Submission to the Joint Oireachtas Committee on Social Protection and Rural and Community Development on the Pensions Commission Report

10 November 2021

Introduction

Age Action is the leading advocacy organisation on ageing and older people in Ireland. Age Action advocates for a society that enables all older people to participate and to live full, independent lives, based on the realisation of their rights and equality, recognising the diversity of their experience and situation. Our mission is to achieve fundamental change in the lives of all older people by eliminating age discrimination, promoting positive ageing and securing their right to comprehensive and high-quality services.

At the 2020 general election, the Irish public sent a strong signal that wanted to see State Pension entitlements preserved. Following the election, the new Government legislated to remove changes to the State Pensions system imposed by the IMF-EU “troika” following Ireland’s economic collapse. The Pensions Commission was established to consider various reforms proposed in the Programme for Government, and its report provides a first step towards regaining national sovereignty in relation to the type of State Pension system that we choose to give ourselves.

State Pension policy is relevant to everyone, as most of us will live to enjoy many years of healthy older age. This remarkable success story of longer life needs to be accompanied by a robust national pensions policy to ensure that everyone has an adequate income to remain socially included in older age.

The Central Question of the State Pension

The central question for policymakers is: Will you increase funding to sustain an adequate State Pension, or will you shrink the State Pension by reducing its value or by reducing the length of time that it is received?

The Report of the Pensions Commission provides recommendations relevant to both options. For example, the report makes various recommendations about raising more social insurance (PRSI) to fund an adequate State Pension, and while it suggests maintaining the State Pensions as the "bedrock" of the pensions system, it does suggest raising the age of eligibility for the State Pension, which is effectively a way of shrinking the pension by reducing the length of time that people will claim it. It is up to policymakers to decide on the future of the State Pension.

Age Action's Perspective on the Pensions Commission Findings and Recommendations

According to our analysis, the Report contains 35 findings and recommendations, some of which have multiple aspects. We have added the numbering to the original text from the Report, shown in the first column of the table below. Age Action's initial response is in the second column.

Pensions Commission Findings and Recommendations	**Age Action's Initial Response**
General (Chapters 1 – 5) 1. The Commission supports measures that encourage economic growth and competitiveness and increase labour market participation, including for older workers.	To facilitate increased labour market participation for older workers. Age Action calls on the Government to end mandatory retirement clauses that force so many workers to stop work at 65. Allow people to keep their jobs for as long as they wish if they are fit to continue work. And do more to root out ageism in the labour market, which makes it so hard for older people to find new opportunities.

Pensions Commission Findings and Recommendations	Age Action's Initial Response
2. The Commission recommends that any of the proposals that are progressed by Government are subject to further gender, equality and poverty proofing.	Age Action agrees with the call for all reforms to be checked for their effects on gender, equality and poverty, and for enhanced transparency for the public. This isn't just box-ticking. There are profound inequalities in our existing pension system that need to be removed.
3. The Commission emphasises the need for enhanced transparency, and recommends ongoing communication relating to State Pension reform to secure public understanding of the importance of sustainability, certainty and poverty prevention.	Age Action agrees with the need for action to empower greater public knowledge of and participation in the debate about the future of the State Pension.
Funding State Pensions (Chapter 6) 4. The Social Insurance Fund (including the State Pension system) should continue to be financed on a Pay-As-You-Go basis.	Age Action agrees that we should continue to fund the State Pension an annual, current account basis.
5. The Commission recommends the creation of a separate account in the Social Insurance Fund (SIF) for State Pensions. The separate identification, accounting, and reporting of State Pension contributions will provide transparency in relation to how State Pensions are financed, and the Fund's ability to meet its commitments on an ongoing basis.	Boosting transparency is a welcome recommendations and creating a separate Social Insurance Fund account for pensions may assist that aim, but we should avoid locking funds into different accounts. Funds should flow to where they are needed without creating artificial deficits or surpluses due to funding moving between Social Insurance Fund accounts.
6. The Commission supports the principle of annual Exchequer contributions to the 'State Pension' account of the SIF. Rather than rely on Exchequer subventions only when the SIF is in deficit, the State should identify and allocate a separate Exchequer contribution to the SIF State Pension account.	This is a sensible suggestion that would underpin the sustainability of the Social Insurance Fund for the State Pension. It would also remove the need for the Exchequer to "lend" money to the Social Insurance Fund (such as occurred during the COVID lockdown). A more formal mechanism for tax revenue to support the Fund should be set up.

