****

NNC REFORM

THE CASE FOR AND AGAINST

A discussion paper for Napo AGM 2016

***This discussion paper has been designed to inform members attending the 2016 AGM about the arguments for and against reforming the National Negotiating Council machinery. There are two motions tabled for debate and below are two narratives that encapsulate the key issues that members will be asked to consider.***

**The case against NNC reform (Motion 11)**

Probation staff in all grades have suffered from overwork, downgrading and zero pay rises in recent years but we have so far been spared the worst excesses of what is common across much of the private sector; poverty wages, zero hours contracts and super-exploitation based on job insecurity. The proposals in Motion 10 threaten to tear up some of our key protections and throw us to the wolves of the privateers.

**Some history**

The National Agreement on Pay and Terms and Conditions was an historic achievement of the National Negotiating Council (NNC). It is contained in the NNC handbook which covers not just pay and allowances, but leave arrangements, hours of work, sickness and maternity arrangements, training and a host of other entitlements. It also provides models and guidance on policies and procedures such as grievance, harassment, capability and facility time for trade union reps. Separate Job Evaluation Schemes accompany the main guidance and lay out an agreed procedure for assessing the level of new/changed jobs. Critically, there is a dispute resolution procedure that enables local trade union sides to formally register disputes that can be escalated to the ‘Joint Secretaries’ for resolution nationally.

At Share Sale following TR, the National Agreement on Staff Transfer and Protections was added to the NNC Handbook under Section D. It includes a specific reference to maintaining national collective bargaining and the continuation of the ‘NNC machinery’ (para 21). Under Job Evaluation (para 17) it states that ‘proposed new or changed posts in the CRCs or NPS will be evaluated in accordance with the existing NNC… Job Evaluation Schemes which will be incorporated as part of the transfer process’.

**The current threat**

The proposed ‘NNC reform’ not only breaks the terms of the Transfer agreement; if accepted, it would mark the end of national collective bargaining and drastically undermine our position as a national trade union. In his letter to the unions, Employers side secretary Francis Stuart states (14/6/2016) that the proposed arrangements will provide ‘full autonomy’ from NNC arrangements across the ‘full range of employee terms and conditions’.

It is quite clear that the new arrangements, far from being a ‘reform’ of the NNC, are in fact the complete abandonment of national collective bargaining.

This will have massive implications not only for national agreements but on our ability to protect members locally. There are no guarantees as to the level of local facility time and training for reps and it is questionable whether Napo will be able to field negotiating teams in sufficient strength and depth to compensate for the lack of a national negotiating body. There will be no facility to escalate disputes nationally and local reps will be reliant on using the services of ACAS.

**Inadequate safeguards**

The proposers of Motion 10 consider that a Probation Professional Practice Forum (3PF) supported by the employers will uphold standards and, by implication, ensure decent pay, terms and conditions. This is naïve in the extreme. The 3PF proposed constitution states that it would be a non-negotiating body dealing only with ‘issues that are not under or for discussion at a local (or pan CRC) level’. Considering that employers would have ‘full autonomy’ in all substantive areas it is difficult to see how 3PF would be effective in holding the employers to account.

**Build confidence in the membership and fight back**

Napo members have demonstrated on more than one occasion in recent years that we are not afraid of a fight and we see no reason why with a determined and inspiring national campaign we would not fight again to defend our national terms and conditions. Such a campaign could accompany a demand for an across the board pay increase that better reflects the value of the service we provide.

The attempt to reach a deal at this stage is defeatist. What is more, it is based on the false premise that the employers would have no difficulty reneging on a national agreement overseen by the MoJ. The final paragraph of the National Agreement on Staff Transfer recognises that Share Sale did not constitute a change of employer, only the sale of shares in the employer companies, ‘and the relationship between employer, recognised trade unions and employees remains unchanged’.

In simple terms, the MoJ confirm that national collective bargaining transferred to the NPS and CRCs unchanged in 2014. We need to hold them to that and fight them if necessary should they attempt to take it away from us.

