**The Labour Court**
Lansdowne House
Lansdowne Road, Ballsbridge
Dublin 4, D04 A3A8

**Tel:** (+353) 1 613 6666
or 0818 613 666

THE LABOUR COURT

**An Chúirt Oibreachais**
Áras Lansdún, Bóthar Lansdún
Droichead na Dothra
Baile Átha Cliath 4, D04 A3A8

**Email:** info@labourcourt.ie
**Website:** www.labourcourt.ie

**CD/25/694**

**RECOMMENDATION NO. LCR23299**
**INDUSTRIAL RELATIONS ACTS 1946 TO 2015**
**SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990**

## PARTIES:

**DEPARTMENT OF EDUCATION & YOUTH**

**AND**

**3,500 SCHOOL SECRETARIES & CARETAKERS**

**(REPRESENTED BY FORSA)**

## DIVISION

| | |
|---|---|
| Chairman: | Ms O'Donnell |
| Employer Member: | Mr O'Brien |
| Worker Member: | Mr Bell |

## SUBJECT

Referral under Section 26(1) of the Industrial Relations, 1990.

## BACKGROUND

This dispute could not be resolved at local level and was the subject of a Conciliation Conference under the auspices of the Workplace Relations Commission. As agreement was not reached, the dispute was referred to the Labour Court on 26 November 2025 in accordance with Section 26(1) of the Industrial Relations Act, 1990.

Labour Court hearing took place on 12 January, 13 March, 3 July and 7 July 2026.

# RECOMMENDATION

**Background**

The issue in dispute between the parties arises from the Union's claim for pension parity with Teachers and Special Needs Assistants along with a number of other related issues for 3,500 School Secretaries and Caretakers. As no progress was made in local discussions the Union balloted for industrial action. In early September 2025 following seven days of strike action which ended with an agreement reached at the WRC on 5 September 2025 when the parties entered into discussions under the auspices of the WRC on a pathway to progress a number of the issues. Six full days of conciliation took place between 10 September 2025 and 20 November 2025 after which it was jointly agreed to refer the comparable pension entitlements issue, which was the commitment given by the Department at the WRC discussions in order to bring the strike action to an end, to the Labour Court. The matter was referred to the Court on 27 November 2025.

The parties were invited by the Court to make submissions in respect of that single issue (i.e. Comparable pension entitlement) and attend a hearing on 12 January 2026. At the hearing the Union in their detailed submission set out the background to their claim that led to the industrial action and their continued belief that the Single Public Service Pension scheme (SPSPS) was the appropriate scheme for their members. It was their belief that Auto Enrolment (AE) which came into being on 1 January 2026 did not provide comparable benefits. They noted that the example the Department used of a 35-year-old school secretary was not a valid comparator as the vast majority of School Secretaries and Caretakers were not in that age cohort. They stated that AE only encompasses employees between the age of 23 and 60 who are earning over €20,000 and that AE only operates up to state pension age of 66. SPSPS operates to age 70 and there is no earnings threshold. It was the Union's position that when fully rolled out employee contribution rates for AE will be higher than employee contribution rates in the SPSPS scheme.

The Union commissioned an actuarial opinion from Trident Consulting which concluded that even with the most favourable assumptions permitted under SOAI guidance the combined SPSPS benefits are more valuable at retirement. The Union submitted that on that basis AE is not a comparable pension. The Union in their submission also explored the potential to design a bespoke defined contribution pension scheme that would mirror SPSPS.

The Department in their detailed submission to the Court set out the history of the industrial relations engagements between the party's and noted that under the auspices of the WRC in 2022 that they had agreed improvements to the terms and conditions of employment for this cohort of staff stopping short of them becoming public servants.

The Department submitted that they believed that a combination of the State Contributory pension (SPC) with the AE 'MyFutureFund' would provide a comparable pension entitlement to SPC and SPSPS.

The Department noted that under the Framework Agreement made on 5 September 2025 the parties agreed to engage in discussions on 'a comparable pension entitlement' for School Secretaries and Caretakers comprehended by the claim. The Department accepted that MyFutureFund only applies to employees aged between 23 and 60, earning €20,000 or more and that do not have an existing supplementary pension. However, it submitted that it was open to employee earning less than €20,000 and or are under 23 or over 60 and under 66 to opt in, they are just not part of the compulsory enrolment.

The Department engaged the services of Price Waterhouse Coopers (PwC) to carry out a detailed analysis of what constituted a comparable pension entitlement. The Department believes the outcome of that analysis demonstrates that SPSPS and AE pension arrangements are comparable.

