



To All Headteachers

Children, Young People and Education

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Dear Colleagues

Term time only annual leave calculation and negotiations

We previously wrote regarding progress on the changes to the term time only annual leave calculation and negotiations with the trades unions on an agreement for making payments regarding back pay.

I can confirm that those negotiations have concluded, and an agreement reached. The basis of the agreement was one that the unions would recommend to their members but was not collectively agreed. As such employees can choose to reject the offer and continue with any previously lodged tribunal claims. That said the offer is significant and we are confident that a vast majority of employees will accept it.

The agreement is:

- If employees have 5 years, or over, qualifying service then they receive 4 years' worth of the difference between their current salary and the salary in place at 1 April 2020 (when KCC introduced the new calculation)
- If employees have 2 or more years but fewer than 5 years' qualifying service they receive 2 years' back pay
- If employees have less than two years' service they receive the actual loss

It is important to note that KCC has negotiated this position as an employer, but in support of schools and academies that are their own employer, and all staff we have agreed:

- (a) with the unions that we would encourage governing bodies of VA, foundation and academy schools to make the same offer to their staff;
- (b) with the Schools' Funding Forum that the Dedicated Schools Grant (DSG) reserve would be used to fund the settlement to this level in all state schools in Kent;
- (c) with ACAS that they would manage the legal agreements between the employer and the employers who accept this offer;
- (d) that where an employee has continuous service spanning more than one employer the legal agreement with the current employer settles the claim on behalf of all former employers as this is funded from the DSG; and
- (e) that this arrangement will apply to all affected staff, not simply those who have lodged a claim.

We hope that by reaching this agreement we have substantially simplified the issue for school leaders, avoided any issues for individual school budgets, and importantly, put right the situation for all staff without the need for them to submit Employment Tribunal claims. We anticipate the majority of staff will find this an acceptable offer but recognise some may instead wish to continue their claims through the Tribunal. These cases will need to be managed in the normal way.

If an academy, foundation school or voluntary school has already settled, or intends to settle this matter, for a higher amount than the KCC settlement they will only receive DSG funding corresponding to the agreement above.

In the meantime, we have been working on setting up a process for arranging the payments. This means we have had to make arrangements for all schools to receive money to make the payments. The process will be different for Voluntary Controlled and Community schools to that proposed for Academies and other schools, however, they will ensure that the appropriate payments are received. The process will be phased with Voluntary Controlled and Community schools first. We are also working on the legal agreements with ACAS to ensure these can be consistently applied across the different employers and deal with the continuity of service issues.

We are currently finalising certain systems to ensure that we can manage the processes efficiently and securely. Once this is done we will be writing to you to advise on the process.

Yours sincerely



Christine McInnes
Director of Education