

**On Thursday evening, all Labour Party members in the Durham City constituency were circulated with a ‘briefing’ from Councillor Maria Plews, outlining Durham County Council’s case on the Teaching Assistants dispute.**

**Durham County Council (DCC)’s points are taken first. Our answers (taken point by point) then follow, in bold.**

Point 1 (DCC)

### **BRIEFING ON TEACHING ASSISTANTS**

Since 2004 Durham County Council Teaching Assistants have had a local agreement which meant that they were contracted to work 32.5 hours per week and 39 weeks per year, term-time only. However, the vast majority of Teaching Assistants were paid for 37 hours per week and had no deductions from their salaries, which are spread over the 12 months into equal payments, to account for their term-time only working and therefore were paid whole-time. Basically, this means the majority of Teaching Assistants in County Durham receive 4.5 hours pay per week that they are not contracted to work for and 13 weeks per year paid holidays.

**Answer:**

**This is a misrepresentation of the history regarding school support staff. Nursery Nurses were already changed to Term Time Only working in the 1970’s (the Teaching Assistants committee has spoken to TAs who remember this and the secretary of Unison’s local authority branch has confirmed this is the case). Because of this, Teaching Assistants are paid a salary which is divided into 12 equal parts.**

**‘Local agreement ...’ This implies that the Teaching Assistants got a pay rise or they reduced our hours in 2004. Neither of these things happened. The only thing that changed was that Durham County Council rationalised the job titles so that everyone became Teaching Assistants rather than Nursery Nurses, Support Assistants etc. They also increased duties and requirements for minimum qualifications required for the different levels. This was in response to national agreement on workload for teachers and led to an HLTA role being created, so that TAs could be used to teach whole classes when the new PPA (Planning, preparation, assessment) time of half a day a week for all teachers was introduced in 2005. Durham**

**County Council made lots of noise at the time about how it wanted to create a professional, highly-trained workforce of TAs to drive up standards in schools (which the TAs believe has happened since then).**

Point 2 (DCC):

This situation creates an inequality to the rest of our employees who can be working more than half a day per week and 6.5 weeks per year more than a Teaching Assistant. Once this inequality was brought to our attention Durham County Council took legal advice from a top Employment Law specialist, as did UNISON via Thompsons Solicitors. Both were of the same opinion, which was that Durham County Council was at significant risk of Equal Pay Claims. That is the main reason we are taking this action.

**Answer:**

**‘Once this inequality was brought to our attention’? This issue was dealt with in Barnet (and other councils) as long ago as 2004. Durham County Council didn’t deal with it back then (or during Single Status Job Evaluation in 2012), which was either deliberate (in which case the chickens are certainly coming home to roost now) or not, which suggests incompetence.**

Point 3 (DCC):

With regard to the suggestion of re-grading, in 2012 Durham County Council undertook a council wide Job Evaluation Process. All Teaching Assistants were part of this, and every job was graded accordingly. If any Teaching Assistant feels their role has changed significantly since that process was undertaken then both the Trade Unions and ourselves have encouraged them to apply for a re-grading. Whilst a few Teaching Assistants have undertaken this process, the vast majority have not. No Trade Union has requested that we carry out an exclusive regrading process of the Teaching Assistants as they are aware that this legally would not be possible, all staff would have to be included in that process as if they weren’t a further inequality would be created. Once again this has been confirmed by the Employment Law specialists.

**Answer:**

**The Job Evaluation undertaken in 2012 was a farce. Most Teaching Assistants were totally unaware of what was going on and weren’t consulted. They certainly didn’t understand the repercussions of what the unions advised them to sign up to. Many TAs lost the £1200 SEN allowance and weren’t even informed. They found out when they got their new pay slips. TAs who did appeal because, for example, they were given the lowest possible score for emotional demands when they worked with vulnerable**

**children or for physical demands when they worked in a special school, found that those scores were increased but others were decreased so that they stayed on the same overall score. Alan Napier told representatives of the TA committee in July that we were ‘sold down the river’ by the unions in 2012. The branch secretary of Durham Unison Local Authority told the TAs that Term Time Only working was deliberately ignored at the time and it was ‘pushed into the long grass’ to be dealt with later as it would be politically unacceptable to take even more money off us when so many were already losing £1200.**

**There has been conflicting advice about regrading. Some committee members have been advised by senior Unison staff that it is perfectly possible, legally, to regrade one group of staff.**

**‘Durham County Council and unions encouraged TAs to ask Head Teachers for individual regrading if they felt their grade was too low’. This creates more, not less, inequality as Head Teachers who value their TAs regrade, others do not (or their budget does not allow them to). Human Resources does not hold any TA contracts; it is left up to individual schools to look at generic job record documents and rewrite them to suit the school. This has led to huge inequalities with TAs in different schools – or often the same school – doing the same job on different grades. Nobody at HR checks that the job descriptions drawn up by schools fit the role and, therefore, the pay grade. In other councils (e.g. Northumberland) HR writes the job descriptions, and Head Teachers are not allowed to change them.**

