

Further Advice to UNISON members on Essential Car User (ECU)

On 14 May 2018 the Chief Executive, Neil Jack, wrote to UNISON to confirm that the proposals to remove Essential Car User Allowance would be progressed on the basis they can't save £265k any other way. UNISON is clear that this is a con and a disgraceful attack on staff's terms and conditions of employment.

Voluntary Agreement?

Staff currently in receipt of ECU will have now received a letter asking them in simple terms to become casual car users. Staff are being asked to voluntarily agree to give up their ECU allowance forever in exchange for a payment of £625 (gross). For most people this will be around £500 after tax, dependant on what rate of income tax you pay. This is around half a year's ECU allowance in exchange for losing ECU forever and UNISON believe that this is not a good deal for staff. UNISON's clear policy position is that this is a derisory offer.

Staff are being asked as individuals whether they are willing to agree to this offer or not and it is for an individual to make that decision. However, UNISON is clear that the best way to resist the attack on terms and conditions is to stick together and every voluntary agreement does undermine that position. To be clear you do not have to voluntarily agree to these changes.

The reason the employer initially seeks voluntary agreement is that the more people who voluntarily agree to the change, the more reasonable it is to dismiss and re-engage those who do not voluntarily agree. It is UNISON's view that the employer has no real desire to offer a buyout rather they are seeking to minimise their risk of being exposed to claims for unfair dismissal by offering such a buyout and trying to split the workforce.

Dismissal and Re-engagement

If you do not sign up voluntarily, the Council will dismiss and re-engage you to remove the ECU allowance and in simple terms turn you into a casual car user. (This has been confirmed by Neil Jack's statement on The Hub today.) This dismissal does not affect your continuous service, although it is a dismissal in law and potentially there can be claims for unfair dismissal. It is not possible to say at this stage that a claim for unfair dismissal would have prospects of success and UNISON could only assess that once a dismissal has happened.

However, dismissal and re-engagement can be a legally reasonable way to make changes to contracts of employment. As above, the more staff who voluntarily agree to the change the more 'reasonable' it is for the employer to dismiss the rest and that is why the buyout is offered.

What happens next?

UNISON's position is that all members and staff should stick together on this and that the buyout is a very poor deal, but it is up to individual staff to make their decision.

The Council have given a deadline of 8 June 2018 for voluntary acceptance and you do not have to agree to the changes. If you do agree and volunteer then your ECU will cease in July 2018 and you will receive the buyout payment in July's wages. You will then be a casual car user with no obligation to use your own car for work.

If you reject the buyout then the Council may move to dismiss and re-engage you. The earliest they could issue a dismissal and re-engagement notice is around the 28th of June 2018. This is because they legally have to consult for 45 days prior to making any dismissals. They then have to issue you with your contractual notice which for many staff will be 12 weeks notice. Assuming you are entitled to 12 weeks notice, the earliest any changes would take effect would be the very end of September or beginning of October 2018. This would mean that you would receive another 3 months worth of ECU allowance anyway. The buyout of £500 net is, therefore, only really worth around half its face value. Another reason why it is a disgraceful offer.

Ultimately, you would have to sign up to the new terms and conditions at the end of your notice period to remain employed by the Council and you would then be a casual car user.

Industrial Action

Given the employer's approach to this, and the constant bad faith shown by them throughout, there is only one option left for members to take if they wish to oppose these attacks on terms and conditions of employment and that is to take some form of industrial action. The consultative ballot shows that members favour industrial action on the matter of ECU and therefore UNISON will progress a formal industrial action ballot.

Industrial action is a regrettable last resort. However, terms and conditions should never be surrendered. Terms and conditions should be made better, not worse.

UNISON is also due to meet with a special Committee of Councillors to discuss the matter. However, we do not have any great expectations that this will deliver a resolution that we can recommend to members, particularly given the Council has decided to progress the removal of ECU, despite knowing that UNISON had requested this special meeting. This is again another example of the bad faith shown by the Council regarding ECU.

UNISON also wish to clarify that even if staff do voluntarily agree to the changes that they can still be balloted for industrial action and take part in industrial action. (This contradicts previous advice but we are confident that this is now correct.)

UNISON Advice

It is ultimately up to individuals if they wish to voluntarily sign up to the buyout. However it is UNISON's position that the best way to retain ECU allowance and resist the attack on your terms and conditions of employment is to reject the buyout and to stick together as a collective. If all staff did not voluntarily sign up it would be far more difficult for the Council to try to dismiss and re-engage staff to force the changes onto you. Every volunteer to vary their terms and conditions undermines that position. In addition, the buyout is exceptionally poor and is worth far less than the Council claim.

The attack on your terms and conditions is not inevitable and there are other means by which the Council can make savings. We will issue more detail on this in due course. The Council have consulted in bad faith on this matter and have shown no willingness to explore alternatives to removing ECU allowance. Do not let them con you out of your ECU allowance. The Council should remember that it is only the hard work of staff that is keeping services going despite years of cuts.

For further advice please contact the Branch Office. Please also ensure that we have accurate details for you including your home address, email address, telephone number, workplace and job description. You can update your details by contacting the branch office or accessing [my UNISON](#).

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