



The Health Insurance Authority
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Dear Sir / Madam,

I am writing to you on behalf of the Staff Unions representing staff in the Department of Foreign Affairs and Trade about the issue of Lifetime Community Rating on domestic health insurance, an issue which also affects our colleagues in other Government Departments. Please find below the joint input of all of the Department of Foreign Affairs and Trade Branches of the following unions: the Association of Higher Civil and Public Servants (AHCPs), the Civil and Public Services Union (CPSU), IMPACT, and the Public Services Executive Union (PSEU) – to the Public Consultation Process on this issue.

Input to Public Consultation process on Lifetime Community Rating for Private Health Insurance Requirement to accommodate Civil Servants Assigned to Serve the State Abroad

1. Irish public servants who serve abroad, including those who are obliged to do so as part of their terms of service, are significantly disadvantaged by the current rules on Lifetime Community Rating (LCR). The LCR scheme introduced in 2014 impedes civil servants who take up assignments abroad after 1 May 2015 from accessing health insurance which is compliant with the Lifetime Community Rating provisions. This is directly **contrary to the public policy motivating the legislation, which seeks to incentivise the purchase of private health insurance**. This measure threatens to impose significant and life-long financial penalties on a large number of affected civil servants. The vast majority of these civil servants pay for private health insurance via VHI throughout their assignment abroad. Their financial contribution is similar to what colleagues based in Ireland would pay. However, the design of the LCR scheme treats returnees over the age of 35 as if they are taking out health insurance for the first time, or as if they have allowed their coverage to lapse. The group of civil servants affected includes many for whom this service abroad is a required part of their duties, under their terms of employment by the State, and who are thus placed in a no-win situation. Staff Unions are unanimous in the view that this is unacceptable. This submission sets out the issues at stake, and requests that a solution be found to this anomaly, which would allow these officers to access private health insurance on an equal basis with those who do not serve abroad.

Service abroad by civil servants

2. The conduct of the State's business abroad, and the representation of Ireland's international interests, requires that civil servants are available to serve at the State's offices, Embassies and Consulates abroad. Thirteen Government Departments (and the Revenue Commissioners) station officers at the Permanent Representation of Ireland to the EU in Brussels. The Department of Foreign Affairs and Trade (DFAT) maintains a network of almost 80 missions representing the State overseas, in locations throughout Europe, Africa, the Middle East, Asia and the Americas, to which Irish staff are assigned. The Departments of Agriculture; Finance; and Jobs, Enterprise and Innovation deploy officers to certain DFAT missions at other locations in



Europe and North America, and the Department of Justice deploys visa officers to DFAT missions in China, India, Russia and Nigeria. Civil servants from other Departments are seconded into the Department of Foreign Affairs and Trade for the duration of their posting abroad.

3. For civil servants recruited into DFAT's diplomatic and development grades, regular and repeated service abroad in a number of these missions, interspersed with periods based in Ireland is **an obligatory part of the officer's job**. Assignments to a mission abroad are generally for periods of three to five years, during which time the officer and his / her family live in the country where the mission is located. Staff are expected to be flexible: an officer may expect to serve anything from 2-5 years in Ireland between each posting abroad, or may do more than one posting in succession. In total, an officer might expect to spend 20-25 years on posting in different locations, over the course of a standard career.
4. Service abroad is not compulsory or routine for civil servants in the general service grades (from Clerical Officer to Principal Officer). Nevertheless, the State's business abroad, including the representation of Ireland's interests at the European Union, does require that a certain number of officers in these grades be prepared to make themselves available to be posted abroad. For the duration of a posting, a general service officer works under the same terms and conditions, and has the same status vis-à-vis the host country Government, as a diplomatic officer would have.

Health Insurance for civil servants abroad

5. To ensure that officers and their families have access to the same level of healthcare cover as they would in Ireland (as far as possible – local conditions will not always allow) and at the same cost, the Department of Foreign Affairs and Trade has for many years operated a scheme whereby VHI International Ltd provide health insurance cover for all officers and families overseas. Staff who are on posting fund or co-fund the policy, paying what they would pay for similar, LCR-compliant, cover in Ireland. The Department pays any balance of the cost, e.g. any high-risk premium for difficult locations. The arrangement for co-payment by the officer is designed to ensure that health insurance abroad is cost-neutral for those staff who already have private health insurance in Ireland.
6. Participation in the health insurance scheme is not mandatory, but those not opting to co-pay for health insurance receive no health cover from the State, even if serving in high-risk locations. In many locations where DFAT has missions (e.g. Sierra Leone, Indonesia) local *public* healthcare is not comparable in standard with that available in Ireland, and in others (e.g. USA) the costs are prohibitive, making private health insurance a necessity rather than a luxury. In effect, therefore, those posted abroad generally do pay for private health insurance, which is in line with the policy objectives set out by the LCR legislation (i.e. "to encourage people to take out private health insurance at a younger age and to maintain coverage", as stated in para 1 of the HIA Lifetime Community Rating consultation document). However, under the legislation coming into effect in May 2015, the Department of Health effectively treats posted civil servants who are paying for their insurance under DFAT's policy as though they deliberately chose not to take out insurance cover at all, or decided not to maintain their cover, which is not the case.
7. The current Department of Foreign Affairs and Trade group health insurance policy includes *both* global cover *and* elements of domestic cover, in acknowledgement of the fact that civil servants posted abroad travel to Ireland regularly, would be repatriated to Ireland from many locations in case of medical need, and retain their permanent residency in Ireland. Despite this, the



Department of Foreign Affairs and Trade has informed staff that under current legislation, the VHI International policy which it operates, and which staff are paying for, does not qualify as an approved domestic private health insurance for the purpose of LCR.

