



## **PDFORRA**

### **Address to the Dail Joint Committee**

#### **On**

### **Tourism, Foreign Affairs and Defence**

**27<sup>th</sup> June 2019**

#### **Introduction**

Firstly, let me thank the Committee members for affording PDFORRA the opportunity to appear before you here today.

PDFORRA is established under the Defence Amendment Act 1990 and represents over 6,500 enlisted members of the Defence Forces. Our membership density, depending on recruit/cadet numbers can range as high as 90% of all enlisted personnel. Our membership encompasses all branches of service including the Navy, Air- Corps and Army.

PDFORRA has seen and welcomes the significant level of engagement by the Joint Committee on Defence Forces issues over the past year and believed it would be opportune to seek an audience after the publication of the Public Service Pay Commission Report. The Association believed that to engage now would provide PDFORRA with the opportunity to discuss the findings/recommendations made, and to appraise the Committee of difficulties being faced by our membership. It will come as no surprise to the Committee that central to these difficulties are the issues of pay and allowances offered to members of the Defence Forces, the application of the Working Time Directive and the current difficulties being experienced by personnel *vis a vis* their contracts of service. This hearing also provides the Committee members with the opportunity to explore any areas with us that you might feel relevant in the context of your duties as Dail Deputies.

When I requested an audience with the Committee a number of weeks ago I had expected the report of the Public Service Commission to be published last week, before I submitted this written statement. However, unfortunately, the report was not available at the time of submission of this written statement. Needless to say, the delay in the publication of the report has been extremely frustrating for our Association and our members and gave rise to a significant level of commentary on both social media and in the public sphere from people who were unaware that discussions that were being held in the background on various issues associated with pay and conditions ancillary to the Commission's report.

I know, having viewed the earlier hearing by the other representative body in front of the Committee, that you are well aware of current churn and staffing levels throughout various parts of the defence organisation. These staffing shortfalls have, as articulated previously, resulted in extreme stress and anxiety for personnel and their families. The lack of proper remuneration has further impacted on the morale of personnel, which ultimately reflects on operational effectiveness.

The manner by which PDFORRA would like to address the current crisis within the Defence Forces and by extension the Commission's report is thus – A historical context of pay movements in the Defence Forces and what was sought by PDFORRA in the context of the Public Service Pay Commission. Why increases were sought in the manner they were and what the outcome from the Commission was.

The history of pay in the Defence Forces is a mirror of boom-bust cycles within the economy generally, with significant periods of pay lag on upswings compared to other public servants. These lags have generally been followed by significant awards. Evidence of the foregoing can be found in the Gleeson Commission report of 1990. The Gleeson report shows a revision of pay rates in 1924. In 1946, awards of 40- 50% awards were made to Privates. In 1949 increases of 18.2% was given to Privates. In 1964 an Executive award was made to enlisted personnel. In 1970 a working party made sizable recommendations on pay. In 1990, the Gleeson Commission made recommendations for increases of significant amounts also. So, what is the point of this history lesson? Simple, what is happening to the Defence Forces is complete madness. Its history repeating itself every few decades with huge turmoil in the Defence Forces in the build- up to the awards necessary to sustain retention and encourage recruitment.

During the most recent cycle, I and my colleagues in PDFORRA have seen the human cost of austerity and the denial of recognition of the problems that exist within the Defence Forces. My predecessor raised the issue of pay and allowances before the Public Accounts Committee in 2012. In 2014, PDFORRA raised the issue of people sleeping in cars. The Association fought tooth and nail for the reversal of the Post 2013 pay scales and were ultimately successful after a difficult fight. PDFORRA has brought these issues to the attention of those in power at the early stages. We saw the trends because we work on the ground. The difficulty for our Association was simple - we didn't have the headline numbers that now exist and hence we were called alarmist. Thus, I have to ask -who is alarmist now?

All the foregoing takes us up to the current situation within the Defence Forces. It is not an overstatement to say we have lost significant numbers of highly qualified outstanding soldiers, sailors and aircrew over the past few years. These personnel left with a deep sense of betrayal and disenfranchisement that will never be assuaged. They were forced from a career that they loved and that owed them much more than they ever received. But, they might have stayed if only some earlier intervention had occurred.

