

Civil Service Conciliation and Arbitration Scheme

General Council Report 1378

(Meeting/s of 26 January 2000, 23 February 2000, 31 May 2000, 28 June 2000, 29 November 2000, 31 January 2001)

That the on-call element of the Special Millennium Bonus payments be paid to FUGE members who are keyholders.

Civil Service Conciliation and Arbitration Scheme

General Council Report No. 1378

The on-call element of the Special Millennium Bonus payments

Meetings of 26 January, 23 February, 31 May, 26 June and 29 November 2000 and 31 January 2001

1. General Council Report No. 1364 provided for special payment arrangements known as Exceptional Millennium Bonuses (EMB) for staff in the Civil Service required to work or to be on-call or stand-by during the Millennium holiday on the same basis as Labour Court Recommendation No. 16401

2. The Staff Side presented two claims in relation to the application of the terms of this Agreed Report. The FUGE said that they were seeking the on-call EMB for all members of the grades they represent who hold keys of official buildings on a 24 hour, 7 days a week basis. These members receive a keyholding allowance under the terms of General Council Report No. 1192. FUGE said that these arrangements meant that these staff are permanently on-call and in the absence of any contrary instructions they had assumed that they would also be on-call over the Millennium period. Members were encountering difficulties in getting paid in a number of Departments, specifically the Revenue Commissioners, Social Family and Community Affairs and the Valuation Office. If management had not intended them to be on-call on those dates they should have said so.

3. The PSEU said they were claiming the allowance for members in the Investigation Branch (IB) of the Office of the Revenue Commissioners who had effectively been on-call and had, in fact, responded to a call from the Gardaí for Revenue assistance in a seizure of illicit goods. Officers who had

responded to the Garda call were paid the appropriate EMB for attendance at work but the Revenue Commissioners had declined to pay the on-call EMB. The Staff Side pointed out that members of the Investigation Branch, in common with staff assigned to the Revenue Mobile Service (RMS) and Customs National Drugs Team (CNDT) receive an allowance for full flexibility of attendance. The Staff Side said that certain staff in the RMS and CNDT had been designated to be on-call and had received the appropriate on-call EMB. They were not disputing this arrangement but were seeking redress for their members in the IB who had been refused the on-call EMB notwithstanding the fact that they had held themselves available for work and had responded to the Garda request to attend for duty.

4. The Official Side said that the application of the terms of Agreed Report 1364 was a matter for individual Departments. The Report specifically refers to *"Staff who are designated as being on-call or on standby and who hold themselves available for work during the period between 8.00 am on the 31st of December, 1999 and 8.00 am on the 2nd January, 2000."* In the covering letter to Personnel Officers which issued with the Agreed Report, the *designation* requirement for the on-call arrangements was stressed. In the Official Side's view designation was the key requirement for eligibility for payment of the EMB. The mere fact that people were normally on-call or received an allowance for flexibility of attendance was not sufficient to qualify for the Millennium Bonus.

5. As regards the FUGE claim, the Official Side said that the allowance referred to by the Union was for holding the keys of official buildings. While some Departments required their keyholders to be available to answer emergency calls outside of office hours, not all keyholders were in this position. Practice varied from Department to Department and even between buildings in the same Department. Extensive enquiries had been made of Government Departments and it was clear that most Departments had followed the procedures laid down in the Labour Court Recommendation and had designated specific members of staff to be on-call over the Millennium. Where staff had not been designated it was because management had decided that on-call cover was not required. In the case of the Department of Social, Family and Community Affairs, the Union had been informed in advance that keyholders would not have an automatic right to an EMB and only those specifically designated to be on-call would be paid.

6. It was agreed to refer the PSEU and FUGE claims to facilitation as provided for under the Conciliation and Arbitration Scheme. The Staff Side confirmed that these were the only claims in dispute.

7. At facilitation the PSEU confirmed that they were seeking payment of the on-call EMB payment only in respect of members in the Investigation Branch in Revenue where the proper designation procedures had not been followed. They emphasised the fact that these officers had been in a position to respond to an actual call-out to attend for work on the 1st January. The FUGE reiterated that their claim was for all members in receipt of the keyholding allowance. The Facilitator requested both Unions to provide him with full details of the people covered by their claims and the amounts of EMB involved. In response to this request the PSEU confirmed by letter that 12 officers at EO and HEO level were covered by the claim.

8. At General Council on 29 November 2000 the Staff Side expressed concern that the matter was not yet resolved. The Official Side indicated that this was because the Staff Side had not yet provided all the data requested by the Facilitator. The Staff Side suggested that as one party to the claim (PSEU) had provided the information sought, agreement could be concluded in this case. The Official Side agreed to consider this proposal.

9. The Official Side pointed out that a development had taken place since the facilitation hearing insofar as the Labour Court had issued a further Recommendation (No. 16649) which clarified the application of Recommendation No. 16401. This removed any doubt about the fact that management had acted correctly in designating staff to be on-call over the Millennium period. The Court stated that

"It was not intended that all employees who are normally required to be available for work if required would, in fact, be expected to remain available over the period in question. Rather, it was intended that employers would assess their requirements and designate the number actually required, thus freeing others to participate in the festivities if they so desired. This is in fact what occurred throughout the Public Service generally, including employments with a similar condition as to availability as the claimants in the present case."

On this basis the Labour Court had rejected the claimants case. In the case in question (Central Fisheries Board and SIPTU) the employer had designated certain staff to be on-call while the Union had sought payment of the EMB for all field staff on the grounds that their conditions of employment required them to be available 24 hours each day and through seven days each week.

10. At General Council on 31 January 2001 it was agreed that each of the 12 members of staff identified by the PSEU in its letter of 27 July 2000 to the Facilitator could receive an appropriate on-call Exceptional Millennium Bonus. This dealt with the PSEU claim. The following position is

acknowledged in the context of this agreement:

- management acted in accordance with the terms of the Agreed Report in designating members of staff to be on-call in order to qualify for payment of the EMB;

- in the particular circumstances pertaining to staff in the IB, as discussed in this report, it is now accepted that it would have been appropriate to designate them on-call and they had been actually on-call;

- this agreement is in full and final settlement of the Staff Side claims in relation to the Investigation Branch and does not form the basis for any follow-on claims in other areas.

11. This Report accordingly records such agreement.

12. This Report was adopted at the meeting on 31 January 2001.

Agreed Report

This report was adopted on 31 January 2001