

Update of SNCT Working Groups 19 January 2010

Conditions of Service Working Group

Annual Leave

The Conditions of Service Working Group has been dealing with giving effect to European Court of Justice decisions in cases dealing with annual leave arising from sickness and from maternity. Both the Employer's Side and Teachers' Side separately sought legal advice on the implications of ECJ decision in Stringer and others v HM Revenue and Customs sub nom Commissioners of Inland Revenue v Ainsworth and others; Schutz-Hoff v Deutsche Rentenversicherung Bund [2009] IRLR 214 ECJ; in Pereda v Madrid Movilidad SA [2009] IRLR 959 ECJ; and Merino Gomez v Continental Industrias del Caucho SA [2005] ICR 1040. While there is agreement that current SNCT provisions are deficient and susceptible to legal challenge it has not been easy to draft replacement paragraphs. In particular, the Stringer decision will require guidance from the department of Business Innovation and Skills, (formerly BERR). Ultimately Working Time Regulations will be redrafted by Government. However, there has been clear progress. It has been agreed that teachers and associated professionals on maternity leave have the right to 28 days statutory leave which has accrued during both Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) and the right to take either the balance of contractual leave or pay in lieu of contractual leave. As this has significant cost implications for employers the teachers' side has indicated a willingness to consider that the qualifying period for maternity leave should be brought into line with statutory qualifying period. The employers' side is considering the issue of local authority qualifying service and also the extension of the proposed change to cover adoptive leave.

While there is agreement that teachers and associated professionals absent on sick leave for a complete year will accrue an entitlement to 28 days annual leave some work is required, in line with BIS advice, on suspending sick leave to take annual leave or carrying leave forward. The advice from BIS is expected at the end of January and will shape the SNCT position. The Working Group is looking at modelling examples of how the new arrangements may work. However, pending new provisions the SNCT will have to provide interim advice to Councils.

Job Sizing

The revised Guidance notes, Questionnaire and Resizing Questionnaire are appended (appendices i to v). These forms will be trialled within five Council areas: Dundee, East Renfrewshire, Falkirk, Moray and North Lanarkshire. COSLA is investigating whether the

COSLA
Rosebery House
9 Haymarket Terrace
Edinburgh
EH12 5XZ
T: 0131 474 9200
F: 0131 474 9292
E: tomy@cosla.gov.uk

Teachers' Panel
46 Moray Place
Edinburgh
EH3 6BH
T: 0131 225 6244
F: 0131 220 3151
E: dmorrice@eis.org.uk

Scottish Government Learning Directorate
2C South Victoria Quay
Edinburgh
EH6 6QQ
T: 0131 2440230
F: 0131 244 0957
E: Stephanie.walsh@scotland.gsi.gov.uk

changes to the toolkit can be carried out without referral back to PWC. The Conditions of Service Working Group has also considered the delivery of training in house. Norrie McKay (North Lanarkshire Council) has indicated a willingness to lead the training and his employer is prepared to release him for that purpose. However it is likely that this will delay training until Autumn 2010 which would require the date of implementation for the revised toolkits to be January 2011.

Educational Psychologists – Health Professions Council

The Working Group is considering the requirement for educational psychologists to be registered with the Health Professions Council. This will impact on the current provision relating to chartering for new employment or salary progression. A draft circular is appended (appendix vi) but advice is being sought from HPC on whether a probationer psychologist, at the completion of a period of supervised practice, can assume the full range of duties pending full registration with HPC.

Accelerated Incremental Progression (AIP)

Following discussion on a motion presented by the Teachers' Side and on issues previously discussed on AIP it was agreed that a sub group would be established to review AIP.

Absence Due to Work Related Injury and Illness

Following discussions on the provision of paragraph 6.21, Part 2, of the SNCT Handbook it was agreed that a guidance note would be issued. This guidance note is appended (appendix vii).

Chartered Teachers Who Retire but Who Return to Work

There is ongoing discussion on the salary of CTs who retire but subsequently return to work. In addition to discussion in the Working Group this was also discussed when the Joint Secretaries met GTCS.

The Conditions of Service Working Group has a number of other items on its agenda but, due to the pressures of work relating to annual leave provisions, some items have been continued to future meetings.

The Review of LNCTs Working Group

The Working Group agreed that Alan Munro would be the Chair of the Working Group following the resignation of May Ferries.

The Group considered the current position in relation to advice on workload. It was agreed that the Joint Secretaries would write to LNCTs early in 2010, that LNCTs would have to produce workload action plans, and that returns would be sought by September 2010. The Working Group will consider this further at its next meeting.