Pensions Commission Findings and Recommendations	Age Action's Initial Response
7. The Commission endorses the early introduction of an automatic enrolment retirement savings system, which will introduce a funded component to the pension system and improve retirement income adequacy for future pensioners.	The introduction of auto-enrolment retirement savings needs careful examination. As the Commission states, the State Pension should remain the "bedrock" of the pensions system, and it should provide a basic but adequate income in older age. Any auto-enrolment system must be designed to help people save for a supplementary retirement income, to increase their spending power. It must not be used as cover for any failure to fund an adequate State Pension. There should also be a State-led savings option in any auto-enrolment system.
Payment rates (Chapter 7) 8. The Commission recognises and supports the State Pension system as the bedrock of the pensions system, and its first pillar function of preventing pensioner poverty.	Age Action strongly agrees that the State Pension should be recognised as the "bedrock" or foundation of the pensions system, as the majority of older people rely on the State Pension for all or most of their income in older age. It is essential that this foundation provides an adequate income for living in dignity, not merely an income close to poverty levels.
9. The Commission endorses the general principle of benchmarking and indexation of State Pension payments. - The Commission supports the use of benchmarking and indexation as a means of providing certainty to pensioners, maintaining the relative value of State Pension payments compared to earnings growth and price inflation, and ensuring that the poverty prevention role of the State Pension system is maintained.	Age Action strongly agrees with the Commission that we should introduce benchmarking and indexation of the State Pension versus earnings growth and price inflation (so that State Pension recipients are not left behind). Pension benchmarking and indexation already exist in many European countries, including the UK. We agree with the Commission that we need to select a sufficiently high benchmark to avoid poverty.

Pensions Commission Findings and Recommendations	Age Action's Initial Response
10. To ensure that the State Pension system continues to provide a level of income that effectively prevents pensioner poverty, and to address public calls for certainty in the value of State Pension payments for current, upcoming and future pensioners, the Government should immediately implement the smoothed earnings approach to benchmarking and indexation as outlined in the *Roadmap for Social Inclusion 2020 – 2025*.	Age Action broadly welcomes the "smoothed earnings approach", however more detail is needed on how the proposal would be implemented. For example, the Commission identifies that the 34% of average earnings benchmark (included in the Roadmap approach) may not be sufficient as a benchmark. A comprehensive analysis of the income needs of older people must inform whatever approach to benchmarking is adopted.
11. The Commission supports the establishment of an independent standing body that would advise Government on pension rates of payment as calculated initially by the smoothed earnings benchmarking and indexation mechanism recommended above, in a manner analogous to the Low Pay Commission as proposed in the *Roadmap for Social Inclusion 2020 - 2025*.	Age Action agrees with legislating to create an independent body to advise the Government on pension rates, based on evidence. Such a body must be given the remit and empowered to research the full cost of ageing (i.e. all the costs experienced by older people) to inform its work.
12. The Commission recommends that this body and its functions be established on a legislative basis.	
13. The Commission commends the recent policy approach to Budget increases in the Living Alone Allowance and recommends that this pattern of enhanced increases in the weekly rate of the Living Alone Allowance continue to provide targeted support to single pensioner households who are at greater risk of poverty.	Age Action supports prioritising those with least through targeted measures like the Living Alone Allowance. But targeting must not replace the objective of ensuring everyone has an adequate State Pension income.

