

The Educational Institute of Scotland

COSLA: Impact for Teachers in Local Authorities which have withdrawn from COSLA

Introduction

1.1 The following motion was approved by the 2014 Annual General Meeting:

"That this AGM instruct Council to investigate and report on the implications for teachers in Local Authorities who have indicated their intention to withdraw from COSLA."

1.2 The EIS is clear that withdrawals from COSLA will have implications for the EIS in terms of collective bargaining, both nationally and locally.

Background

2.1 In the spring of 2014 a number of Scottish councils intimated their intention to withdraw from the umbrella employers' organisation, the Convention of Scottish Local Authorities.

2.2 Eight Councils have intimated their intention to withdraw from COSLA but one Council (Inverclyde) has reversed its decision. As withdrawal requires one year's notice it will be in April 2015 that the scale of this withdrawal will be evident. We understand that four Councils (Aberdeen City, Glasgow City, Renfrewshire and South Lanarkshire) will certainly leave COSLA. We are uncertain at this point of the other 3 Councils which may seek to withdraw.

COSLA

3.1 The Convention of Scottish Local Authorities provides an employers' association for Scotland's 32 unitary councils.

3.2 COSLA was established in 1975 as a successor body to the Convention of Royal Burghs following local government reorganisations. COSLA is essentially a forum for establishing the strategic direction of local authorities. The main decision making occurs through meetings of a Convention representing all Councils, Leaders' meetings and Executive meetings. An annual conference is also held.

3.3 The structure of COSLA provides a number of committees which lead on the key areas of work in local government. The key committees for the EIS are the Education, Children and People Committee, chaired by Councillor Douglas Chapman and the Strategic Human Resource Management which is chaired by Councillor Billy Hendry. This Committee forms the collective bargaining framework through which COSLA operates the employers' function for negotiating salaries and conditions of service with trade unions which represent Scotland's local government workforce.

- 3.4 It is questionable whether the withdrawal of certain Councils will significantly impact on COSLA's Education, Children and People Committee although the loss of revenue will impact on the capacity within COSLA. That, by itself, will be a concern.
- 3.5 COSLA is supported in pay discussions by professional bodies such as the Society of Personnel Directors Scotland (SPDS), the Society of Local Authority chief Executives (SOLACE) and the Association of Directors of Education in Scotland (ADES). Representatives from those Councils who represent COSLA on national fora will no longer be able to participate if those Councils leave COSLA. This will affect a raft of personnel currently involved in SNCT committees.
- 3.6 There is, however, little doubt that there will be immediate issues relating to the employers' function in COSLA.

Impact on Negotiating Machinery

- 4.1 The principal negotiating groups for local government staff are the Scottish Joint Committee and the Scottish Negotiating Committee for Teachers. The SJC which leads negotiations for manual and former APT staff. The SJC also negotiates for staff employed by Joint Boards and Direct Labour Organisations.
- 4.2 The SNCT is the negotiating body for teachers and associated professionals, operating at both local and national level through LNCTs.
- 4.3 Councils which withdraw from COSLA have essentially three options in relation to future negotiations. Firstly, withdrawing Councils can continue to abide by pay and conditions established by the SJC and SNCT. Secondly, withdrawing Councils can seek to negotiate with COSLA to take part in the employee's organisation, solely for collective bargaining purposes. Thirdly, withdrawing Councils can seek to resile from bargaining arrangements at both national and local level.
- 4.4 The third option is an option which has the most serious implications not only for our members in those Council areas but for the SNCT. While a number of large Councils have indicated their withdrawal from COSLA (Aberdeen City, Glasgow City, Renfrewshire and South Lanarkshire) there is no indication that they would work in concert to resile from the SNCT. However there is some press speculation that they may seek to set up an alternative employer's organisation. A Council which resiles from the SJC and SNCT could seek to negotiate directly with staff. That would have significant impact on national bargaining.
- 4.5 The COSLA leader, Councillor David O'Neill, has written to the general secretaries of all recognised unions seeking their support for current bargaining arrangements. The EIS General Secretary has stated the EIS commitment to maintain national and local bargaining arrangements.
- 4.6 The contractual implications for teachers arising from withdrawing Councils seeking to operate independently are set out below (Section 5).

A Council which resiled from the SNCT would effectively also resile from extant LNCT Recognition and Procedures Agreements and agreements emanating from the LNCT. Effectively, this would provide a blank canvas for that Council. If any Council sought to negotiate directly with unions then unions would have to consider whether to enter local negotiations. A further risk of local bargaining might be an attempt to introduce single table bargaining across that local government area. Where it may appear improbable that any Scottish Council would seek to terminate collective bargaining arrangements the EIS will have to consider industrial action against Councils which seek to impose separate bargaining arrangements designed to cut across national arrangements.

- 4.7 To date, there is little sign that withdrawing Councils wish to resile from national collective bargaining. Significantly, the leader of Glasgow City Council who is most strident on withdrawing has set his face against local pay and conditions bargaining. This does not mean that Councils, once outside the COSLA framework, may consider such options at a future date and the issues set out in Section 5 below will become more relevant.
- 4.8 At the present moment, therefore, it is likely that withdrawing Councils will pursue either option one or option two. If option two is pursued then it will be open to Councils to pay a levy to COSLA for the right to participate in the employers' function for collective bargaining purposes. A similar arrangement was in place when a small number of Councils withdrew from COSLA in the 1990s. COSLA subsequently amended its constitution to preclude that occurring but has now sought to amend the constitution to allow participation in the collective bargaining arrangement. In effect, by participating in the employers' function withdrawing Councils would abide by national collective bargaining and the current LNCT mechanisms devolved from SNCT would obtain. This presumably would allow circulars and joint secretaries advice to be distributed to such councils. It would presumably allow officials of such council to participate in SNCT Working Groups.
- 4.9 If any withdrawing Council pursued the first option that Council would simply adopt nationally agreed pay and conditions. However, there may be implications from the SNCT arising from any failure to agree at LNCT or grievance appeals, related to SNCT terms and conditions, exhausted locally, on national terms and conditions. This would become clearer after 1 April 2015 when the final position is established and we can discuss implications with COSLA.

Contractual Implications Arising from Local Bargaining

- 5.1 Currently, teachers and associated professionals have express contractual provision for SNCT terms and conditions to apply. For current employees, Councils who resile from the SNCT would either seek to dismiss and reengage its workforce on contracts which allowed for local determination of pay and conditions. Alternatively, a Council could simply leave its current workforce alone but introduce new contracts for those commencing employment or changing the nature of engagement (e.g. promotion, part-time to full-time).

- 5.2 The difficulty that we may potentially face, if a Council resiles from COSLA and make a pay offer enhanced beyond SNCT rates to induce the EIS to abandon national bargaining. At present, the national Constitution (Rule XIII, (e) .5) precludes such bargaining.

Conclusion

- 6.1 LA Secretaries in the 4 Councils which shall definitely leave COSLA are asked the seek urgent negotiations with Chief Executive or Director of Education and Council Leaders to clarify the intention of the Councils regarding extant and future SNCT agreements and local bargaining arrangements.
- 6.2 The terms of this paper should be communicated to Executive Committee. Executive Committee should receive reports from the 4 Council areas and consider options thereafter.