



26 July 2016

Re: FOI request 2016/260



I refer to the request which you made under the Freedom of Information Act 2014 for records held by this Department:

I would be obliged if you would provide me with the employment and pension arrangements which applied to Teachers and Lecturers of Institute's of Technology Lecturers who become Members of the Oireachtas prior to 27/1/2011 and/or prior to the implementation of Statutory Instrument SI80/20/10/1217.

I, Joe MacCarrick, Higher Executive Officer, have now made a final decision to grant your request on 26 July 2016.

The current arrangement whereby a member of the Oireachtas avails of a career break were introduced in 2011 and became effective in respect of Oireachtas members taking up office in the 31st Dáil and 24th Seanad. The terms of the career break scheme were outlined in Circular Letter 0010/2011

The previous arrangements applied to members of the Oireachtas between 1 September 2009 and the last day of the 30th Dail and 23 Seanad. These arrangements were introduced on foot of an announcement by the Minister for Finance in the Supplementary Budget of 7 April 2009. These arrangements amended provisions that had previously applied in respect of Oireachtas members.

The arrangements which were in place prior to the implementation of Government Decision SI80/20/10/1217 in respect of primary, secondary, community and comprehensive school teachers were as follows:

1. From 01 September 2009 the Minister for Education and Skills discontinued the arrangement in regard to the payment of the balance of teacher's salary to Oireachtas members. Under that arrangement teachers who were on paid leave of absence, as Oireachtas members, could keep the difference in salary between their teachers remuneration and the cost of their replacement.

The other arrangements which applied to teachers who were members of the Oireachtas, but which no longer apply, were:

2. An Oireachtas member who was a teacher (in a primary, secondary, community or comprehensive school) had the option of continuing to hold their teaching post in the/ school for the duration of his/her membership of the Oireachtas. The teacher could avail-of special leave (Oireachtas leave) which granted him/her an entitlement to return to the post on completion of his/her membership of the Oireachtas. The impact of this on the school was that the teaching post was filled only on a temporary basis for the full duration of the member's Oireachtas leave.
3. The full duration of Oireachtas leave merited the award of incremental credit. This meant that increments were credited to the Oireachtas member and when s/he returned to teaching s/he was paid at the place on the incremental scale where s/he would have been if s/he had remained teaching.
4. A teacher who was an Oireachtas member and avails of Oireachtas leave, could reckon (unless s/he opted out of the arrangement) for pension purposes the same period of service as a teacher and an Oireachtas member – neither scheme debarred such dual reckoning of service. Where the Oireachtas member was also a Parliamentary Officeholder (eg Minister), the period to accrue a Parliamentary Officeholder pension by the individual concerned was deducted from the teacher's service under the Officeholders' pension scheme (10 years is the minimum period of service required for a full pension in the case of a Cabinet Minister).
5. Where an Oireachtas member opted out of the dual reckoning of teacher service with Oireachtas service for pension purposes, the benefit from incremental credit outlined at 3 continued to apply unless s/he was at the top point of the salary scale.
6. In the past a number of informal arrangements were made for primary teachers who were Oireachtas members to relinquish their post in the school on the basis that should they wish to return to a teaching post they would be facilitated. This facilitation was through the use of the redeployment panels. However, redeployment would not necessarily be to the school in which they had been employed originally. This enabled the post formerly held by the Oireachtas member to be filled by the school on a permanent basis.

The arrangements that applied prior to 2011 appear to have been unique to teachers among public sector employees. They generally cover teachers in primary, secondary, community and comprehensive schools.

The arrangements that had applied to teachers in Vocational Schools & Lecturers in Institutes of Technology.

The teacher post and incremental credit arrangements (points 2 and 3 above) operated for teachers in vocational schools and for lecturers in institutes of technology on the basis that they applied to other teachers. The pension arrangements did not apply to these latter two groups as they were members of the local authority pension

schemes for which the 1998 consolidated scheme confirmed that such double accrual was not permitted.

Previous arrangements in Universities

In relation to lecturers in universities, a period of leave of absence generally of 5 years was allowed. This was subject to review where a lecturer was re-elected as an Oireachtas member. The Department of Education and Skills was informed at the time by the universities that the leave of absence arrangements did not allow for the period of service whilst the person was a member of the Oireachtas to be counted as service for incremental credit or for any accrual of pensions.

It was also the case that lecturers in institutes of technology and in universities had, in some cases, maintained their employment by such institutions while also being members of Seanad Éireann.

Previous Legislation

The double accrual arrangements have been in place for many years and were put on a more formal basis in the 1970s. A provision prohibiting an Oireachtas member from reckoning the same period of time both for the purposes of the Oireachtas pension Scheme and for any other public service pension scheme was inserted into the Oireachtas pension scheme in 1992. An exception to this was made for Ministerial and MEP pensions. For TDs, this prohibition was to take effect from the next general election after 25 November 1992.

A further amendment to the Oireachtas pension scheme in 1998 effectively stopped that change taking place. The relevant statutory instruments are as follows:

- Houses of the Oireachtas (Members) Pensions (Amendment) (No. 2) Scheme 1992 (SI No. 354 of 1992)
- Houses of the Oireachtas (Members) Pensions (Amendment) Scheme 1998 (SI No. 75 of 1998)

Right of appeal

You may appeal this decision. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Education and Skills, Marlborough Street, Dublin 1. Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of personal cheque or postal money order made payable to the accountant in the Department of Education and Skills. Please note the Department of Education and Skills no longer accept cheque payments from business users. For further information regarding payment methods for business users, please email foi@education.gov.ie

You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances.

The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Should you have any questions or concerns regarding the above, please contact me by telephone on 090 648 3823.

Yours sincerely,

Joe MacCarrick
Higher Executive Officer