

## **AGM Report 2020**

### **Employment Relations Committee**

- 4.1 The Employment Relations Committee met on 5 occasions over the course of the year. As a result of COVID-19 the Employment Relations Committee gave powers to the Accountant, Convener and Vice-Convener to make decisions regarding Benevolent Fund grants.

The Committee has responsibility for the administration of the Benevolent Fund, legal affairs and for health and safety matters.

### **Benevolence**

- 4.2 The Committee receives requests for benevolent support from individual members through local correspondents. The administration of the Fund is undertaken on a day-to-day basis by Clare Clark, Admin. Assistant Grade A in the Employment Relations Department. Cases are then considered against a set of criteria on eligibility for benevolent support. The contribution of benevolent correspondents is vital in ensuring the successful operation of benevolent support and, in many cases, for supporting members who face the most difficult circumstances.
- 4.3 The Benevolent Fund Accounts for the year to 31 August 2019 show that the overall value of the Fund stands at £3,676,923. The Committee met on 5 occasions plus 2 meetings took place with Convener and Vice-Convener via Webex and awarded 106 grants totalling £225,000. The maximum grant remains at £2,500. The Fund's income in 2019 arose from two main sources - investment income, and donations from local associations. The 2019 Benevolent Fund Accounts will be circulated, for information only, to delegates attending the 2020 Institute AGM.
- 4.4 The Committee, acting as Trustees of the Benevolent Fund, will often recommend that beneficiaries accept a referral to Payplan as part of the Fund's overall package of support.

### **Legal Affairs**

- 4.5 Throughout the year the Committee considered 104 cases and secured £753,121 for 15 members.
- 4.6 Legal representation is provided to members in a number of circumstances relating to their employment. Members who are subject to police investigation and reports to the Procurators Fiscal arising from workplace incidents are also provided with legal representation. The Case Handling Protocol was updated by the Committee and provides the foundation upon which cases are managed. It sets out both rights and responsibilities of representatives and members and makes clear the role of the Employment Relations Committee in decisions on legal advice and representation.
- 4.7 Legal representation may also be provided to members on employment matters including unfair dismissal and discrimination cases. Members are also supported following workplace accidents which cover both physical

injuries and psychiatric injuries. Such claims are normally pursued through the civil courts.

- 4.8 While, to date, there have been no successful stress cases in Scotland, the Committee secured some settlements for members during this year. It is important to note that the test to produce a claim is to demonstrate a psychiatric injury. The Committee has developed guidance on this point.
- 4.9 Members who appear before the Fitness to Teach Panel of GTCS are normally provided with legal support. Such members who face being struck off the GTCS Register are supported by our Legal Officers and receive external legal representation at GTCS hearings.
- 4.10 The service level agreement with Dentons on employment law matters due to the appointment of 2 Legal Officers: Laura O'Neill and Sonia Kerr. The Legal Officers provide advice and support to members on a range of work-related legal issues. This change, and others made to the provision of legal services, has produced considerable savings whilst maintaining our high level of service to members.

### **Health and Safety at Work**

- 4.11 The Committee considers health and safety issues relating to stress, violence, workplace conditions, environmental hazards and accidents in the workplace. The Committee maintains an overview of any proposed legislative changes. The Committee, through the Convener and the servicing Officials, co-ordinates the response of the EIS to changes to Health and Safety Regulations and ACoPs (Approved Codes of Practice) through the STUC and the TUC.
- 4.12 Throughout the year, the Committee worked with the STUC and Action on Asbestos to campaign for the removal of asbestos from all educational establishments in Scotland. Work on this important area of work will continue in the next Committee cycle.
- 4.13 The Health and Safety Executive (HSE) aims to have three Keeping in Touch (KIT) days each year (one per term) with the teaching trade unions in Great Britain. The purpose is to establish a forum for discussing H&S-related issues in the schools' sector with the teaching TUs. During the past year the following issues have been discussed and raised with HSE by the EIS:
- Mental Health in the Workplace
  - Mental Health First Aid
  - The management of asbestos in educational establishments including asbestos management visits to schools in Scotland
  - The adoption of the HSE Management Standards approach to tackle work-related stress
  - Managing the risks associated with violence and aggression in schools
  - The control of transport risks in and around schools
  - Maximum temperature in schools
  - COVID-19

- 4.14 The COVID-19 crisis generated a significant number of health and safety enquiries from members seeking advice, support and information. EIS Officials have been involved in the work of the COSLA Workforce Issues Advisory Group (WIG). This group involves COSLA officials, HR advisers and the SNCT and SJC trade unions. The purpose of this group is to discuss and agree appropriate and consistent approaches across Councils on workforce issues arising as a consequence of the spread of coronavirus COVID-19. EIS Officials have also worked with COSLA, Health Protection Scotland and Scottish Government to improve guidance on physical distancing and personal protective equipment (PPE) in education and childcare settings.

