



National Offender
Management Service

Via email

NNC Joint Secretaries (NNC & SCCOG):

Francis Stuart

Ian Lawrence NAPO

David Walton GMB/SCOOP

**National Offender
Management Service**

Clive House

70 Petty France

London

SW1H 9EX

14 April 2016

Dear Joint Secretaries,

Re Napo, UNISON and GMB/SCOOP pay claim for 2015/16

Further to our meeting held Wednesday 6th April 2016, I am writing to formally present our final pay offer for 2015/16 and clarify the point raised by the National Probation Service (NPS) Trade Unions on whether the non-consolidated payment to be offered to those at the maximum of their pay band is pensionable.

Non-Consolidated Payments and Pension

As part of our meeting to finalise the 15/16 pay award NPS and CRC employees at the maximum of their pay band were to be offered a non-consolidated and non-pensionable payment equivalent to 1% of their current base salary. To protect staff at the lower paid bandings the offer involved a £300 underpin which effectively means each staff member receives a minimum payment of £300. Payment will be pro-rated for employees working part time.

The purpose of this payment is to recognise the contribution our employees make to reducing offending and protecting the public. We also acknowledge that unlike their colleagues they are not entitled to move up their pay range as they are currently at the maximum. It is also important to point out in offering this payment all eligible NPS employees will receive something for 2015/16 against a backdrop of continued pay restraint, cost constraint and the reality that NOMS employees and colleagues in other parts of the Civil Service in similar circumstances are not receiving similar awards.

NAPO cited the LGPS pensionable pay rules (for which are applicable to NPS employees as they are members as opposed to the PCSPS) and stated that based on their understanding of the relevant rules these payment fell within the LGPS definition of pensionable earnings and as such should be counted for pension purposes. We agreed to take this away and respond formally.

Non-consolidated payments are cash awards that are not included in basic pay in future years. They are usually one-off performance related payments that have to be 're-earned' every year. Normally they are non-pensionable. Our operating assumption has been that these payments are non-pensionable as they are one off payments that are offered on an ex-gratia basis. Within NOMS these types of payments along with performance related payments are paid on a non-consolidated and non-pensionable basis (e.g. Prison Officers on closed grades to be offered this for 2016). This is wholly consistent with current Cabinet Office guidance on the pensionable status of non-recurring payments and allowances, which assumes they are non-pensionable unless the Civil Service employer seeks approval from the Cabinet Office Minister via the Pensions Executive for them to be pensionable.

However we have sought Government legal advice and for the purposes of Section 20(1) of the LGPS regulations which sets out the definition of pensionable pay the advice suggests that if those at the top of the scale were to receive an award of 1%, the payment would need to be pensionable as it does not fall within any of the exclusions set out in Section 20 (2) of the scheme rules.

To this end the offer of the non-consolidated payment will be revised to include the relevant pension costs with the employer side agreeing to meet them. The decision to adhere to the guidance has meant a significant financial impact on the employer offer and we have worked hard to secure the additional funding.

However looking forward to when we commence shadow and then full pay modernisation discussions we are of the view that in the event of any offer of a payment made by the employer side in consideration of loss of future pensionable payments or benefits, we would assert that these payments will not be pensionable as they will be within the relevant exclusions set out in Section 20 (2) of the scheme rules. It would be helpful if you could confirm your understanding as to the effect of the regulations is the same as ours as part of the planned shadow discussions.

Non-Consolidated Payment

Please refer to Table A for the breakdown of the payment for each pay band. Subject to your agreement payment to those in scope for this award will be made in the May payroll. We will communicate with our employees via Individual letters issued electronically.

On acceptance we can assume that pay discussions for 2015/16 have been concluded and care therefore closed.

Under the current NNC constitution and framework, it would be for you now to engage with CRC employers informing them accordingly and so they can consider how to engage with the probation trades unions in respect of their pay requests reporting back accordingly through the Joint Secretaries and the NNC.

NOMS has no liability to make payments on behalf of the CRCs and the NNC Joint Secretaries will need to make sure that appropriate instruction and communication is issued

Kind regards

A handwritten signature in blue ink, appearing to read 'Dave Mann', with a long horizontal flourish extending to the right.

Dave Mann
Deputy Director HR
NOMS

Cc: Colin Allars
Carol Carpenter
Jude Gray
Sohill Beeharry
Jason Paskins
Nick Jones

Table A: Payment framework and amounts

Band	Basic Salary	Payment	% of pay	No of FTEs
Band 1	£17,243	£300.00	1.74%	14
Band 2	£21,605	£300.00	1.39%	268
Band 3	£27,373	£325.00	1.19%	517
Band 4	£36,084	£375.00	1.04%	597
Band 5	£39,818	£450.00	1.13%	362
Band 6	£47,117	£475.00	1.01%	7
Band A	£52,846	£528.46	1.00%	0
Band B	£63,214	£632.14	1.00%	4
Band C	£71,939	£719.39	1.00%	0
Band D	£87,783	£877.83	1.00%	1
Total				1770