

JTU 18-15

Rt Hon Michael Gove MP
Lord Chancellor and Secretary of State for Justice
Ministry of Justice
102 Petty France
London SW1H 9AJ

(By e-mail & hard copy)

21 July 2015

Dear Michael,

Probation Trade Union Meeting Issues

Thank you very much for the very constructive meeting we had with you and Andrew Selous last Tuesday. We appreciated your openness and your willingness to engage with us on a regular basis.

We promised to summarise the key issues that we raised with you and more specifically to highlight our suggested solutions and questions on which we would be grateful if you could let us have a response. You will also see that there have been further worrying developments over the last seven days on at least one of the issues we discussed

National Collective Bargaining

The trade unions are willing to engage in work to reform the current national collective bargaining machinery to ensure that it is fit for purpose going forward. NOMS has indicated that it wishes to abolish the National Negotiating Council (NNC), but the machinery is protected under the NNC Staff Transfer and Protections Agreement and the statutory Staff Transfer Scheme. In light of this we believe that the NNC must be reformed, rather than abolished, to meet the needs and expectations of all parties, namely: employees, trade unions, NPS and the 21 CRCs.

You have our commitment to start the necessary talks to complete this reform, but we would like your support for the continued guidance of ACAS in this process. This is necessary to maintain the confidence of all parties.

Sodexo Proposals for Enhanced Voluntary Redundancy (EVR)

We confirmed to you that we are opposed to the proposals from Sodexo to opt out of the terms of the NNC Enhanced Voluntary Redundancy Scheme, which is an integral part of the NNC Staff Transfer and Protections Agreement (NSTPA). This agreement was negotiated by us in good faith with Jeremy Wright, former Prisons and Probation Minister, and which secured terms for the staff transfers to NPS and CRCs which enabled the unions to recommend the agreement to members and call off planned industrial action set for early 2014.

You will not have been surprised to hear our view last week that the NOMS Commercial Team failed to fully reflect the terms of the NNC agreement when putting together the Services Agreement which your predecessor went on to sign with the owners-to-be of the CRCs.

Instead of enshrining the NNC EVR terms in the commercial contracts, NOMS Commercial appear to have inserted an ambiguous clause which Sodexo is now relying on to vary the NNC EVR terms. This is clearly unacceptable. We are seeking to resolve these difficult matters via the NNC, which we are pleased has responded to the crisis by asking Sodexo to refer its plans to change the EVR terms for discussion under the auspices of the NNC Joint Secretaries. In particular, we ask you to:

- *Confirm whether the originally forecasted 600 job cuts proposed by Sodexo in its 6 CRCs were agreed by your predecessor as part of the bid negotiations?*
 - o *If the 600 Sodexo job cuts were identified pre-contract sign off, please confirm what negotiations took place with Sodexo in relation to the contract price and the cost of complying with the NNC EVR terms. We are not clear why these do not appear to have been priced into Sodexo's bid as the terms of the EVR scheme would have been clearly available to the company's bid team. We sincerely hope that Sodexo was not awarded the contracts on the basis that NOMS knew that the potential contractor did not have the means to pay our members the full terms of the EVR scheme.*
 - o *If the 600 job cuts proposed by Sodexo were not identified in the company's bid, and we suspect that they were not, on the basis that the company is now openly claiming that it was not able to fully understand what it had bought until after the contract had started, and only had full access to all employment information after the event, we ask you to confirm whether the 600 job cuts have since required your approval as the 'special shareholder' on the Board of each CRC?*
- *Confirm what reassurances you have sought in relation to the safety of the Sodexo operating model going forward in relation to these major job cuts.*
- *As a matter of urgency could you please look into the disparity between the terms of the EVR scheme and clause 30.3 section e of the ARSA that we handed to Andrew and re-confirm the commitments made by the previous Justice Secretary?*
- *Examine whether CRC staff at risk of redundancy in Sodexo-owned CRCs can be offered transfer opportunities into the NPS, with protection of continuity of service, at a time when the NPS is in active recruitment mode. The lack of strategic co-operation between the two parts of the Service in this respect is very unhelpful and damaging to staff morale.*

In a further and very serious development which we learned of only yesterday, this contractor has also signalled its intention, without due notice under the NSTPA, to revoke the protected arrangements for staff within its Lancashire/ Cumbria CRC in relation to the compulsory redundancy policy. In light of this clear act of bad faith, we must reiterate our request that you consider whether there is merit to calling in the parties as a matter of urgency.