### **Personal Injury Claims**

- 4.15 Claims from EIS members with a potential value above £100,000 continue to be litigated in the Court of Session. However, most EIS personal injury claims are likely to have a value below £100,000 and will be pursued either in the ASPIC or in the local sheriff court. There is no automatic right to instruct Counsel in sheriff courts. It will now be for the sheriff to decide whether it was appropriate for Counsel to be employed in the case and, accordingly, for any fees to be recoverable.
- 4.16 The Committee sought advice from our advising solicitors and agreed that all future personal injuries cases with a value of up to £100,000 should normally be litigated through the new All-Scotland Personal Injury Court in Edinburgh. The Committee continues to monitor the use of Counsel in personal injuries cases with a value of less than £100,000, as the courts will decide whether or not to authorise Counsel's fees. To date, this has not proved to be an issue of concern for the EIS or its members.
- 4.17 Court Rules introduced in 2017 provide a mechanism by which a pursuer (the injured person) can put forward a formal offer in settlement of a personal injury claim. The Rules will apply in the Court of Session and the All Scotland Personal Injury Court. Under the new Rules, a defender (the employer or insurance company) who delays unnecessarily in accepting a pursuer's offer, or who fails to accept an offer to settle at a sum no greater than what is ultimately awarded, incurs a financial penalty over and above the normal consequence of continued liability for expenses. These new rules have speeded up settlements for EIS members and have avoided unnecessary evidential hearings in the Courts.

### **AGM Resolutions**

- 4.18 The table below provides a detailed summary of the work of the Committee in processing the resolutions from the 2019 AGM.

# AGM 2019 Resolutions

## Summary of Action Taken/Outcomes

### Employment Relations Committee

RESOLUTION	ACTION
<p><b>1. Violence in the Classroom</b></p> <p><i>"This AGM instructs Council to:</i></p> <ul style="list-style-type: none"><li><i>investigate the support available and offered to teachers by employers after a serious assault and/or violent incident;</i></li><li><i>survey primary and secondary schools, with regard to ascertaining staff views around how safe and secure they are in the school environment;</i></li><li><i>review current advice to all members on dealing with the incidences and reporting of violent incidents in schools.</i></li></ul> <p><i>Further, AGM instructs Council to update and publish revised guidance to members and schools using the data and views collected and to initiate a national campaign to highlight violence in the classroom, adopting a no tolerance approach to improve staff and pupil safety."</i></p> <p><b>Action:</b> Employment Relations</p>	<p>The Committee wrote to Local Associations enquiring if they had conducted surveys on this issue locally and to requested copies of the surveys and results. In addition, 3 questions on violence in the classroom were included in the 2020 national survey of members. The responses to these questions will be analysed. It was further <u>agreed</u> to process this resolution in tandem with Resolution 4 which called for an investigation and report on low level disruptive behaviour.</p>

<p><b>2. GTCS Framework on Teacher Competency</b></p> <p><i>"This AGM instructs Council to issue guidance to Local Associations on the implementation by local authorities of proceedings under the GTCS Framework on Teacher Competency."</i></p> <p><b>Action:</b> Employment Relations</p>	<p>The Committee wrote to Local Associations requesting information regarding the implementation of the GTCS Framework on Teacher Competence locally.</p>
<p><b>3. Employee Code of Conduct</b></p> <p><i>"This AGM calls on EIS Council to investigate and report on the extent to which Employee Codes of Conduct are being used to stifle legitimate comment and debate by teachers in local authorities and lecturers in other educational establishments across Scotland. Thereafter, to produce guidance on how to challenge any abuses, or campaign for changes to such codes."</i></p> <p><b>Action:</b> Employment Relations</p>	<p>The Committee wrote to Local Associations requesting any information held locally relevant to the terms of the resolution where applicable.</p>
<p><b>4. Health and Wellbeing of Teachers</b></p> <p><i>"This AGM instructs Council to investigate and report on the impact of the increase in low level disruptive behaviour on the health and wellbeing of teachers."</i></p> <p><b>Action:</b> Employment Relations</p>	<p>The questions from 2019 and 2020 members' survey on indiscipline in schools and several in H+W questions are being analysed and cross-referenced to see if there is a correlation. Additional information is being provided from feedback from course participants on the teacher health and well-being courses.</p>

<p><b>5. The Use of Restraint &amp; Seclusion in Schools</b></p> <p><i>"This AGM instruct Council to call upon:</i></p> <ul style="list-style-type: none"> <li>• <i>the Scottish Government to publish clear guidance on the use of restraint and seclusion in schools and colleges;</i></li> <li>• <i>Local Authorities and colleges to ensure the provision of proportionate training in de-escalation techniques, and appropriate training provision in safe restrictive practice for those staff who wish to be trained."</i></li> </ul> <p><b>Action:</b> Employment Relations (lead)/Education</p>	<p>The Committee <u>agreed</u> that the terms of the resolution be referred to the Executive Committee.</p> <p>The Executive Committee decided to deal with this resolution administratively.</p>
<p><b>6. Bullying &amp; Harassment Advice</b></p> <p><i>"This AGM instruct Council to arrange for a revision of the publication "Bullying and Harassment", published December 2012, with a view to updating the policies and advice to members and representatives to more closely match current challenges, including but not limited to those arising from changes in management structures and crises in recruitment and retention."</i></p> <p><b>Action:</b> Equality (lead) / Employment Relations</p>	<p>The Committee <u>noted</u> that the Equality Committee would take lead on this resolution.</p> <p>EIS Solicitors provided input into the following sections of the revised publication:</p> <ul style="list-style-type: none"> <li>(a) Bullying and Harassment</li> <li>(b) Violence against women</li> </ul>