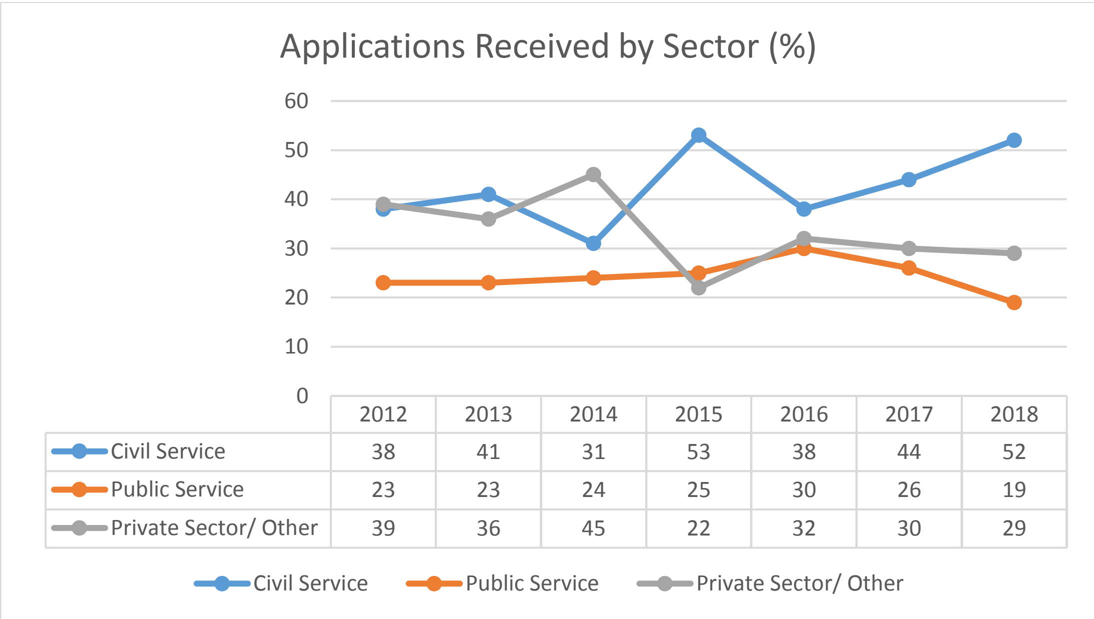
[7] Public Appointments Service, 2016 Annual Report
[8] Top Level Appointments Committee (TLAC) Reports to the Minister for PER

Similarly, examining developments and trends in 2017, the 6th TLAC Report to the Minister for PER found that *"The mix of applicants between civil service, public sector and private sector shows a similar pattern to previous years with a continuing decline in the private/other sector"* and that *"the declining trend in private sector applications from 2015 is a significant trend and needs to be monitored."*

TLAC also noted that they will monitor any indications that *"good candidates might be deterred by the 'heavy lifting', the reward relative to private sector options or the degree of public exposure that comes with the roles."*

The data provided by PAS for TLAC competitions held in 2018 maintains the trend that the vast majority of applicants for these posts are coming from within the civil and public service.

Figure 4: Percentage of Applications received from the private sector for TLAC posts (2012 – 2018)



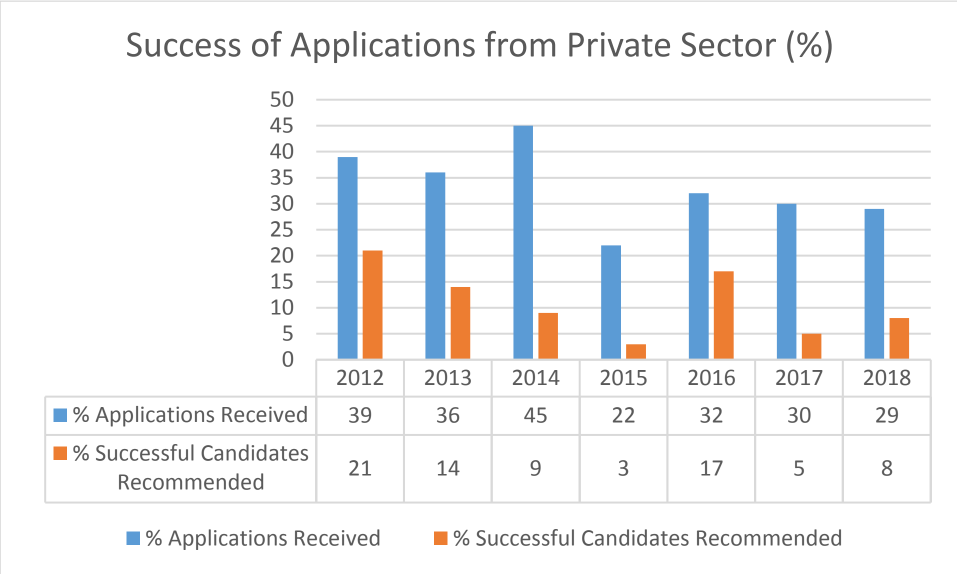
As Figure 4 above shows, the percentage of applicants from the private sector has been broadly consistent since 2016 (at an average of 30%). However, this represents a significant decrease on the experience in the previous years. Between 2012 and 2014, an average of 40% of applications came from the private sector.

The data supports the view expressed in the 5th TLAC report that, in a recovering economy with evidence of pay growth in the private sector outstripping that in the public sector, senior roles in the public service are proving less attractive to applicants from outside the system.

From a recruitment perspective it is desirable that there would be a wider and stronger field of candidates for every competition, drawn from both within the system and externally, given the critical posts in question. Evidence suggests that there is considerable room for improvement in that respect.

The data on successful candidates recommended for appointment is also of relevance and some concern.