<table>
<tr><th>Pensions Commission Findings and Recommendations</th><th>Age Action’s Initial Response</th></tr>
<tr><td>Total Contributions Approach (Chapter 8)
14. The Commission recommends that the full transition to a Total Contributions Approach and the abolition of the Yearly Average approach to calculating entitlement to the State Pension Contributory rate of payment should be implemented as soon as possible, pending the passage of necessary legislation and IT system changes.</td><td rowspan="2">This is not straightforward, even allowing for the proposed transition period. More research is needed to develop a system that will eliminate the inequalities and anomalies created under each approach; for example inequalities affecting women, carers, part-time workers and others.</td></tr>
<tr><td>15. The Commission recommends that for those who are better off having their pension entitlement calculated under the Yearly Average approach, a phased transition to the Total Contributions Approach should apply gradually over a 10-year period.</td></tr>
<tr><td>16. In terms of the specific design of the Total Contributions Approach (TCA), the Commission recommends that the current ‘Interim’ TCA should become the definitive TCA i.e. 40 years – or 2,080 contributions – required at State Pension age to qualify for a maximum rate pension. This includes 10 years of credited contributions and 20 years of HomeCaring periods, but with a cap of 20 years combined credited and HomeCaring periods.</td><td>The Commission recommends that 40 years of contributions should entitle someone to a full State Pension. This seems fair and it certainly should not be higher.

Age Action disagrees with the Commission’s suggestion of keeping the 20-year cap on HomeCaring and other credited contributions.</td></tr>
<tr><td>17. The Commission recommends the issuing of regular PRSI contribution statements in an easy to understand format so that PRSI contributors are aware of their level of contributions and how this relates to the level of State Pension Contributory that they can expect to receive. These could be made available in real-time on MyGovID or could be issued to a person’s digital post-box.</td><td>Age Action welcomes the Commission’s recommendation that regular PRSI contribution statements should be issued so that people know what their State Pension entitlement is likely to be, as this is something Age Action has called for. However, it is vital to not exclude those who are not using the Internet or who do not have access to the Internet for whatever reason, including lack of skills or cost.</td></tr>
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Long-Term Carers (Chapter 9) 18. The Commission recommends that long-term carers (defined as caring for more than 20 years) should be given access to the State Pension Contributory by having retrospective contributions paid for them by the Exchequer when approaching pension age for any gaps in their contribution history arising from caring.	Age Action agrees with granting "long-term carers" (for more than 20 years) extra credits towards a Contributory State Pension. However, why not provide a decent pension to others who have been unable to work for long periods, such as people with lifelong disabilities or serious illness?
19. The contributions would be exclusively for State Pension Contributory purposes, and would be recognised as paid contributions both for the purposes of the qualifying for the State Pension Contributory and for the purposes of calculating pension rate entitlement under the Total Contributions Approach.	While Age Action welcomes the recognition of long-term carers in terms of pension provision, it seems perverse to fail to recognise that the same people might need disability or sickness cover, or other social welfare. As such, Age Action does not agree with making care contributions exclusive to the State Pension.
20. The relevant Government Department(s) should examine, in conjunction with relevant stakeholders, options for the creation of a statutory 'Family Carer Register' which could, in time, facilitate the identification of long-term family carers for State Pension Contributory purposes as well as assisting in the planning and delivery of services for family carers. This could be considered as part of the Programme for Government commitment to update the National Carers' Strategy.	More detail is needed from Government on how this proposal might be implemented in practice.

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Retirement Age (Chapter 10) 21. The Commission recommends aligning retirement ages in employment contracts with the State Pension age, by introducing legislation that allows but does not compel an employee to stay in employment until State Pension age. Any such legislation must meet the standard required by the Equality Directive (objectively justified by a legitimate aim as set out in Article 6)	The Commission notes that different "retirement ages" exist, for example in employment contracts it is often 65 whereas the age of eligibility for the State Pension is 66. Age Action agrees with the Commission's recommendation to prevent employment contracts setting a compulsory retirement age below the State Pension age. But we would go further than this minimum standard and say that existing contracts are no longer in line with Ireland's equality and human rights obligations and legislation. There is a pressing need to abolish the concept of mandatory retirement.

