

Civil Service Conciliation and Arbitration Scheme

General Council Report 1428

(Meeting/s of 28 November 2001, 25 June 2003)

Contract year.

Claim

Claim for correction to pay during contract year for those appointed from open competitions.

Background

1. The existing arrangements for the recruitment of Executive Officers (EOs), Administrative Officers (AOs) and Third Secretaries from open competitions (introduced on 22 July 1998 by way of a letter to Personnel Officers) provide for an initial 12 month contract in an unestablished position. Should they satisfactorily complete their contract period, officers are appointed to established positions subject to meeting certain criteria in relation to satisfactory service.
2. In May 2000 the PSEU highlighted the fact that the existing arrangements have given rise to an anomaly whereby, during the contract year, officers are paid less than what they would have been paid before contracts were introduced.

Pay anomaly

3. During the "contract year" the officers are not liable to superannuation contributions as the scheme is non-contributory. In order to avoid a situation where, on becoming established and liable for superannuation contributions, the net pay of officers in their second year would be reduced, it was agreed (at the time that the contract arrangements were being introduced) that officers' pay while on contract would be the pre-April 1995 (19/19) scale.
4. These arrangements have given rise to an anomaly whereby the net pay of contract staff, in their "contract year" on the 19/19 scale, is less than their notional net pay would have been if they had been paid on the post-1995 (20/19) scale and paid a superannuation contribution.
5. The reason for the notional difference is that the 20/19 pay scale is 1/19 greater than the 19/19 pay scale but the superannuation contribution of the

post-1995 entrants is less than 1/19 of the post-1995 pay scale.

6. The Public Service Executive Union (PSEU) raised this issue with this Department and sought the reimbursement of the notional difference for affected officers.

Discussions on the matter

7. The issue was considered at length and a number of meetings were held with the PSEU in 2001, 2002 and 2003 to discuss it. It was agreed that an unintended disadvantage did indeed exist and consideration was given to a number of potential solutions. Various options were examined but found to be unworkable.

Proposed Solution

8. There are two parts to the solution: (a) make the necessary legislative change in the Civil Service Regulation Act 1956, which will allow established civil servants to be placed on contracts and (b) payment of ex-gratia payments to affected officers in the interim pending the enactment of legislation.

9. It was agreed that officers, who are in the grades of Executive Officer, Administrative Officer and Third Secretary, would be paid an ex-gratia payment, until the legislation is amended, on the following basis:

- €265 to an officer who was not a civil servant immediately preceding recruitment to the contract EO, AO or Third Secretary post
- €900 to an officer who was a Clerical Officer immediately preceding recruitment to the contract EO, AO or Third Secretary post
- €1300 to an officer who was an Executive Officer immediately preceding recruitment to the contract AO or Third Secretary post

A step-by-step approach to establishing an officer's entitlement will be given to Personnel Officers.

10. Civil servants, other than those referred to in paragraph 9 above and paragraph 15 below, who were in grades other than the grades of Clerical Officer or Executive Officer immediately preceding recruitment by open competition to EO, AO or Third Secretary will be paid on an ex-gratia basis the actual difference in pay caused by the anomaly.

11. Only one ex-gratia payment will be paid to an officer. In other words, where an officer was recruited on contract to the EO grade and subsequently recruited on contract to the AO or Third Secretary grades, he/she will

receive only one ex-gratia payment. The ex-gratia payment is subject to tax and PRSI.

12. It was agreed that individual officers who experienced a loss as a result of the anomaly would be required to apply to their Personnel Section to have their cases examined.

13. Ex-gratia payments should only be made to officers who:

- i. are serving in their grade on 1 May 2003 onwards and;
- ii. have satisfactorily completed their contract year and;
- iii. have been appointed to their post in an established capacity.

(Note: a future entrant will be paid an ex-gratia payment on completion of his/her contract year and appointment to his/her established position.)

14. An ex-gratia payment will not be made where an officer

- i. is no longer in the civil service; or
- ii. was promoted to a position higher than the "contract" position before 1 May 2003; or
- iii. failed to complete the contract year; or
- iv. was not appointed in an established capacity.

15. Existing civil servants who began their civil service careers before April 1995 and who were recruited to the EO, AO/Third Secretary grades by open competition are paid on the modified salary scales. As a result, they do not suffer any loss and should not be paid an ex-gratia payment.

16. Some Departments/Offices have been misapplying the rules on the pay of contract staff by applying the 20/19 scale and deducting personal superannuation contributions leading to overpayments to contract staff. The rules of the established superannuation scheme prohibit unestablished officers from joining established superannuation schemes. This means that the officers will not be entitled to the ex-gratia payment as they have received the extra money in the course of the first year as part of their normal salary.

17. An officer will not be entitled to an ex-gratia payment where the rules on the pay of contract staff were misapplied resulting in the officer being overpaid.

18. This agreement addresses the pay anomaly arising for officers during their contract year. There is no link with the fact that the officers move from being unestablished to being established at the end of the contract period. It

was agreed that this agreed report will not give rise to any repercussive claims from any of the civil service unions.

19. This report, recording agreement, was adopted on 25 June 2003.

Agreed Report, recording agreement.

This report was adopted on 25 June 2003