

**A Pension for people severely injured in
the Troubles**

Commission Advice Paper

11th June 2014

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Summary

1. The Commission recognizes the hurt of those who suffered injury as a consequence of the Troubles and who have to continue to live with those consequences on a daily basis.
2. In recognizing this hurt, the Commission in this paper sets out to identify and examine the issues involved in putting in place a pension for those who were seriously injured as a consequence of the Conflict and to offer some potential solutions.
3. The Commission is of the opinion that, fifteen years after the Belfast Good Friday Agreement of 1998, more is required to be done in order to help those who lost the ability to work, who lost the ability to accrue pensions and who lost their health as a consequence of the Troubles.
4. The Commission procured the services of RSM McClure Watters and Spence to carry out specific research in relation to the challenges of designing and implementing a pension for those severely injured during the Troubles. The full research report is attached at Annex A for information. The Commission has analysed the Report and formed a number of recommendations based on its findings.
5. The Commission has also consulted and been informed on this issue by meeting with the WAVE Injured Group and discussing the findings with the Forum. The Commission wishes to thank the Injured Group and the Forum for their work and assistance in this area.

Recommendations

6. The Commission has analysed and considered the Research Report and recommends that a Victims and Survivors Pension Arrangement (VASPA) should be put in place as soon as possible. This pension arrangement should have the following characteristics and eligibility criteria:

- The VASPA should operate on a defined benefits basis;
- It should also have a statutory basis;
- It should be non-contributory;
- It should pay benefits for the life of the eligible recipients and for their spouses, dependents and carers thereafter;
- The Prescribed Degrees of Disablement should be used in the administration of the VASPA with those above 40% being eligible to qualify for the pension;
- Individuals who are physically or psychologically injured as a consequence of a conflict related incident are eligible;
- The physical and mental impairment must be deemed to have a substantial and long term adverse affect on an individual's ability to carry out normal day to day activities. This assessment must be carried out by a medical doctor, psychiatrist or clinical psychologist.

Costs

7. In relation to costs the research presents a number of models based on variable assumptions. The baseline assumption includes the following characteristics:

- The assumed retirement rate (period of payment of pension) is 30 years;
- A future inflation rate is 2.5%;
- Recipients receive on average £4,000 per annum;
- The number of recipients is 355 individuals; and

8. If a pension was modelled on this baseline, then the VASPA would cost £65.2m over a thirty year period or £2.17m annually. The research outlines a number of different scenarios where the assumptions above can be varied and a new total cost can be estimated. For example, it is likely that the number of recipients could increase or the assumed rate of retirement could decrease to 25 years. These variable assumptions in turn alter the overall costs.
9. The Commission recommends that discussions take place between Commission officials and OFMDFM officials to finalise the proposals for the VASPA and then an accurate cost can be developed on the preferred model.

Background

10. The Commission for Victims and Survivors submitted advice to the First and deputy First Ministers in September 2013 in relation to the provision for a pension for people severely injured in the Troubles.
11. Ministers responded to this advice in October 2013 and requested a further report on this issue which would examine the legislative implications.
12. The Commission appointed RSM McClure Watters and Spence to undertake research into the provision of a pension for people severely injured in the Troubles. A final report was submitted in April 2014. The main findings of the research in relation to the characteristics, the cost and the eligibility criteria are outlined in the paragraphs below.

Discussion

Proposed Characteristics of the Pension for the Seriously Injured

13. The overall conclusion of the research is that it recommends that a Victims and Survivors Pension Arrangement (VASPA) should be put in place.
14. The Research Report recommends that the characteristics of this pension are that:
 - It should operate on a Defined Benefits basis;
 - It should operate on a statutory basis;
 - The benefits should be defined and clear eligible recipients from the outset;
 - It should be non contributory;
 - It should pay benefits for life of the eligible recipients and potentially after their death, for a spouse, dependents and/or carers. However, these provisions are dependent upon affordability and funding;
 - It should be funded and administered by Government; and
 - The Prescribed Degrees of Disablement approach should be incorporated within the VASPA.

Costs

15. In relation to costs, the overall cost of the pension is dependent upon a number of variables. These include:
 - The benefits provided;
 - The assumptions made regarding market conditions; and
 - The rate of inflation.

16. The following assumptions were put in place in order to generate a base line model of how much a pension would cost:

- That an unfunded (pay as you go) model is adopted;
- The assumed retirement rate is 30 years;
- A future inflation rate is 2.5%;
- Recipients receive on average £4,000 per annum;
- The number of recipients is 355 individuals (based on data provided by VSS for those in receipt of Disability Support).

17. If a pension was modelled on this baseline, then the VASPA would cost £65.2m over a thirty year period. The research outlines a number of different scenarios where the assumptions above can be changed or modified and a new total cost can be estimated.