The Department acknowledges that there are a cohort of staff that are nearer to retirement age and will not benefit to the same extent as those who have longer to pay into the AE scheme. The Department on a goodwill basis made the following offer at conciliation on 20 November 2025 "*On retirement, secretaries and caretakers who had six years or less to reach state pension age of 66, at 31 December 2025, would receive an ex-gratia payment of one week's pay,* *capped at €600 for three years of service recognition ( the three years being aligned to the date of the WRC agreement in relation to school secretaries and caretakers".* This offer was rejected by FORSA who were seeking the application of the Community Employment (CE) Supervisor's Scheme which provided for two weeks salary per year of service back to a specific date that was relevant to that cohort of staff. It also provided for a cap on weekly earnings of €600.

The Department were not in a position to concede this as they understood the scheme was ringfenced to that cohort of workers.

**Court Hearing 12 January 2026**

The Court engaged with the parties both jointly and individually around their respective submissions at the hearing on 12 January 2026. The Court clarified that the issue before it was in respect of "*comparable pension entitlements*" and the relevant cohort of workers in respect of the referral to the Court and to whom the claim is in respect of, are 3,500 School Secretaries and Caretakers. The Court noted that it did not have jurisdiction to recommend access to SPSPS as that issue was not part of the joint referral to the Court. The Court also clarified that a comparable pension did not mean that it had to be a mirror image of the SPSPS.

In the course of discussion with the parties, the Employer provided some examples of the lumpsum and pension entitlements that would fall due by combination of SPC and SPSPS and what would fall due by combination of SPC and AE MyFutureFund.

The Court noted that the comparators being used were not reflective of the age profile of the current cohort of Court Secretaries and Caretakers. It also raised the fact that MyFutureFund was being phased in over ten years and while the contributions to that scheme were lower than contributions to SPSPS, they would gradually increase. This impacted on what could be drawn down at retirement age which is set at 66 in MyFutureFund and no contributions at this point in time can be made after that age.

The Court requested that a comparison be done for a School Secretary who is currently 56 years of age which is reflective of the band where most School Secretaries are grouped. The Caretaker age profile is slightly older. When that exercise was carried out it showed that the percentage replacement income figure only showed a1% differential However, when translated into a cash value it showed SPSPS provided a lumpsum at point of retirement that was €4,299 euro better and a yearly pension that was €788 per annum higher. Over a ten-year period that would create a difference in entitlements of €12,179. Both parties accepted that this example showed that at that point what was being proposed was not a comparable pension entitlement for that cohort of Workers. The Court did consider sending the parties back to the WRC at that point but that was not the parties preferred option. The Court adjourned the hearing to allow the parties consider their positions.

The Court then invited the parties to meet with it on 13 March 2026 to brief the Court on any engagements that had occurred in the interval since the hearing on 12 January 2026. The Court was informed that there had been some tentative engagement between the parties. Following that meeting the Court wrote to the parties on 25 March 2026 as follows;

> *Following on from our meeting on Friday 13 March 2026 the Court understands the following.*
>
> *The issue that was referred to the Court was "comparable pension". This is not the same as a mirror pension in that all elements do not have to be the same, but the overall package should be comparable.*
>
> *The parties confirmed that it was accepted that a gap existed. The extent of that was not fully accepted or agreed. The Court suggested and the parties agree to produce a joint paper indicating where they agreed the gap existed and the points, they disagreed on as to whether or not there was a gap. The parties have agreed to have that document to the Court by 13 April 2026.*
>
> *The Court proposed that once the gap was identified the next step had to be to identify how the gap could be*

*breached. It was proposed that each party would make a submission to the Court on how they see the gap being breached. In order to consider same there are four elements to consider.*

1) *Pension contribution: as full pension contribution under auto enrolment will not happen for ten years this does not need to be addressed at this time*

2) *Pension payable at time of retirement*

3) *Lumpsum payable at time of retirement*

4) *The fact that auto enrolment finishes at 66 and single pension scheme finishes at 70. This will only affect employees who opt to work to 70 (this could possibly be addressed as an IR issue).*

*The Court suggested that to achieve the commitment given of a comparable pension the secretary/caretaker pension package would require three elements. The SPC, Auto enrolment, and a sliding scale based on the gap identified that provides a lump sum at retirement that brings the pension to comparability.*

*This would be paid at the time of retirement. The Department expressed concern that this cannot be a new pension scheme and concern about what it would be called. The Department raised concerns that retrospection was in the mix, but the Court clarified that it was not.*

*It is the Court's view that this is the basis for moving forward and both parties are agreeable to that. If this is not the case the Court should be informed immediately. If this is acceptable as a way forward the parties should make their submissions on how the gap can be addressed no later than 1 May 2026 and should exchange submissions, the parties will have a further week until 8 May 2026 to submit comments on each other's submissions. On receipt of the submissions the Court will schedule a further hearing."*

Neither party raised any objections to the pathway forward set out by the Court in that letter. An extension of time for making submissions was sought and granted. On receipt of all submissions on the 27 May 2026 the Court scheduled the case for hearing on 3 July 2026.

