

Opening Statement by Pension Equality to the Joint Committee on Social Protection.

I thank the Chairman and members of the Committee for the opportunity to address you today.

I represent **Pension Equality** who are campaigning for gay and lesbian persons to be given the opportunity to leave a pension to their surviving spouse when they die.

Our Chairman Mr Billy Hannigan, Deputy General Secretary of the PSEU, wished to be here today but unfortunately is unable to attend.

I am here with Lily Toner, one of our members who has not been given the opportunity to leave a survivor pension to her wife.

Some of our group are elderly and ill and cannot be here today. Some did not wish to come because they are still fearful of public exposure.

This is the first time that there has been an opportunity, such as this, for a public discussion on survivor pensions for same sex couples.

We fully support the provision in Head 14 of the Bill which provides a survivor pension for Dr. David Parris and remedies the injustice he suffered.

However, we deplore the exclusion from the Head of a small group of people who are in the same position as him and we

are proposing amendments to Head 14 which are intended to rectify that anomaly and give practical effect to Marriage Equality. These amendments, with explanatory notes, are dated 12th June. An earlier version dated 28th May should be disregarded by the Committee.

The Amendments we propose are restricted in scope and are intended to apply only to this small - and diminishing group. There have been no new members since 1984.

We have set out our case in our letters to the Committee of 28th May and 8th June which I hope members have received: Our central point is that our situation is unfair and the injustice is the same as Dr. Parris's.

He was locked out of his pension scheme because he could not marry his husband before he was 60.

Lily Toner is locked out of her pension scheme because she could not marry her wife before her retirement.

It is not clear why a distinction is being made in Head 14 between people in Dr. Parris's position and people in her position.

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It is also difficult to understand why two years after the Referendum we are here today.

We believe that the purpose of the Constitutional Amendment, and the reason that the People voted for it in such numbers, was to give same sex spouses the benefit and comforts which people in opposite sex marriages have

always enjoyed and which Article 41 of the Constitution protects.

The People did not vote for partial equality or for keeping special disadvantages for same sex couples. Marriage cannot be separated from the benefits which go with it. Among the advantages of marriage has always been the opportunity to provide for one's family, in death as in life.

The contention has been advanced that because in 1984 some of our members who were in the public service did not accept the option of a survivor's pension for an opposite-sex spouse, acquired after retirement, they are forever disqualified from a survivor pension for a same-sex spouse.

To even propose that, shows a deep lack of understanding of the circumstances of gay and lesbian people in that period.

In 1982 when a young man was beaten to death in Fairview Park in Dublin because he was gay, the trial judge said that this crime could not be viewed as serious manslaughter, and the perpetrators received suspended sentences.

Yet it is being suggested that at that time, and in that atmosphere, gay and lesbian people were required to make a final decision about their survivor pensions, which would bind them for the rest of their lives, in a pension scheme which was designed for opposite-sex marriages only.

The idea that there could be same-sex marriage would have been ludicrous to everyone in 1984 - including to the State itself when it made the offer.

One gay member has told me that he opted to benefit an imaginary wife because he was fearful that if he did not do so, he would be identified as homosexual by his co-workers and employers, and passed over for promotion.

We have set out in our letter of 8th June to the Committee why we believe that our proposal will not cause any unfairness to opposite-sex couples. This includes any persons who were prohibited from marriage by reason of the lack of divorce.

FOI requests have ascertained that in the 20 years since the introduction of divorce, only one - or possibly two - persons who were affected by the lack of divorce have made application to any Government Department to change the option they had made. Their requests were successful.

The reason for this lack of applications is that anyone who was affected by the absence of divorce has had ample opportunities under the Pension Scheme Rules to obtain a survivor pension. We have listed those opportunities in our Costings paper at footnote (e) to paragraph 6.

As regards the potential costs if our proposal is accepted we have already furnished the Committee with our Calculations. They demonstrate that the cost would be minimal because of the very limited number of persons who could be eligible to benefit.

The State, it seems, has accepted in Head 14 that changing an existing pension rule which is deeply unfair to gay and lesbian employees is the right thing to do and will not be a cause of any general uncertainty. There is no reason to adopt a different attitude to our proposal to change an unfair rule.

In relation to the Amendment themselves:

Section 73A in Head 14 effectively disallows any condition in a Pension Scheme which requires employees to have married or entered into a civil partnership before a certain age in order to obtain a pension for their spouse or civil partner.

By adding the two words “or retired” to the Section our amendment effectively disallows any condition in a Pension Scheme which requires employees to have married or entered into a civil partnership before retirement in order to obtain a pension for their spouse or civil partner.

That Amendment is shorter and I think clearer than our earlier wording dated 28th May but it has the same effect. (We have no problem at all with any improvement of our wording that might be suggested - so long as it achieves the purpose intended by our proposal).

NB I should tell the Committee that I spoke at length to the Department of Social Protection yesterday concerning their

Response to the Committee, a copy of which we received yesterday.

There was a misunderstanding in their Response based on the mistaken belief that the Original Pension Scheme, to which most of our members belong, does not have a spouse and dependant benefit: it does but it is only available if the member marries before retirement.

All our members are in long term relationships and would have married before retirement if the opportunity existed.

Following that clarification we seem to have a common understanding with the Department of Social Protection that Head 14 is intended to cover those gay and lesbian people in the Original Scheme who have retired and who were unable to marry before their retirement.

However putting that understanding into law, where it must pass through several hands is another matter. In order to guard against an unexpected change of mind from any source it is very important that the Committee would make a formal recommendation that our group be clearly included in the scope of Head 14. I believe that such a recommendation would ensure its passage.

Another issue which calls for remedy concerns those gay and lesbian public servants who, following the Constitutional Amendment, have an entitlement to a survivor pension for their same sex spouse but whose survivor pensions are not being calculated on the entirety of their service.

One of our members, Annette McCabe (whose case was featured in the Sunday Business Post recently), who is an ordinary level HSE employee, has been told that she is in this position.

Whether this should be remedied by administrative action or by legislation is a matter for the Department but we do strongly urge that it be resolved speedily because of her serious health issues.

She will not benefit from Head 14. I suggest that the Committee recommend that where a person has a right to a same sex survivor pension, it should be based on the whole of her service record.

Pension Equality wants to be made redundant. We want an Ireland where there is no need to have gay and lesbian campaign groups for any reason.

I hope that you will make us redundant.

Lily Toner would like to add a few words of her own.