18. Depending on the changes made in the assumptions this figure could rise to £113m for a three year period.

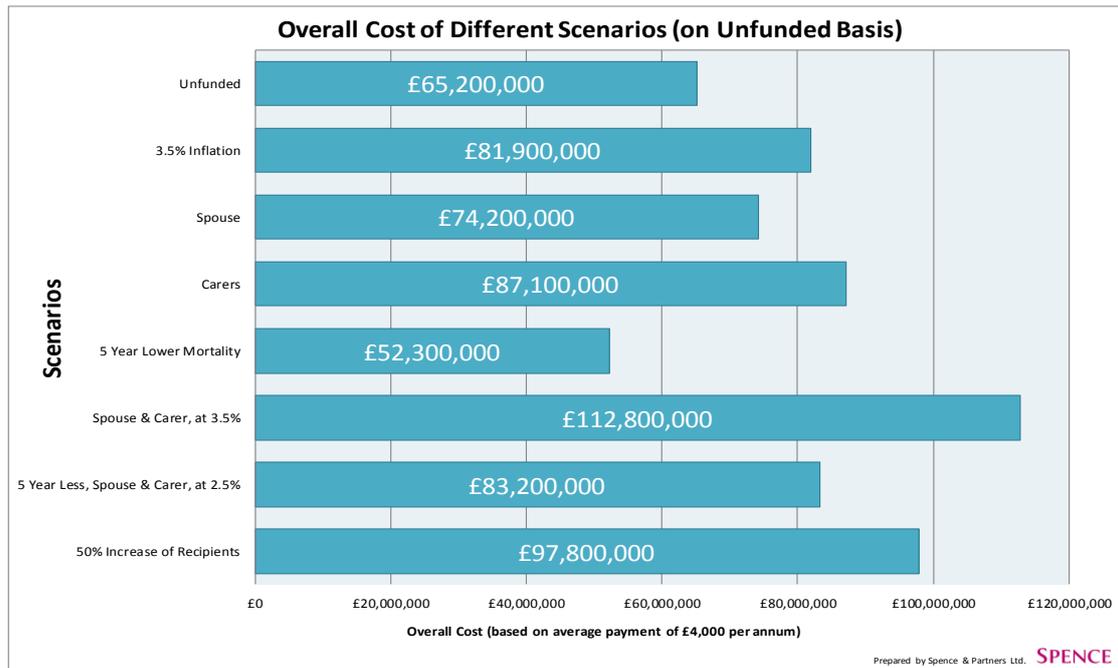
19. The variable with the biggest impact is the number of people who will be eligible for the pension as highlighted by the analysis in Table 1 below:

Table 1 Costs in relation to eligible numbers

Variations in the numbers of VASPA recipients	Overall Estimated Costs* (£)
355 recipients (ie base assumption)	£65,200,000
200 recipients	£36,700,000
500 recipients	£91,800,000
750 recipients	£137,700,000
1000 recipients	£183,700,000
*reflects pension payment only	

20. The research also outlines the impact on the overall costs of changing the variables within the baseline assumptions. Table 2 below illustrates this impact:

Table 2 Overall Costs of Different Scenarios



Eligibility

21. The research finds that depending upon the eligibility criteria the range of numbers of those eligible could be between 200 and 1,000 individuals.
22. A key component of the criteria will be to define what exactly is meant by severely injured or alternatively where on the scale of the Prescribed Degrees of Disablement that a person would become eligible, whether that be at 30%, 40% or 50%.
23. The research recommends the use of the Prescribed Degrees of Disablement with the opinion of a doctor, psychiatrist or clinical psychologist as a key element of any decision in relation to eligibility.
24. Indeed the research concludes that, *“The use of a purely systematic process, with a medical examination and a clarification from the relevant body that the injury was “Troubles related”, and an ultimate appeal avenue to the Pensions Appeal Tribunals, would help alleviate concerns that the VASPA was being applied inequitably.”*

Psychological Injury

25. The research also found that it is difficult, from a legal perspective, to separate psychological from physical injury. The research outlines a strong legal perspective where both psychological and physical injury remains linked. This

includes the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), the Council of Europe Committee of Ministers definition of a victim (under Recommendation No. R (87) 21 2006), the Criminal Injuries Compensation Authority processes and the Disability Discrimination Act 1995 which includes mental impairment as a disability and contains a non discrimination rule. The research concludes that if the VASPA was considering removing psychologically injured individuals from being eligible for a pension, then expert legal opinion would be required on this matter.

Conclusions

26. The provision of a pension for those seriously injured in the Troubles is recommended by the Commission. To implement such a scheme, legislation, detailed planning and a commitment to fund the pension for at least 25 years will be required. This paper has sought to identify the potential challenges to the implementation of a pension and to recommend solutions to assist in making a pension for the severely injured a reality.
27. The Commission has used the research on which to base its recommendations on how best to proceed with the characteristics, the cost and the eligibility criteria for a pension for those who have been severely injured in the Troubles. The Commission looks forward to working closely with OFMDFM to put this pension proposal in place in the near future.

11TH JUNE 2014

Pension for the Severely Injured Project – Final Report