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<tr><td>22. The proposed policy objectives of this legislation would be that:
- In general, an employer cannot set a compulsory retirement age below the State Pension age;
- It would be important to ensure that a worker’s property rights in terms of their ability to retire at a time of their choosing (regardless of the gap in relation to accessing the State Pension) and receive a pension under their existing occupational or personal pension scheme is not adversely affected;
- Where possible, the same terms and conditions regarding the provision of insurance, financial services and related benefits should apply to all employees, subject to the availability of these benefits from providers and the cost not being disproportionate for employers;
- This legislation would apply to existing and new employment contracts;
- In strictly limited cases where a retirement age below the State Pension age continues to apply (as a result of legislation, collective agreement or at individual employment level), employers would be required to give notice to workers in order to ensure that the worker is aware that a retirement age below the State Pension age applies, and to evidence compliance with the law in terms of objective justification by a legitimate aim and appropriate and necessary means;
- This legislation would not affect employment contracts where the retirement age is set above State Pension age and would only apply to contracts with a compulsory retirement age;
- While the State may introduce such legislation, it would need to be independently reviewed on a periodic basic to ensure that it still meets the grounds of objective justification with a legitimate aim.
- Social partners are encouraged to take this recommendation on board through agreement, collectively or locally, in advance of the legislation being enacted.</td><td>While, at a minimum, mandatory retirement should never be at a lower age than the State Pension age, the concept of mandatory retirement should be abolished in most cases.

Everyone should be allowed to continue working for as long as they wish, as long as they are able to perform the work required. People should be able to work beyond the State Pension age if they choose to do so. And employees should retain their full rights, including terms and conditions of employment, regardless of their age.

There is scope to introduce more sophistication into employment contracts, to envisage older workers choosing to reduce their weekly hours. But any such flexibility should not be penalised by loss of pay or worse conditions.</td></tr>
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Pensions Commission Findings and Recommendations	**Age Action's Initial Response**
23. The Commission supports measures that facilitate and encourage fuller working lives. Social partners, relevant Government bodies, and the Workplace Relations Commission should consider and issue guidance on measures to facilitate those who wish to continue working past retirement age, with proposals to be considered at appropriate fora, including the Labour Employer Economic Forum.	Age Action agrees with the broad proposals for social partners and the Workplace Relations Commission to facilitate people wishing to work past retirement age. We would like to see more detail about such proposals in the Government's response to the Commission report, including measures to address ageism in the labour market.
24. The Commission recommends a review by the relevant Government Department or statutory body to: • Provide clarity on the use of successive post-retirement fixed term contracts and to establish whether there is coherence in the application of the Protection of Employees (Fixed-Term Work) Act 2003 and the Employment Equality Acts 1998 - 2015. • Review the application of the Employment Equality Acts 1998 - 2015 to the provision and non-provision of insurance or related financial services benefits to employees on age discrimination grounds.	Age Action welcomes these recommendations, which should explicitly name ageism where it is discovered and which should propose actions to eliminate ageism.

