

Social Protection did not breach outsourcing rules, says arbitration board

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The Civil Service Arbitration Board has rejected a claim that the outsourcing provisions of the Public Service Agreement were breached by referring recipients of the Jobseeker's Transitional Payment (JST) to the Local Area Employment Service (LAES).

The issue arose when the Department of Social Protection (DSP) began in August 2024 to implement a more structured referral process for JST recipients to the LAES. JST payments are made to long-term unemployed lone parents whose youngest child is aged 7-14.

Fórsa, the union representing those administering the payments, argued that this constituted outsourcing of work that was proper to civil servants, which breached the consultation provisions governing outsourcing under Section 2.7.3 of the current Public Service Agreement (PSA) 2024-2026.

When the DSP began implementing this change, the union sought a deferral of the change and a non-cooperation directive was issued by the union to its members on August 20, 2024.

The union argued that some JST clients were already receiving support from DSP staff and that the nature of this work was appropriate to being carried out by civil servants.

It added that while long-term unemployed clients are typically referred to private sector providers, JST clients should not be classified as long-term unemployed and therefore should not be referred to external providers.

The union was not aware of previous instances where services for JST clients were delivered by external providers, so they rejected management's contention that the use of LAES was a long-established practice.

NOT CHANGE OF PRACTICE

Management argued that the LAES have, since their inception, provided employment services to long-term unemployed and other priority groups such as lone parents. Therefore, providing such services to JST clients was "not a change of practice of the contracting out of a service".

It was also argued by the management side that LAES was "uniquely positioned" to support this expanded policy, given its long-standing remit and available capacity.

It told the Arbitration Board that using LAES was not a new outsourcing arrangement, "but rather the use of an existing, long-established contractual arrangement" and continued "this established method of operation".

Also, the DSP said that while it fully complied with the PSA on consultation before outsourcing, those outsourcing provisions were not required for "every change to the operation of long-standing contracts".

'EXISTING ARRANGEMENT'

The Arbitration Board concluded that the claim that the change constituted outsourcing was "not supported by the facts in this case", as the DSP was trying to use "an existing contractual arrangement". Therefore, it said Fórsa members should cooperate with the referral of such clients to LAES.

However, the Board did consider that the referral of JST clients to the LAES “might have been better served through engagement by both parties in advance of progressing matters to implementation”. (*DSP v Fórsa, Civil Service Arbitration Board, 2025*)