Pay 2014 and 2015

As you are aware, Napo and UNISON remain in dispute at the NNC over the imposition of the 2014 pay arrangements. Last week UNISON initiated industrial action over the dispute. We have been meeting with the assistance of ACAS to seek to resolve the dispute and are very disappointed to have received a letter from Francis Stuart and Peter Firth on 10 July which appears to dismiss ACAS from any future involvement in discussions over the current pay dispute, or the future direction of pay for our members.

We need to draw your attention to the potential risks inherent in an NNC pay system which is nearly 10 years old and which, over the last 5 years, has been starved of the cash to ensure that staff can progress up the still lengthy pay bands. You will be aware that you have indemnified the CRCs against any claims in respect of employment matters which pre-date the CRC share sale, and this will include the above risks.

We seek your support for the continued guidance of ACAS in talks to review the NNC pay and grading system, for both NPS and CRC staff. These talks cannot take place until we resolve the future of the NNC.

National Probation Service

We underlined our profound concerns about the functioning of the newly formed NPS and how the pre-share sale difficulties have in fact been exacerbated since the signing of the CRC contracts. Over and above all of this, the Unions greatest concern is the sustainability of the National Probation Service. The TR programme has created nationalisation by default, and has added a number of substantial bureaucratic, organisational and professional challenges. The unions have already signalled our commitment to supporting the E3 programme which aims to address these hopefully in a strategic and sustainable manner.

Early evidence highlights the scale of the challenge. More cases exist than were first anticipated, with higher caseloads for a staffing complement that is already way over what was envisaged but is still inadequate for the task in hand. This situation is exacerbated by poor HR and people planning, as evidenced by the fiasco within Shared Services around paying staff who transferred into the NPS since the split and the huge increase in people management forced upon SPO and senior line managers which further undermine staff confidence and morale.

Napo has never received any clear evidence that the funding plans for the NPS are adequate. With contracts that fix the price of CRC fee for service and payment by results, any further budget constraints must impact disproportionately on the NPS where its funding appears to have been founded upon guess work and optimism.

The unions want to work with NOMS management to tackle high workloads, increased sickness absence and low morale in the NPS, as well as improve co-operation and strengthen Professional partnerships with the new CRCs; however we doubt that a service organised in such a centralised way as the NPS and further constrained by tight spending controls can deliver the sustainable and excellent service that we all want.

This we think highlights two areas of obvious risk which exemplify the challenges that the NPS are facing. The service requires huge improvements and investment in IT infrastructure and processes. These now have to integrate into 21 other CRC systems.

We have been afforded no reassurance that finances are planned to meet this problem and IT failures could be catastrophic on the front line. A number of additional unwieldy systems and risk management tools have been developed such as, Risk of Serious Recidivism tool and the Case Allocation System tool. They all seem perfectly logical in the first instance but have become far too complicated and are not fully integrated with well-established risk assessment tools such as OASys, and have resulted in duplication of work which further increases the pressure on staff.

We suggest: A fundamental review of the NPS IT strategy, via the E3 programme, with the full participation of trade union members as both users and IT service providers. Listening to the voices of staff should be the priority in NPS IT thinking.

Notwithstanding your point (which we accept) that organisational change is almost always difficult, we believe that the formation of NPS is showing all the hallmarks of a reform programme that has been pursued at a reckless pace. We particularly highlighted the ill thought out nature of corporate support services in NPS whereby professional staff at all levels are unable to focus properly on the core job they are charged with - managing risk in the community – due to the pressure of having to deal with a remote and unaccountable shared service provision.

This is not just about the pressure on managers as administrators and receptionists are being made redundant in the CRC's whilst adverts are being posted for the very same vacancies in the NPS. Further illustrating that the staff transfer was hastily carried out.