Pensions Commission Findings and Recommendations	**Age Action's Initial Response**
State Pension Age (Chapter 11) 25. By a significant majority (10 out of 11 members)*, the Commission recommends a gradual incremental increase in the State Pension age by three months each year commencing in 2028, reaching 67 in 2031 (10 years from now), with further increases of three months every second year reaching 68 in 2039. *[* Footnote: The member nominated by ICTU did not support any increase in the State Pension age]*	As expected, given their terms of reference and the Programme for Government objectives, the Commission re-introduces the proposal to raise the State Pension age. This proposal remains premature, and Age Action does not support it. How can we move the State Pension age when a large proportion of employment contracts contain a mandatory retirement age of 65? How can we propose that people work until 68 when people in their 50s and 60s find it so difficult to get job interviews due to ageism? The Commission has also not made a compelling case that changing the State Pension age will save a great deal of money. The Department of Social Protection's analysis is that paying alternative forms of welfare will negate much of what savings might be achieved. Age Action wants the creation of a fair and flexible retirement system, which allows everyone to work for as long as they wish, if they are able, but which equally allows people to stop working and to ensure an adequate, secure income once they have done a lifetime's work – which the Commission suggests is 40 years of contributions. Only once we have achieved both legal changes and cultural changes across the labour market does it make any sense to examine the State Pension age.

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Flexible access to State Pensions (Chapter 12) 26. The Commission recommends that access to the State Pension should be on a flexible basis.	As a broad principle, Age Action welcomes Commission's suggestion that the State Pension system should be more flexible.
27. The Commission recommends that a person may choose to defer access to the State Pension up to age 70, and receive a cost neutral actuarial increase in their State Pension payment.	Age Action agrees with this proposal.
28. The Commission recommends that a person can continue to pay social insurance contributions past State Pension age at their existing PRSI contribution rate (employees, employers and the self-employed) to improve their social insurance record for State Pension Contributory purposes. These PRSI contributions will enable individuals without a full contribution record (and who have deferred access to the State Pension) to become entitled to the State Pension Contributory, or increase the pension rate of payment, as a consequence of the additional paid contributions.	Age Action agrees with the proposal for a person at work beyond 65 to be allowed to pay PRSI contributions to boost their State Pension.

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29. As an option for Government to consider, done in conjunction with a State Pension age increase, the Commission sees merit in recognising long PRSI contribution histories by including a provision whereby those who choose to retire at 65, and have a long Total Contributions (TCA) record of 45 years, may receive a full pension.	Age Action agrees with flexibility that would allow someone to gain the State Pension at 65 if they have already worked for 45 years. This is likely to benefit those working in arduous manual jobs, where we know there is a higher level of acquired disability during working life and where a proportion will be unable to work beyond 65 and may have stopped work earlier due to inability to continue their occupation. Age Action does not agree with the Commission's inexplicable proposal to link this suggestion – uniquely among its recommendations – to increasing the State Pension age. They are two separate policy proposals, and each should be considered on its own merit.

Pensions Commission Findings and Recommendations	Age Action's Initial Response
Increasing Social Insurance Fund (SIF) Income (Chapter 13) 30. The Commission recommends increasing the self-employed PRSI contribution rate. In the first instance, the Commission recommends that Class S PRSI for all self-employed income is gradually increased from 4 per cent to 10 per cent. In the medium term, the Class S PRSI rate should be set at the higher rate of Class A employer PRSI (currently 11.05 per cent).	The Commission makes a set of significant recommendations in relation to increasing Pay Related Social Insurance (PRSI), to increase the funding to the Social Insurance Fund so that the State Pension can be sustained into the future. This is easily the largest and most important set of decisions for policymakers. Government action on these recommendations will indicate their seriousness about maintaining an adequate State Pension rate, to provide everyone with dignity in older age.
31. Increase the Class A rate of PRSI for both employers and employees. 32. The Commission considered a range of PRSI base broadening measures.	Age Action is in broad agreement with the proposals to increase self-employed PRSI to a realistic rate in line with the benefits now available to people who are self-employed, and in line with the level of contributions made on behalf of employees. (Currently the self-employed pay 4% whereas over 15% is paid on behalf of employees, including the employer contribution). Employer PRSI is nonetheless among the lowest in Europe, and Age Action agrees with the proposal to increase employer PRSI. However, increasing PRSI on low to middle income earners should not come at the cost of them falling below a minimum essential standard of living, and it should not prevent them from making provision for a supplementary pension, as that would contradict the goals of wider pension policy.
33. The Commission recommends maintaining the exemption from PRSI on all social welfare payments.	Age Action agrees with the Commission on retaining the exemption from PRSI on all social welfare payments.