**So, when the briefing document goes on to say ‘if any TA feels their role has changed significantly since that process was undertaken then both the Trade Unions and ourselves have encouraged them to apply for a re-grading’, they should be aware that all TAs roles have changed significantly since then. Now Teaching Assistants are timetabled for every minute of the day with interventions, pastoral support, whole class teaching – not to mention the planning, assessment, reports and marking.**

**In other councils, Teaching Assistants are paid substantially higher, e.g. Stockton, Darlington a Level 3 TA earns £20,000-23,000. This is then made pro rata for term time only but still comes out higher than a Durham TA earning £16,500-18,500 and that is supposedly for 52 weeks (the amount will be substantially less if this goes through).**

**Point 4 (DCC):**

**Durham County Council HR and Education Teams have worked with all Heads and Chairs of Governors throughout this process and as a result all but three schools in the county have offered their Teaching Assistants 37 hours per week, or pro-rata equivalent if they are on part-time contracts. This effectively means**

if a Teaching Assistant chooses to work the hours they have been getting paid for historically then there will be no decrease in salary only in holiday payment.

**Answer:**

**Yes, most schools have offered extra hours. Firstly, some TAs can't do them because of family commitments. Secondly, others have second jobs, so if they chose extra hours to reduce pay loss, they wouldn't be able to do the other job and would lose even more money (this includes working in breakfast and after school care). Thirdly, Teaching Assistants were pressured into making a decision at very short notice about whether to accept the extra hours despite never having been given a quote on how much they would be paid if they stayed on their current hours. Durham County Council put a 'net pay calculator' online (in the form of an excel spreadsheet) for the Teaching Assistants to work it out for themselves, but it was very confusing and not many people used it.**

**The sentence about 'no decrease in salary only in holiday payment' is a total misrepresentation. Technically, if you compare a term time week with a term time week and you work an extra 4.5 hours, there is no decrease. But as TAs will still be paid a salary divided into 12 equal parts, they will be losing substantial amounts of money despite working extra hours – one colleague who is full time L3 enhanced will lose £1993.90 a year despite working extra 175.5 hours. Surely that amounts to a pay loss?**

**Point 5 (DCC):**

Throughout this process Durham County Council officers and politicians have met with Trade Unions at least once a week, undertaken multiple consultations, doubled our compensation offer to cover two years and delayed implementation of the changes to term-time only pay from January 2017 to April 2017.

At a meeting, initiated and arranged by Durham County Council, in July with ACAS our final offer was recognised by both the unions and ACAS as being the best that could be achieved.

**Answer:**

**Durham County Council has carried out three consultations – but managed to listen to nobody. The only changes they have made is to the timescale of implementing the pay cuts – what they call 'compensation'. So 'doubled our compensation' means the pay cuts are delayed for 2 years instead of 1. Their final proposal being recognised by unions and ACAS as 'the best that could be achieved' misses off the words 'by negotiation' at the end. The**

**TAs have taken this up as an industrial dispute, backed by a mass campaign, because it is fundamentally unfair.**

Point 6 (DCC):

Two Trade Unions have accepted our final offer, two have not and 40% of the Teaching Assistants have voted for Industrial Action. However, should those unions who are currently in dispute with the council wish to approach us and re-open discussion about our final offer then we remain open to that. To date neither union has.

**Answer:**

**This part of the statement is shockingly misleading, unworthy of a Labour group which will contain many experienced trade union members. Yes, two trade unions have accepted the offer. One is the GMB with approximately 200 members. The other is Unite with 1 (one) member. The two that rejected the offer are Unison (1755 members) and ATL (122 members). These voted with a combined turnout of 64% with a 92% vote for strike action.**

**Technically, the figure of 40% of TAs voting to strike is correct but it is hugely and deliberately misleading. The figure includes TAs who were NOT asked if they wanted to strike (GMB, Unite and non-union members). Of the TAs who were balloted, 59% voted to strike. Of the TAs who voted, 92% voted to strike.**

Point 7 (DCC):

Since 1 June 2016 Durham County Council has been recruiting on the terms and conditions it is proposing to existing Teaching Assistants; i.e. 37 hours per week and term time only. There has been no difficulty in filling these posts with an average of more than 50 applications per post.

**Answer:**

**It would be interesting to know the calibre, qualifications, training and experience of the TAs that DCC have recruited since June 2016. It would also be interesting to know the rates of sickness for TAs this year compared to last year and the year before. The committee know of many TAs who are off with stress because of the enormous pressure of worrying about their jobs and their future (as well as the future of the children they support). Others have felt so desperate and demoralised that they have given up and left their jobs.**

Point 8 (DCC):

Durham County Council does value the work undertaken by Teaching Assistants, however, we also value the rest of our workforce who also work tirelessly to deliver services for the public and have a duty of care to them too.

Durham County Council is already in receipt of Equal Pay Claims which use Teaching Assistants as a comparator.

**Answer:**

**Durham County Council may well be in receipt of Equal Pay Claims which use TAs as a comparator but they weren't when this started. It is our understanding that many TAs have equal pay claims lodged with their unions, going back for years and still not dealt with.**

**Finally, a question for all Labour Party members: 'If you had a contract which stated your salary and working hours for the job you do, would you accept carrying on with the SAME job for 23% less pay? Or work EXTRA hours for 10% less pay?'**