

Fair New Deal

Dear Damian Hinds MP, Minister of State at the Ministry of Justice.

**Ministry of Justice Prison Education Procurement and Fair New Deal on Pensions.**

I write to express my ongoing concern regarding the lack of clarity on the application of Fair New Deal on Pensions to the prison education procurement process. You may recall UCU has been seeking clarification of this matter via parliamentary questions, the most recent can be found below:

- <https://questions-statements.parliament.uk/written-questions/detail/2023-07-13/193873>
- <https://questions-statements.parliament.uk/written-questions/detail/2023-07-14/194257>
- <https://questions-statements.parliament.uk/written-questions/detail/2023-07-14/194258>

As you may be aware, Further Education Corporations (FEC's) were reclassified following the ONS review on 29 November 2022. The reclassification now confirms FEC's in England as part of Central Government.

This has wide ranging significance in general terms for the sector and those reclassified FEC employers, however from a UCU perspective, it has particular importance as three of the four largest prison education providers are also FEC's and our members rightly have expectations about the protection of their public sector pensions, such as Teachers' Pension Scheme (TPS), in any Transfer of Undertakings (TUPE) that has either taken place since 22 November 2022 or that fall under the proposed Prison Education Service (PES) contract.

Our view is that New Fair Deal applies now and should apply going forward into the PES tendering process and beyond.

The application of Fair New Deal will not only give protection to staff pensions but also creates a level playing field on costs and terms and conditions offered by prospective providers. The continued absence of confirmation regarding the application of Fair New Deal creates deep uncertainty for staff and existing FEC providers and enables an unfair competitive advantage for any providers that do not.

One of the driving principles behind the introduction of Fair New Deal was to provide for the protection of government employee pensions and for transparency and fairness to staff and organisations bidding for government contracts.

Further education college employees have been reclassified as government employees since 29 November 2022 and the continued failure to confirm the application of Fair New Deal is unacceptable to UCU.

I'm particularly mindful that in 2019, there was guidance issued by the Teachers' Pension Scheme following a consultation with HM Treasury. This guidance expressly stated that the reason college employees were excluded from the provisions of New Fair Deal, was that colleges were not classified as part of the public sector. This exclusion has not applied since 29 November 2022 ONS reclassification.

You may be aware that there are now live examples under the DPS procurement process where government employees have been transferred to private companies and may well have suffered a loss of protected pension rights. To my knowledge no guidance has been issued on the application of Fair New Deal in this TUPE process.

Looking ahead, unless the application of Fair New Deal is confirmed without further delay, there is a very real prospect that this unacceptable situation will be a fundamental flaw in the retendering of the new prison education contract.

This will have a significant and detrimental impact on the provision of prison education across the prison estate, which is already suffering from high levels of recruitment and retention issues, it will undermine the professional status of prison educators, and undoubtedly lead to a deterioration in industrial relations.

I urge you to intervene in this matter and clarify the application of Fair New Deal as a matter of urgency.

Yours sincerely

A handwritten signature in black ink, appearing to read 'PB', with a large, sweeping flourish underneath.

Paul Bridge  
UCU Head of Further Education