Pensions Commission Findings and Recommendations	**Age Action's Initial Response**
34. Other than social welfare payments, the Commission recommends removing the exemption from PRSI for those aged 66 or over. 35. The Commission further recommends removing the exemption to pay PRSI on supplementary pension income (occupational and personal pensions, and public sector pensions).	Age Action disagrees with allowing PRSI on private or occupational pensions in circumstances where the recipient has no entitlement to a State Pension, or where the supplementary pension is modest. This is the case for many former employees of semi-state enterprises, few if any of whom have had a pension increase since 2008 and whose type of PRSI payment did not grant them a State Pension entitlement. It would be unjust to levy PRSI on an occupational pension that is smaller than the exempt State Pension. It is necessary to consider the design of any reformed PRSI system in a lot more detail, and we welcome the Government's decision to ask the Commission on Taxation and Social Welfare to consider the Pensions Commission recommendations.

Note the Terms of Reference of the Pensions Commission did not include examining the adequacy of the State Pension relative to the cost of living experienced by older people, and it did not include examination or the proposal of remedies for all inequalities and anomalies within the pension system. As such, when considering the State Pension and the wider pensions system, it is important to include issues that were outside of the scope given to the Pensions Commission.

Next Steps

The Programme for Government pledges a response to the Pensions Commission report within six months, which sets a deadline of April 2022 (as the report was presented to Government in October 2021). Any changes to PRSI to be announced in Budget 2023 are likely to be decided in the summer 2022, in advance of Budget Day in October 2022.

Various Government Department are likely to prepare their own responses to the report, and the Government has formally asked the Commission on Taxation and Social Welfare to consider the report. The Oireachtas Joint Committee on Social Protection has likewise commenced deliberation of the report's findings and is calling witnesses.

While some of the Pensions Commission's recommendations can be implemented on an administrative basis, many of them are likely to require legislation, which could take the form of amendments to Social Welfare Acts and/or stand-alone legislation. Legislation for benchmarking and indexation is likely to be complex, although creating a statutory advisory body on the State Pension rate could allow those methods to be researched and developed by that body in advance of legislating for them. Whereas most of the recommended legislation will come under the aegis of the Department of Social Protection, changes to mandatory retirement arise under the Department of Enterprise, Trade and Employment and this is also likely to be complex legislation.

At the same time as administrative and legislative changes, there is a need for Government leadership to counter ageism, in line with the campaign of the WHO and other international bodies, which have identified ageism as a major social inequality and a significant cost to all societies.

Age Action would like to see the following actions as soon as possible:

- Government commitment to maintaining an adequate State Pension rate, in line with the Programme for Government and the Pensions Commission recommendation that the State Pensions remains the "bedrock" of the pensions system.
- Government commissioning of a comprehensive study of the cost of ageing, including the healthcare and other specific costs experienced by older people, with this report to inform the future benchmarking and indexation of the State Pension.
- Government commissioning of comprehensive analysis of inequalities ad anomalies in the pension system, including inequality in the system of pension tax breaks, with this analysis to inform legislation on changing the State Pension.
- Draft legislation and consultation by the Department of Social Protection to create the statutory advisory body on the rate of the State Pension.

- Draft legislation and consultation by the Department of Enterprise, Trade and Employment to abolish mandatory retirement clauses.
- Creation of a Commission for Ageing and Older Persons, as an independent voice on behalf of older people with a similar remit to counterparts in Northern Ireland and Wales. The Commissioner should be given a role in consulting with older people and informing pensions policy.
- Government action to counteract ageism in society and in the labour market, as part of the cultural change that is needed to bring about a fair and flexible pension system.