We were concerned that perhaps yourself and Mr Selous felt that the 'risk' issues were solely or primarily due to ICT problems which were in the process of being rectified. We believe the issues are much more deep seated than this, and that the urgent need for better administrative support to staff is recognised and acted upon. Assumptions as to what works for the Prison Service as being good enough for the Probation Service, cannot be accepted as axiomatic. In addition NPS staff in particular are being negatively affected by problems elsewhere in the criminal system such as delays in the Parole Board system.

In the wider CRC environment

As we said, CRC contractors are at risk of being unable to optimise their performance in what is, for them, a new environment. One of the most significant risk factors is the connectivity problem between NPS systems and new systems that they are hoping to develop.

We are working hard to establish positive relationships with the new CRC owners and are offering advice and support regarding the professional challenges they face in developing and implementing new operating models. So far (Sodexo aside) things are largely positive in this regard, although the scale of the task and the complexity of the operational environment they have inherited is not being under-estimated by anyone, but nevertheless we expect that industrial relations will be tested.

It is clear already that different interpretations are emerging on the contracts that have been entered into and potential disputes between NOMS and the CRCs about liabilities, which will undermine trust – such as Sodexo's interpretation of the EVR scheme and how they are side stepping their moral obligations to pay staff the entitlement that those who have left before them received under EVR.

Our suggestion: Is that we hope the SoS will support our efforts to establish sustainable tri-partite forums for negotiation and dialogue around these contracts to support improved professional standards, and employment practices.

We reiterate here, the need for NPS recruitment opportunities to be made available to CRC staff who find themselves at risk of redundancy through no fault of their own. NOMS HR should be invited to come up with a joined up strategy to ensure that this happens as a matter of urgency, and the trade unions want to engage with your senior officials at the earliest opportunity.

The operating system for Probation

Post-TR, the split into the National Probation Service and 21 Community Rehabilitation Companies has not gone at all well, and is symptomatic of the speed of the implementation with many contractors now openly complaining about what they have been sold.

We believe that there needs to be an urgent Ministerially sponsored post-implementation review of TR, which might usefully include the work currently being undertaken by HMI Probation and the National Audit Office.

Two examples below highlight the typical issues that are arising in the post TR landscape. In the NPS there is a target requirement for of 85% of pre-sentence reports (PSR's) to be completed either on the day or in a very short time frame. This includes those relating to domestic abuse perpetrators which form a substantial part of CRC case loads. Good professional practice means that there needs to be liaison with other agencies such as police domestic abuse units for a police call out history, children services and court practitioners (who are NPS staff). Our members regularly report difficulty in gaining sufficient information to fully inform risk assessments.

In one large CRC (and we suspect, many of the other 20) approximately 85% of post sentence reports are going from the NPS to the CRC; but the quality of the work and information requests coming from courts is variable, leaving CRC staff to undertake significant amounts of post-sentence assessments – with reasonable questions about whether this work is included in the CRC/ MoJ contract. We believe that this is work which should have been undertaken by the NPS.

CRC's are overwhelmed with work – meaning little rehabilitation can be undertaken in this type of environment.

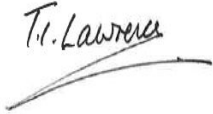
We suggest: that there is a need to develop an efficient and standardised operational model within the NPS that fits with those of the CRCs. This includes greater engagement between the NPS and the CRCs, involving the unions. Currently there is limited evidence that the NPS and the CRCs are progressing this service design work in collaboration. The suggestion is for a consultation forum probably an extension of the existing Probation Consultative Forum.

Authorised Officers

The unions are still concerned about the impact of the un-agreed instructions on authorised officers and we believe there is a pressing need to maintain a compulsory register of practitioner Offender Managers across both the NPS & CRCs linked to the concept of a 'licence to practice' together with training and continuous professional development. The Offender Management Act 2007 refers, and we have already sent a letter to you outlining the position and our proposals (JTU 14-15 dated 18th June).

Again our appreciation for the constructive nature of our discussions last week and we look forward to your reply or any requests from your Officials regarding the clarity of the foregoing.

Yours sincerely,



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