In February 2018, PDFORRA made a comprehensive submission to the Public Service Pay Commission. Our submission was 120 pages long despite a request to limit this submission to a data only submission. For our part, the Association believed that the Commission would be best placed to make a judgement when the totality of a situation was apparent. This view was articulated in our oral submission in March of this year, where we described data lead

assessment as having a significant degree of survivorship bias. As part of our oral submission, PDFORRA sought increases in Military Service Allowances and increases in Duty Payments.

PDFORRA had sought to have Duty Allowances increased to a level where, at the least, members were paid the National Minimum hourly pay for those hours worked above normal routine. This would, in PDFORRA's opinion, have been consistent with the Labour Court Recommendation regarding the sleepover allowance paid to carers in the HSE.

While PDFORRA understands that significant difficulties exist in teasing out issues related to duty payments as, in some instances it is paid flat rated, like Border Duty Allowance and Army Ranger Wing Allowance, in other instances it is paid at a daily rate, such as Patrol Duty Allowance, EOD Duty allowance and Security Duty Allowances. This payment regime does a disservice to all personnel. For example, members of the Army Ranger Wing have, over the past number of years seen the value of their allowance fall relative to other enlisted personnel who have secured Holiday Pay on their Security Duty Allowance payments.

Additionally, members of the ARW saw their allowance cut in line with other Duty Allowances, yet remain static subsequent to the provision of holiday pay. Moreover, it must be remembered that these personnel are still fighting for the retrospective payment of increases back to 2006, as the Department of Defence had always espoused the view that the increases were being held in escrow. Unfortunately, despite the guidance of the International Labour Organisation, which holds that those deemed "essential service" should have access to a C&A Scheme and that awards, once made, should be implemented promptly. Members of the Defence forces are "essential services", cannot strike and should thus be treated in a manner consistent with the foregoing provision as Ireland is a member of the ILO since 1923.

The failure to secure advances through the C&A process has resulted in our Association having to resort to ever greater numbers of legal actions. This approach comes at a cost of self-restriction of information flow to members, as the legal strategy can be fluid and legal rules regarding disclosure can apply.

Insomuch as it gets results, PDFORRA has no remorse for undertaking the legal actions- PDFORRA members who give such loyal service to the State deserve results no matter how they come. However, I do believe that taxpayers should question the efficacy of the prevailing norm of pushing PDFORRA into a situation where they know we will go to court to vindicate the rights of our members. I have frequently told officials at Conciliation and Arbitration that it is disgraceful that solicitors and Barristers will be getting rich off the intransigence to resolve matters at a lower level. By way of example, recently, PDFORRA went to the WRC for the return of payment of rations to Air Corp Apprentices- the claim value- approximately 800 Euro. At that hearing, we had a solicitor and a Barrister the Departmental side had the same on the day. Twenty minutes before the hearing was to take place an offer to settle was made. It cost many times more in legal fees than the claim itself. This is a waste of resources and money and must be called out. The foregoing case is not unique, the O'Donnell case last year is another example.

In 2014/15 PDFORRA decided on a change of IR strategy, as we witnessed other bodies take the approach of going to court and vindicating the rights of their members. Hospital Consultants had significant monies returned to them following issues with their contracts. A

Rent Allowance claim for doctors was settled in 2017. All these occurred settlements without any real fanfare, strikes, protests or media.

I will conclude this element of our submission as I am aware of the time constraints on the initial statement, but before I finish up I will give the Committee this piece of factual information that PDFORRA advanced for the increase in duty rates- In 1990 the Gleeson Commission recommended an increase in the rate of the weekday, Saturday and Sunday duties. The rates were increased by nearly 50% for weekdays and 100% for Saturdays. An increase from £29.14 for Sundays and Defence Force Holidays to £40 was also recommended.

At the time of the change, the new rate of Sunday Duty represented 20.5% of the pay of a Private on the first point of the scale and 16.26% of the salary of a Private at the top of the scale.

In 2013, as part of the Haddington Road Agreement (HRA), duty rates premiums for Saturday and Sunday were equalised with weekday rates and cut by a further 10%. This has resulted in current rates only being equal to 10.9% of a Private salary on the first point of the scale and 6.52% of the salary of a Private at the top of the scale.

