

THE EDUCATIONAL INSTITUTE OF SCOTLAND

Compulsory Redundancies

1. Introduction

- 1.1 The following resolution was approved by Council at its meeting on Friday 5 March 2010.

“That Council instruct the Executive Committee as a matter of urgency to consider and advise on the appropriate EIS response at school, local authority and national level to compulsory redundancies of teaching staff arising from falling school rolls, management restructuring and budget cuts.”

- 1.2 The campaign strategy paper outlining the principal elements of the campaign against cuts in local authority spending, which was approved by Council in November 2009, will form the basis of the Institute’s response to any compulsory redundancies of EIS members employed by a local authority in Scotland as part of the anti-cuts campaign.
- 1.3 In the 1970s and 1980s the Institute’s general response to the prospect of compulsory redundancies of teachers and lecturers was to threaten a “national” industrial action response which, more than likely, would have involved members participating in discontinuous strike action on both paid and unpaid basis. However, to the best of our knowledge, no permanent teacher employed by a local authority was made redundant on a compulsory basis during this period as the threat of “national” action was never put into practice.
- 1.4 However, with the introduction of the Tory anti-trade union laws, particularly the Trade Union and Labour Relations (Consolidation) Act 1992, it became unlawful to call industrial action in a situation where there was no formal “trade dispute” involving the employer and secondary industrial action became unlawful as well. On this basis it would appear to be clear that, at least as far as industrial action is concerned, a traditional trade union response to compulsory redundancies would have to be restricted to the employing authorities which were actually moving towards making teachers compulsorily redundant. Nevertheless, we should seek to respond to any move to make teachers compulsorily redundant with the threat of industrial (strike) action organised within the local authority(ies) involved.

2. Initial Advice in Relation to the Threat of Compulsory Redundancy

- 2.1 Many Local Associations will have inherited (through TUPE) a “no compulsory redundancy agreement” from the pre-1996 regional/islands council. Those Local Associations should remind their employers of those agreements and of their continued validity (unless affected by subsequent agreement). In many cases (particularly in the former Strathclyde and Lothian Authorities) the “no compulsory redundancy agreement” was secured in return for agreed alterations to the Cover Agreement which applied at that time.
- 2.2 In any event every Local Association without a “no compulsory redundancies agreement” should be advised to consider whether to secure such from its employing authority. Failure to secure such an agreement could form the basis of a dispute between the EIS and the local authority in question which would be prosecuted in line with the provisions of paragraph 3.2 of this paper.

- 2.3 Members facing compulsory redundancy can, however, continue to rely on the EIS securing the best possible legal advice and prosecuting claims on their behalf in the courts and through the employment tribunal system. The possibility of both an industrial response and a legal response should not be regarded as mutually exclusive options.
- 2.4 At school level, EIS representatives should be alert to any threat of job losses or the non-filling of existing posts within their schools. Representatives should be encouraged, therefore, to report any concerns over reductions in staffing standards etc to the Local Association as a matter of urgency.

3. Moving towards Industrial Action

- 3.1 It should be made known to every local authority in the country that the EIS will respond to the compulsory redundancy of an EIS member by balloting for industrial (strike) action against that Authority and that all of the resources of the Institute nationally and locally will be mobilised to that end.
- 3.2 The following extract from the strategy paper on the campaign against cuts in the local authority education spending outlined the procedure to be adopted in moving towards industrial action at Local Association level. Consideration could also be given to concentrating industrial action within a single school or a cluster of schools within a Local Authority area. This could be particularly relevant in situations where compulsory redundancies are confined to a single school or a small number of schools within the Council.

Where negotiations between one of our Local Associations and a local authority have broken down or when there has been a failure to negotiate on an issue related to the cutbacks in educational expenditure, the following accelerated procedure should be approved in order to deal with that situation:

- (a) *Where negotiations have broken down or deadlock has been reached on a "cuts" related matter, the Local Association in question must ensure that the Area Officer is involved in attempting to resolve the dispute.*
- (b) *Where the deadlock has not been broken the Area Officer, in consultation with the Local Association, should make arrangements for an indicative ballot to be conducted at Local Authority or school level (all materials for the indicative ballot should be approved by Headquarters).*
- (c) *Where an indicative ballot indicates support for industrial action the Executive Committee or the Emergency Sub-Committee should meet as soon as possible to consider the authorisation of a formal, statutory industrial action ballot. In the meantime, consultation involving Headquarters, the Area Office and the Local Association should reach consensus on the format and timing of any industrial action.*
- (d) *Once the Executive Committee/Emergency Sub-Committee has approved the conduct of a formal statutory ballot, the accelerated timetable (ie first class mailing) should be utilised in order that action can commence as soon as is legally possible. In addition, EIS Headquarters will assume full responsibility for the conduct of the ballot, the production of literature and other materials and for the provision of other forms of national support for the industrial action campaign.*

4. Overview and Review of Industrial Action Campaigning

- 4.1 The Executive Committee and the Strategy Sub-Committee will take responsibility for monitoring the effectiveness of industrial action campaigning, including a strategic overview of the extent and duration of strike action, in different parts of the country and will report back to Council on a regular basis.
-