



Minister Roderic O’Gorman
Minister for Children, Equality, Disability,
Integration and Youth
Leinster House,
Kildare Street,
Dublin 2.

25th October 2023.

Urgent – sent by email to: minister@equality.gov.ie

Re: **Industrial Action by Fórsa members in Tusla Child and Family Agency**

Dear Minister O’Gorman,

I am writing to you in relation to an ongoing industrial dispute between our members and Tusla. Fórsa trade union members in the area will commence industrial action from today, Wednesday October 25th. A brief background to the dispute has been included in this communication but the dispute centres around re-opening of a job evaluation scheme (JES) protected for Tusla staff under the terms of the 2013 Tusla Framework agreement.

I am requesting an urgent meeting with you as the Minister responsible for the area. Part of the reason for this meeting is that the employer, Tusla has stated in the Labour Court that they are prevented from reinstating the JES as the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) cannot get sanction for it from the Department of Public Expenditure and Reform (DPER).

Background to the Dispute: The dispute relates to the re-opening of the Clerical/Admin job evaluation scheme (JES) to our members in Tusla. The JES is an existing collective agreement with this Union and the employer which was previously available to our members prior to transfer from the HSE to Tusla. The JES agreement and all existing agreements at the time of transfer are protected terms of employment and are underpinned by the terms of Framework agreement which was signed upon transfer to the new Agency in 2013. The scheme enables staff to seek to have their post measured through the job evaluation process to assess the appropriate grade for the post.

For a period during the years of the financial emergency measures the scheme was temporarily closed for all. However, in 2016 it was re-opened to staff in the HSE and Section 38 organisations. At the time it re-opened the Union sought to ensure that it was also re-opened to our members in Tusla as they are encompassed by the original scheme agreement. We eventually got it re-opened by Tusla in January 2020.

However, this was short-lived as later that year in November 2020 the scheme was withdrawn again by Tusla on foot of instruction from Department of Expenditure and Reform (DPER) citing that the reopening of the scheme to Tusla did not have prior sanction by DPER.

Since then this Union has battled to have it reinstated. We referred the matter through the many industrial dispute resolution processes which are provided for through the Workplace Relations Commission, the Labour Court, the Sectoral Oversight Body and the Public Service Agreement Group. The most recent being a labour court hearing on 28th July 2023. Tusla confirmed to the Labour Court that it agrees with the Union position but is prevented from allowing JE and honouring the Framework agreement by DPER.

The decision of the Court was as follows: *“The Court, on that basis, concluded that it had no jurisdiction under the Industrial Relations Act in this matter, it being apparent to it that there is no extant dispute between the Union and the employer concerning the subject matter of the referral. It follows that the Court will not be issuing a Recommendation and has closed its file in relation to this referral.”*

However, despite Tusla stating in the labour court that it wants to allow access to the JES for our members, the situation remains that it says it cannot not implement it. Tusla continues to cite the reason that it is prevented from doing so as they still do not have sanction from their funding department DCEDIY and DPER.

It's a most bizarre situation. The employer and DCEDIY have an obligation to its employees to uphold, honour and respect agreements made with them and with their Union in good faith. Agreements which are part of protected terms and conditions of employment since staff were transferred from the HSE. All staff received letters of undertaking at the time of transfer which cemented those agreements.

As a result of this situation the union balloted members for industrial action. It is important to note that this dispute is not just about the job evaluation scheme, it is more fundamental than that. It's about the stability of the entire Framework agreement and the protections staff were bestowed upon transfer, including no less favourable terms and conditions of employment.

The agreement states that the *“new Agency in consultation with the Unions will develop an employee handbook which will amalgamate all existing policies, procedures and agreements. There is no change to the substance of the documents which will be available to all staff on establishment of the Agency.”* The JES is one of many agreements transferred. Staff agreed to move to new Agency on the basis of the above undertakings in the Framework agreement. Representatives of Government, DCEDIY and Department of Health signed this agreement along with Tusla and Fórsa (IMPACT). All underpinned by the Child & Family Agency Act which gave effect to the new Agency.

The framework agreement is a very important and comprehensive document which provided guarantees and assurances for staff upon transfer. It is not time bound. It is not for one party or another to pick and choose which individual parts of it are honoured. There should not be a requirement for sanction from DPER in this instance in order to uphold and honour an Agreement made in good faith. However, this is what has transpired and DPER continue to frustrate the situation by its insistence that sanction from it is required. More fundamentally, what faith can Fórsa have that would instil faith in Government that agreements made in the future would be honoured?

The Union has now been left in the regrettable position that we have had to ballot members and we will commence industrial action from today, Wednesday October 25th. 97.7% of our members voted overwhelmingly in favour of this action.

Therefore, I'm seeking an urgent meeting with you Minister O'Gorman to discuss the dispute involving the breach of a Framework agreement which was brokered with your Department in good faith and what your intentions might be to resolve it.

I'm also requesting that you can confirm to Fórsa that the 2013 Framework agreement, signed by your Department, will be honoured in its entirety by you and that you will take whatever necessary steps are required to ensure that.

Finally, I must advise you that there is the potential for this dispute to escalate with the further possibility of extending to all staff of the Agency. This would be regrettable indeed and would be detrimental to the ability of Tusla to continued delivery of vital services to vulnerable children and families. Your intervention could prevent such a scenario.

I look forward to hearing from you as a matter of urgency.

Yours Sincerely,



Chris Cully
Assistant General Secretary
National Office - Health & Welfare Division
Tel: 087 6760428

CC: elaine.dooley@oireachtas.ie

CC: Ben.OLearyFitzpatrick@oireachtas.ie