Residency: special situation of posted civil servants

8. Officers assigned to Irish missions abroad will not, in the course of a career which may include service in up to six or seven different countries, establish domicile in any country outside Ireland. International practice is that officers working in diplomatic missions are not considered to be formally “working” or “resident” in the host country, and they do not generally acquire rights (e.g. citizenship for children born in the host country, right to long-term residence) in the way that other resident foreigners may. Ireland remains the permanent home for these staff throughout their careers, and they remain tax-resident in Ireland, not in the host country.
9. Posted civil servants are paid their salary by an Irish Government Department, into an Irish bank account. Unlike other citizens who may move abroad temporarily or permanently, the State itself considers officers assigned to Irish missions abroad to be resident in Ireland for the purposes of PAYE, PRSI, USC, income tax and voting rights, no matter how long they have been away from Ireland. They should therefore be treated no less favourably than other public servants, tax payers, and citizens. Indeed, the State considers that officers serving in Irish missions abroad, and their families, fulfil the residency requirements for payments such as Disability Allowance, Carer’s Allowance, Child Benefit, and for the third level “free fees” scheme.

Unions’ Position

10. We believe that it is completely unacceptable that civil servants who are asked or obliged to serve the State abroad; who are otherwise treated the same as colleagues remaining at home for purposes of salary, tax, etc.; and who pay the normal contribution for health insurance, are treated as if they are ‘late entrants’ to private health insurance. Civil servants assigned abroad who participate in the DFAT health insurance scheme already pay for health insurance, and are merely seeking an entitlement (lifetime, non-loaded health insurance) for which they pay.
11. The Staff Unions submitting this paper have set out the situation to the best of our understanding, and we are open to a number of possible approaches to resolving the situation. These include, but are not limited to, the possibilities set out below.
 - One way forward set out in the HIA Lifetime Community Rating consultation paper is that the limited exemption that was made for persons residing abroad in May 2015 and returning to Ireland thereafter, could be extended to include an **unlimited exemption for all periods spent abroad**, including for people departing from Ireland after that date, and covering multiple departures and returns. This would work for affected civil servants, provided the following elements are taken into account:
 - It is stated in the Consultation Paper that after 2003 in Australia, “loadings no longer applied for continuous periods overseas of more than one year if private health insurance commenced within one year of returning to Australia.” However, limiting the exemption to absences of more than one year only would leave no leeway for where a civil servant may have to return unexpectedly early from a posting (due to illness, family illness, bereavement, promotion / reassignment, etc.); or for civil servants doing shorter assignments as required by the business needs of the State (e.g. short duration assignments for an EU Presidency, or to reinforce an Embassy dealing with an



- emergency situation). An exemption with no lower limit for duration spent abroad would be necessary to take account of these situations.
- This solution would also require no upper limit as regards duration spent abroad, since those for whom regular service abroad is a mandatory condition of employment may spend - cumulatively - upwards of 20-25 years abroad in the course of a career.
 - Similarly, this exemption would have to be unlimited as regards the number of periods which could be spent abroad, to take account of the pattern of employment alternating between home and abroad which is normal and mandatory for certain grades.
- Another way forward mentioned in the Consultation Paper is to address the **definition of residency in the legislation**. If the legislation is amended in a way which recognises the special residency status of civil servants serving in Irish missions, this could clarify that this status is such as to render these officers eligible for LCR-compliant health insurance policies. Recalling also that the current Department of Foreign Affairs and Trade group health insurance policy includes *both* global cover *and* elements of domestic cover, Staff Unions believe that a change in the legislation could allow health insurance companies tendering for a new DFAT group health insurance policy to factor in a portion from the domestic element of the policy for contribution to the 'pool', i.e. to contribute to the domestic risk equalisation system, as part of the cost of what is already a tailored health insurance policy.
 - Unions would also be satisfied if a **specific exemption to the LCR legislation were made for those serving the State abroad** (or if credits for service to the State abroad were provided against LCR loading). While supportive of an exemption for the specific circumstances of those serving in the Defence Forces, Staff Unions believe that all public servants serving abroad, whether in the Defence Forces or otherwise, should receive equal consideration.

Staff Unions are available to meet the Health Insurance Authority to explore the issues and options further.

Yours sincerely,

Mr. Gerry Donnelly
DFAT, Staff Side Secretary
(on behalf of the AHCPs, the CPSU, IMPACT, and the PSEU Branches)