Figure 5: Success of Applications received from the private sector for TLAC posts (2012 – 2018)



	2012	2013	2014	2015	2016	2017	2018
% Applications Received	39	36	45	22	32	30	29
% Successful Candidates Recommended	21	14	9	3	17	5	8

In each of the last 7 years, there has been a significant drop when comparing the percentage of applications received from the private sector with the percentage of successful candidates provided by the private sector.

In 2018, while applications from the private sector accounted for 29% of total applications for TLAC competitions, this dropped to just 9% following the shortlisting process, and resulted in the private sector providing just 8% of successful candidates recommended for appointment. This raises the concern that, as well a decline in the percentage of applications from outside the civil and public service in recent years, senior posts may not be attracting the right calibre of external applicants.

SPECIFIC RECRUITMENT CHALLENGES FOR SENIOR POSTS IN THE PUBLIC SERVICE

In addition to the data available from PAS and TLAC, this Department is aware of recruitment challenges faced in the recent past for certain high profile posts in the public service.

Specifically, for recent campaigns for the posts of Garda Commissioner and the Director General/CEO Designate of the HSE it was deemed necessary to revise the recruitment package significantly in order to attract the interest of suitably qualified candidates[9].

In the case of the post of Director General of the HSE, the initial recruitment campaign in September 2018, which was advertised on improved terms, was unsuccessful in attracting a suitable candidate. Consequently, the terms of the recruitment package were further revised[10], and the post re-advertised in December 2018.

The situations for the two posts mentioned above are not unique, but are indicative of a wider issue, with similar arrangements having been required to address recruitment challenges for other senior posts in the civil and public service. Recruitment campaigns for certain senior technical posts, for example, Chief Data Officer in An Garda Síochána and Chief Information Officer in the Office of the Government Chief Information Officer, were initially unsuccessful in securing suitable candidates and were required to be re-advertised.

[9] A salary of €250,000 was agreed for the appointment of a new Garda Commissioner in June 2018. A salary of €350,000 was agreed for the appointment of a new Director General of the HSE following the conclusion of the second recruitment campaign in April 2019.

CHALLENGES FOR PAY DETERMINATION POSED BY EXISTING ARRANGEMENTS

As outlined earlier, since 2009 the remuneration of all public servants has been subject to the various FEMPI measures introduced in response to the state of the public finances at that time. While the FEMPI measures were undoubtedly necessary, they have presented a challenge to the management of pay determination at this level. Despite the pay restorations that have taken place to date, the current policy for pay determination continues to be dictated by caps and limits imposed during the financial crisis dating back to 2009-2011, a time when economic conditions were substantially different to those that apply in the current labour market.

A number of factors, including the legacy of the pay cap, the timing of the phased unwinding of FEMPI reductions, an emerging pay deficit with the private sector, growing complexity and public scrutiny of roles, are combining to affect applicant numbers[11] when posts come to be filled. Consequently, selections for certain posts are being made from limited candidate pools and, in some cases, not being made at all[12].

Pay for CEO's of Non-Commercial State Bodies are under increasing pressure and significant upward pay pressure is being applied as positions come to be filled. In addition to the challenges faced in recruitment there has also been a noticeable increase in the number of post holders (or their Boards/organisations) seeking improved/revised terms or regrading during their tenure, or at time of reappointment, in response to a perceived inadequacy in the pay offering.

In order to address this, 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.

Given the effluxion of time and changes in the labour market environment since their introduction, recent experience would suggest that the caps and limits set during the crisis may no longer be appropriate. As referenced above, it was deemed necessary in recent recruitment campaigns for the posts of Garda Commissioner and the Director General of the HSE, to sanction pay terms significantly

[11] *5th TLAC report (2016) notes a 'significant decrease in the number of applications from the private sector.'*
[12] *Between 2012 and 2018, 7 TLAC posts remained unfilled following unsuccessful recruitment campaigns (information sourced from PAS).*

in excess of the 2011 pay cap in order to attract the interest of suitable candidates. Changed labour market conditions and domestic/international pay developments at these levels point to a scenario where such exceptions will increasingly become the norm. It is also the case that with the natural unwinding of FEMPI legislation, pay restorations scheduled under the FEMPI/PSPP Acts mean that the salaries of certain public servants (including Secretaries General Level I and II) have, since April 2019, been restored to levels above the pay cap set in 2011.

In the current environment, remuneration levels for these senior posts will continue to be managed in an individualised way. Without an objective mechanism for pay determination at these levels, the issues encountered with senior leadership remuneration will become increasingly difficult to manage effectively.

This issue affects approximately 1,000 senior posts across the civil service, health, education, justice, defence and local government sectors, and Non-Commercial State Bodies (not including hospital consultants, office holders or the judiciary).

CONCLUSION

In conclusion, the Department submits that there is evidence to suggest that a number of factors including the legacy of the caps and limits imposed during the financial crisis, the timing of the phased unwinding of FEMPI pay reductions for senior public servants, growing complexity and public scrutiny of roles, and an emerging pay deficit with the private sector, are combining to present challenges to recruitment and retention at senior levels in the public service.

The current policy for pay determination continues to be dictated by caps and limits imposed during the crisis. The significant upward pay pressure being applied and the recruitment difficulties that have been encountered at senior levels suggest that, given the effluxion of time, the caps and limits set during the crisis may no longer be appropriate. Without an objective mechanism for pay determination at these levels, it will become more and more difficult to effectively manage senior leadership remuneration and provide an adequate remuneration package to attract and retain top talent. Yet this is critical to ensure that the public service benefits from the brightest and best leaders in what is an increasingly challenging operating environment.

Given the strategic importance of this leadership cadre to the delivery of efficient and effective public services, the Department would welcome the Commission’s views and recommendations for addressing the issues identified.