**Additional submissions**

As agreed at the meeting on 13 March 2026 the parties submitted a joint actuarial analysis of School Secretaries and School Caretakers Pension Benefits. In that document it was agreed that "*Once fully implemented MyFutureFund is expected on the basis of the actuarial analysis undertaken to deliver a pension entitlement that is comparable. Based on the agreed assumptions, employees joining MyFutureFund at younger ages are projected to achieve better value under fully implemented MyFutureFund while employees joining at older ages are projected to receive lower value reflecting their term to retirement."*

A number of sample School Secretary and Caretaker pay rates were selected at various age points in terms of service and point on scale and projections were run based on an agreed set of assumptions this information was made available to both parties and to the Court. The data showed that a typical school secretary based on the information provided is in the 55 to 59 age group and on point 8 to 10 on the scale. It was also agreed that 89% of School Secretaries work part-time on average on a c.60% basis. In respect of Caretakers the data showed a typical Caretaker is in the 60 to 64 age band and is on points 1 to 4 on the proposed scales (to be agreed at WRC). 91% of Caretakers work part-time- on average on a c. 50 % basis.

The Court received submissions and replying to submissions from both parties. It's not necessary to address the detail other than to say they assisted the Court in narrowing down the issues and understanding where the points of conflicts were. Both parties accepted that an ex-gratia payment payable at the point of retirement was the appropriate model in the specific circumstances of this case.

The joint actuarial analysis provided showed that for Caretakers and School Secretaries currently aged 4O plus there was some differential in what the schemes provided in terms of pension entitlements. This is the cohort of staff who need something else to be factored in to provide comparable pensions entitlements. It was clear to the Court from the various actuarial exercises carried out and taking account of the number of workers involved, the differing work patterns, years of service and incremental points along with the fact that there were differing ages for ceasing contributions to the scheme and differing contributions level, that the Court needed to look at a formula that factored in all these issues in terms of the outcomes it delivered. The Court also took account of the four points set out in its letter of 13 March 2026 which were agreed as the pathway forward.

**Recommendation**

Taking all of the above into consideration the Court is recommending that the following formula be applied to all staff aged 40 and over at the date of acceptance of this recommendation. This is based on the joint actuarial report which shows this as the age point that both the pension and the lumpsum calculated at this point in time under SPC and MyFutureFund does not produce comparable entitlements to SPC and SPSPS.

Formula:

> 4 weeks fulltime equivalent salary capped at 600 (statutory cap) per week x 10.5 years being the period from the Chairmans letter in May 2015 to 31st December 2025. This formula to have a ceiling of €20,000 and a floor of €3,000 and to be applied pro rata. This formula to be applied in line with normal public sector practises where the ceiling will be applied to fulltime equivalent earnings and the resultant figure will be pro rata to the percentage of hours worked. For workers who did not work for the full period between 1 May 2015 and 31 st December 2025 the 10.5 years will be reduced to actual years worked.
>
> <u>Example 1</u>
>
> Based on current values; A worker who worked the full 10.5 years between 2015 and 2025 and works 60% hours.
>
> €600 (or whatever the statutory cap is at the relevant time) x 4 weeks x 10.5 years = €25,200. Capped at ceiling of €20,000 x 60% = €12,000 ex gratia lumpsum to be calculated and payable at time of retirement at or after age 66.
>
> <u>Example 2</u>
>
> Based on current values; A worker who worked 6 years between 2015 and 2025 and works 60% hours.
>
> €600 (or whatever the statutory cap is at the relevant time) x 4 weeks x 6 years = €14,400. No cap applies as below the ceiling of €20,000. €14,400 x 60% = €8,640 ex gratia lumpsum to be calculated and payable at time of retirement at or after age 66.

It is the Courts view that taken as a whole the application of this formula to the cohort of staff identified above along with SPC and MyFutureFund will deliver comparable pension entitlements to SPC and SPSPS for those School Secretaries and Caretakers.

The Court so recommends.

**Signed on behalf of the Labour Court**

**Louise O'Donnell**

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**Chairman**

**TH**
**15 July 2026**

**NOTE**

**Enquiries concerning this Recommendation should be in writing and addressed to Ms Therese Hickey, Court Secretary.**