

PCS Cymru/Wales  
1 Cathedral Road  
Cardiff CF11 9HA

Tel: 029 2066 6363  
Email: wales@pcs.org.uk

25 April 2022

Owain Roberts, Clerk  
Peredur Owen Griffiths MS, Chair  
Finance Committee  
Senedd Cymru

By email

Dear Owain and Peredur

### **Use of 'fire and rehire' by Welsh public sector bodies**

I am writing on behalf of PCS to highlight the union's concerns about the threatened use of 'fire and rehire' by two organisations over which the Finance Committee has oversight.

In January, Audit Wales indicated that it would dismiss and re-engage any member of staff who might refuse to give individual consent to a particular change in their contract – specifically, the removal of a travel allowance – despite the strong objections to this approach that PCS raised at the time. Although none of the Audit Wales employees has been dismissed, as the overwhelming majority ultimately consented to the change, however reluctantly, the approach taken by the employer seemed to set an ominous precedent in the Welsh public sector, where, as you know, the Welsh Government and Members of the Senedd more generally have taken a strong position in opposition to 'fire and re-hire.'

Now, a second Welsh public sector body, the Public Services Ombudsman for Wales, is adopting the same approach. The issue on this occasion is the downgrading of certain posts in the organisation's structure. PCS has been consulted but we could not agree that the proposed change was either fair or necessary, hence management has written

to those affected to ask them individually to accept the downgrading, on the basis that refusal might result in their dismissal and an offer of re-engagement at the lower grade. While only four staff are directly affected, there is an important principle here and, moreover, we discern the beginnings of an unwelcome trend, which may be connected to the regular discussions that are known to take place between the HR managers of the various Welsh public bodies.

PCS has made the Ombudsman's office aware of our concern over the possibility of dismissal and re-engagement and the dismay felt by our members over the idea that they might be forced to agree to a detrimental change to their employment contract. We have said that we do not feel that all avenues of negotiation have been explored and have asked for an explanation for the intransigent approach taken by management. We have pointed out that dismissal and re-engagement has not only been condemned by the Welsh Government and other Members of the Senedd but is in conflict with ACAS guidance, which states that "employers must never intimidate or threaten employees or their representatives to try to force them to agree to a contract change" as "any intimidating or threatening action, language or behaviour is likely to significantly damage trust, morale and working relations in an organisation." Moreover, the UK Government has also just announced a new statutory code on fire and rehire, which instructs employers that it is unacceptable to use the threat of fire and rehire as a negotiation tactic to force through changes to employment contracts and that all options must be exhausted before considering the dismissal and re-engagement of staff.

In PCS' view, "fire and rehire" is an unacceptable practice that has no place in modern society and its use by the Public Services Ombudsman for Wales, or any other public body, seriously jeopardises trust within the organisation and is likely to lead to reputational damage.

In the light of the use of this approach by two bodies that are accountable to your committee, I would ask that you review these developments and consider whether they are consistent with the social partnership ethos of the devolved Welsh public sector and with accepted standards of good governance.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'D. Williams'.

**Darren Williams**  
**National Officer for Wales and the South West**