Accordingly, it must be appreciated that the value being placed on the additional hours worked by personnel is being undervalued considerably. Much more so than it was thirty years ago. PDFORRA contested that no other area of the Public or Civil service has suffered such a devaluation.

Many other areas of PDFORRA's 2018 submission remain unexplored. These must be addressed so as to arrest the current outflow of personnel. Failure to grasp the nettle now will result in the repeat of the mistakes of the past.

The application of the Working Time Directive has an important bearing on the rates of pay and the feelings of being valued as employees. While the Directive is primarily concerned with the welfare, health and safety of employees, when it is not implemented it leads to employees feeling that their employer does not care for their welfare.

Additionally, when CSO figures are presented in terms of average earnings they are given over average times. Within the Defence Forces no time records exist, yet, all members know they are working far greater than the average, which leads to the conclusion that they are well below the average in pay, significantly above the average in time worked and consequentially the worst paid and undervalued public servants in the country.

Much of the current difficulties arise from a 1989 declaration to the Gleeson Commission that "*the provision of overtime is an anathema to military service*". PDFORRA has long held the view that the member of the General Staff who made that statement undermined the entitlement of our members to fair days' pay for fair days' work. He is, no doubt, still held in high regard within the Department of Finance.

The foregoing assertion raised the concept of duty to a level beyond the need to appreciate human dignity and basic needs of members, their wives/ partners and children. Why does it have to be said, and not appreciated as a matter of course, that members of the Defence

Forces welfare, health and safety is no less worthy of protection during non-operational periods as the next citizens?

However, many are still caught in the foregoing mind, set despite the realisation that our personnel are our greatest asset. The concept that the sum does not work without the parts has been lost on some. For example, recent discussions at C&A show a desire to have significant periods of our member's time exempt from the scope of consideration under the Directive. This will not work. Time has value. Our Association has no intention of repeating the mistakes of the past.

I am however pleased to report that some progress on this issue has been made in the past number of weeks. Again, it has come following the initiation of legal action by our Association and long arduous exchanges of correspondence. From the perspective of PDFORRA, their needs to be greater engagement with the realisation that the longer the delay in implementing the Working Time Directive, in a bespoke manner, the greater the negative impact on both the reputation of the Defence Forces and retention of currently serving members.

Lastly, on the issue of contracts, PDFORRA has spent the better part of 25 years fighting for appropriate contracts for personnel. The Association has expended considerable resources down through the years attempting to address an issue which goes to the heart of service. In effect, from the day and hour personnel enter service, they are counting down until they are discharged- regardless of personal circumstances or ability. This impacts on loyalty.

Presently, a lacuna exists in respect of Privates and Corporals who enlisted since 1994. They are allowed to remain in service until the end of 2022, or until they reach 50 years of age. Currently, Sergeants who attain 50 years of age are also to be discharged. This is wrong. This is a sinful waste of critical experience and loyalty at a time when numbers departing are in freefall.

I'll finish by saying: simply put, pay and allowances for our members must be addressed appropriately or no functioning organisation will exist. Our Association would ask that the issue of regularisation of contracts needs to be raised by the Committee members into the future. The application of the Working Time Directive is something that our Association can, and will, press with the Courts if need be.

I would respectfully ask the Committee to re-invite PDFORRA to discuss issues on a six (6) monthly or annual basis. This would not be a wasted exercise. The Defence Forces belong to you, our citizenry and at this point in our Nation's history, they need to be minded by you, the democratic institutions of the State. They need you to care for them through what will no doubt be an extremely rocky road to recovery. In the foregoing respect, PDFORRA intends to honour the thoughts of Patrick Pearse when he said:

*“We have not lost. To refuse to fight would have been to lose; to fight is to win. We have kept faith with the past, and handed on a tradition to the future.”*

PDFORRA intends to fight and hand on a better Defence Forces to those who come after us. Our children, our nephews and nieces, our comrades.

I'll conclude by thanking our members and their families for standing by us, and for helping PDFORRA bolster the case for increases in allowances.

On behalf of our members, I wish to again thank the Committee for your work.