



Cónaidhm Éireannach na Múinteoirí Ollscoile

Irish Federation of University Teachers



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18 August 2011

Our Ref: 0.2.19.B

Mr Ruairí Quinn, TD,
Minister for Education & Skills,
Department of Education & Skills,
Marlborough Street,
Dublin 1.

By Courier

Dear Minister,

PROTECTION OF EMPLOYEES (FIXED-TERM WORK) ACT 2003 / UCC

On behalf of the Irish Federation of University Teachers I would like to request an early meeting with you to discuss the following matter which is of grave concern to us and which, I believe, will be a matter of disquiet for you also.

As you know, the Protection of Employees (Fixed-Term Work) Act 2003 obliges employers to afford to employees on Fixed-Term Contracts equal treatment compared to permanent employees.

Following the closure of St Catherine's College of Education for Home Economics in 2007 your predecessor Ms Mary Hanafin TD, stated that the guarantee of equality of treatment did not cover ex-gratia redundancy payments. In this regard she was completely at odds with several explicit rulings on the issue given by the European Court of Justice which IFUT brought to her attention.

In fairness to Ms Hanafin the error of her position was acknowledged by the Department's legal representatives during the course of a Labour Court investigation of the issue in 2008 and the Labour Court recorded this acknowledgement in its Determination No. FTD0819 which was issued on 10 December 2008.

Again in fairness to Ms Hanafin, when the Labour Court issued its Determination based on this now undisputed entitlement, she authorised its payment by the Department.

Curiously, your Department instructed the National University of Ireland, Maynooth to oppose an identical case in 2007/8. But once again, when the Labour Court on 15 November 2010 determined that equal redundancy was payable, the Department sanctioned this.

In 2010 despite the several ECJ cases to which I have referred and despite the formal, public admission made by the then Minister's legal representatives in the Labour Court and despite having paid out equal redundancy in two cases (St Catherine's and NUIM), your Department once again instructed University College Cork to withhold equal payments and to contest the case.

UCC's case was rejected by a Rights Commissioner of the LRC in November 2010. However, rather than accept this ruling, UCC (acting, we understand from very well placed local sources, on the instructions of your Department) not only lodged a further appeal to the Labour Court but also, despite having a well staffed internal Human Resources Department, engaged a very expensive legal firm (Arthur Cox & Company) to represent them.

Incidentally, I believe (again from well placed sources) that I know the financial cost to UCC of employing this legal firm and it is staggering, particularly, as you yourself have repeatedly said when “our country is in receivership” and our universities are close to the point of collapse due to lack of funds. Despite Arthur Cox’s best efforts, which involved practically every known legal tactic and device (including delays) and the deployment of some highly imaginative arguments, UCC’s appeal failed as it was always destined to do and the Labour Court issued a legally binding Determination that our member should be paid her legal entitlement.

Incredibly, the matter has not ended there. UCC, intent obviously on throwing huge good amounts of scarce taxpayers’ money after bad, has embarked on a further appeal, this time to the Irish High Court.

Not only is this High Court adventure going to end up costing vast sums of money (to the delight no doubt of UCC’s legal advisors), but it is also based – and this is barely credible – substantially on the very grounds which have been conceded previously by your Department and on other grounds which are, to say the least of it, flimsy.

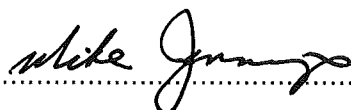
Minister, we in IFUT know the difficult challenge that faces you in holding such a vital Ministry at a time of such financial difficulty. But in this instance, this union is not seeking more funds from you. We are asking that you use your influence to prevent the egregious and wanton squandering of money as envisaged by UCC and their legal cheer leaders.

We are also gratefully conscious of your commitment to employee rights and, in particular, to equal rights for disadvantaged sectors of the workforce. We note that the Government's perception of economic realities has dictated the cutting back in recent years of certain benefits and entitlements (notwithstanding that we have had respectful differences over some of these perceptions). But we have also noted that at no time were the rights bestowed by the 2003 Act ever rescinded or restricted by you or your colleagues in the Oireachtas. Can you therefore stand back and allow UCC use up big sums of taxpayers' money in a solo run attempt to do so?

We really would like to meet you very soon on this urgent matter. We know how busy you are, but we can assure you that we will use whatever time you gives us with great efficiency.

I look forward to hearing from you.

Yours sincerely,



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*Mike Jennings,
General Secretary.*

P.S. I am copying this correspondence to Deputy Aodhán Ó Riordán, one of your colleagues who has been immensely helpful to us in raising issues concerning higher education with your Department and elsewhere.

c. Executive