

**CD/11/740**      **RECOMMENDATION NO. LCR20273**  
**(CCc-114090-11)**

**INDUSTRIAL RELATIONS ACTS, 1946 TO 2004**  
**SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990**

**PARTIES :** \_\_\_\_\_

**HSE (CENTRAL MENTAL HOSPITAL)**

**- AND -**

**SERVICES INDUSTRIAL PROFESSIONAL TECHNICAL UNION**  
**PNA**

**DIVISION :**

Chairman                :                Ms Jenkinson  
Employer Member :                Mr Murphy  
Worker Member    :                Mr Shanahan

**SUBJECT:**

1.      (1) Changes in rosters and (2) Unpaid breaks.

**BACKGROUND:**

2.      This dispute concerns the Employer's proposals to restructure rosters and alter current arrangements concerning paid breaks. This dispute could not be resolved at local level and was the subject of a Conciliation Conference under the auspices of the Labour Relations Commission. As agreement was not reached, the dispute was referred to the Labour Court on the 2nd December, 2011, in accordance with Section 26(1) of the Industrial Relations Act, 1990. A Labour Court hearing took place on the 13th March, 2012.

**UNIONS' ARGUMENTS:**

3.      1.      The Unions have constructively engaged with the Employer.

2. The proposed changes to the Workers' rosters will result in a considerable loss of earnings.

3. Further engagement is required in order to bring about a real and lasting resolution to this dispute.

#### **EMPLOYER'S ARGUMENTS:**

4. 1. The Employer's budget has been dramatically reduced in recent years.

2. The Employer has to reduce costs while also improving clinical inputs and outcomes.

3. The Unions have committed to such cost-saving initiatives under the Public Service Agreement, 2010-2014.

#### **RECOMMENDATION :**

**The matter before the Court concerns the Central Mental Hospital (the CMH) decision to introduce changes as provided for under the Health Sector provisions of the Public Service Agreement 2010 – 2014 (the PSA). Management decided that there were a number of key areas which required attention in order to produce cost-efficiencies and improved inputs/outcomes. A document covering six key areas and entitled “*The Reconfiguration of Working Practices within the Central Mental Hospital – Cost Saving Proposals*” was published in June 2011 and became the subject of negotiations between the parties.**

**Following extensive work by both Unions and the local management team on all the issues, a lot of progress was made and the Unions submitted their own proposals on the rostering issue which they believed would form the basis for the resolution of the issues in dispute. Management embraced these proposals as they appeared to address the key issues of concern to both parties, namely, they dealt with the existing built-in overtime expenditure, provided the required skill-mix, retained paid breaks, produced a shift that met operational needs, converted some overtime expenditure into actual posts and entailed a proposal that would yield the required cost-savings. Along with the Unions’ proposals was a ten-point list of outstanding issues which they wished to have resolved in order to complete the required changes.**

**Management responded to the list on the 29<sup>th</sup> February 2012, and, following a meeting on 13<sup>th</sup> March 2012 at the Labour Court’s offices, the parties informed the Court that three issues remained outstanding. The Court hereby makes the following Recommendation on these outstanding issues:**

### **Compensation for Loss of Earnings**

The Court recommends that the formula provided under the terms of the PSA for compensation for loss of earnings should be applied in the event of any loss of earnings occurring as a result of the implementation of the new working arrangements.

The formula provides that compensation should be calculated on the basis of 1.5 times' the actual loss. The level of loss to be established in each case by comparing earnings in a full twelve-month period in which the new arrangements have been in operation with a corresponding period in which the previous system operated. Payments to be made in two instalments, the first instalment of 50% to be paid 12 months after the new arrangements have been in operation. The remaining 50% to be paid six months thereafter.

The Court cannot recommend in favour of the Unions' claim that the first moiety should be paid up-front.

### **Health Care Assistants**

The Court notes that both sides are committed to finalising an agreed Job Description for the grade of Health Care Assistant which will now be introduced into the CMH. In order to address the Unions' concerns regarding the introduction of the Health Care Assistant grade into some of the acute areas of the Hospital, the Court recommends that a Joint Forum of Management and Unions be established to manage the introduction of the grade and to monitor its progress, and this process should be conducted in two phases, the first to cover its introduction in the non-acute areas of the Hospital and the second to cover its introduction in the acute areas of the Hospital. The Court recommends that the new Health Care Assistant grade should be fully operational within six months of acceptance of this Recommendation.

### **Superintendent Care Officer**

The Court notes that the grade of Care Officer is being phased out and that there are at present only two Superintendent Care Officers employed not only in the CMH but nationally. The Unions seek to have the grade regraded to Assistant Director of Nursing level and they submitted such a claim a number of year ago. It is accepted that an anomaly exists here as Superintendent Care Officers are supervising others who are on higher pay.

The HSE stated to the Court that a job evaluation needs to be completed on the grade, however, in any event it is prevented from conceding the claim due to the restrictions imposed by Clause 1.27 of the PSA.

The Court is of the view that there are genuine reasons why a job evaluation exercise should be completed on this grade to determine whether or not the work of a Superintendent Care Officer should be regraded to Assistant Director of

**Nursing level. However, the Court is prevented by the terms of the PSA from conceding the claim at this time.**

**Remaining Issues as Agreed between the Parties**

**The position as outlined by both sides on the seven remaining points is contained in the letter dated 13<sup>th</sup> March 2012, as agreed and signed by all parties at the Court hearing on 14<sup>th</sup> March 2012 (and handed to the Court), and should be deemed to form part of this Recommendation.**

**Conclusion**

**The Court recommends that the rostering proposals jointly agreed between all parties together with the above Recommendations and the letter dated 13<sup>th</sup> March 2012 should form a composite package of new changes and all parties should co-operate with the implementation of the new revised working arrangements. The Court recommends that these changes should be implemented with effect from 1<sup>st</sup> April 2012.**

**The Court so recommends.**

**Signed on behalf of the Labour Court**

**Caroline Jenkinson**  
**30th March 2012** \_\_\_\_\_  
**COF Deputy Chairman**

**NOTE**

**Enquiries concerning this Recommendation should be in writing and addressed to Colm O'Flaherty, Court Secretary.**