**Chas Berry**

**Alec Price**

***11. Defend national collective bargaining***

*The National Agreement On Staff Transfer and Protections signed 28th January 2014 gives a specific undertaking to protect national collective bargaining. This is summarised in paragraph 21 where it states:*

*“It is agreed that the existing national collective bargaining arrangements will continue in the CRCs and NPS on 1 June 2014 by means of the Staff Transfer Scheme. The NNC and SCCOG machinery will also continue to apply to new staff.”*

*Post share sale a number of CRC owners are threatening replace national collective bargaining with completely local arrangements. While a few staff may benefit from locally competitive local pay and conditions, in all likelihood this will result in a ‘race to the bottom’ in most areas. More importantly, it will torpedo Napo’s stated aim of achieving a nationally agreed, fair and equitable pay structure.*

*Officers and Officials are instructed to oppose any attempt to break up national collective bargaining and to launch a campaign amongst members in any CRC that threatens to withdraw from current NNC/SCCOG arrangements.*

***Proposer: Chas Berry***

***Seconder: Alec Price***

**Why reform of the NNC is necessary (Motion 10)**

Napo has a proud history of promoting and protecting the interests of our members. The negotiating machinery under the former probation trust regime ensured that local collective bargaining was undertaken under the auspices of a National Negotiating Council which set national standards on areas such as pay, leave and allowances and job evaluation.

It is untrue to suggest that there was uniformity on all of the policies covering our members as there were many variations at individual trust level to nationally agreed policies for example on redundancy.

Since Transforming Rehabilitation it is clear that neither the NPS or CRC Employers have any desire or even the capacity to negotiate collectively and already many CRC employers are at an advanced stage of working with Napo Officials and activists to create pan-CRC Forums which it is intended will have an overarching role under which local JNCC's will continue to operate. The NPS itself offered a new bargaining structure to the probation unions as long ago as January 2015 which we rejected.

**Some important facts**

The staff transfer and protections agreement has already been enshrined as a legacy policy with effect from June 2014 in a rewritten NNC handbook and it has been made clear to all employers that a new collective agreement on NNC reform must ensure that the policies within it will remain in place as a minimum standard for our members working in the NPS and 21 CRC's. We are currently seeking agreement from NOMS that this important aspect must be enshrined in the CRC contracts as we seek to finalise negotiations over the next few weeks. We have also said that future pay settlements reached with the NPS must become the minimum benchmark for future negotiations on pay and reward on behalf of our members wherever they work. We are not prepared to see employers attack the hard won and long standing protections that have been previously secured for members.

The proposal to create a probation professional practice forum (3PF) has absolutely nothing to do with holding private employers to account in terms of the bargaining agenda but it is about ensuring best practice on technical and professional issues allowing Napo an important opportunity to promote our professional standards and to seek co-ordination and consistency of practice across probation service providers.

**Can employers leave the NNC?**

Yes. Any employer may leave the NNC at any time and it is clear that if the AGM decides to reject the proposals for reform (copied to all Napo members last week <https://www.napo.org.uk/n27-2016>) then many CRC employers will soon signal withdrawal from the NNC and use this is an excuse to seek to vary our members existing terms and conditions as they come under intense pressure to deliver services with reduced budgets.

It is irresponsible to suggest that simply rejecting the proposed NNC reforms (which will close the door on the ongoing negotiations) will maintain the status quo. The NPS has no intention whatsoever of sitting at the same table as CRC employers or being part of any dispute resolution involving them. It is clear that CRC employers (of whom only two or three even bother to attend NNC Meetings) feel the same way.

**Defending members**

Can we afford to expose our members to these risks? Industrial action is an option but recent history shows this can take months to prepare and needs the support of all unions to stand a chance of success. Napo will always respond to calls from members for action against any unscrupulous employers but some honesty is required on this issue.

Napo's probation negotiating committee believes it is imperative to secure a new collective agreement for future bargaining, to help our members face the many challenges ahead. We need effective and relevant negotiating forums with well- trained representatives in place with sufficient facility time to help them assist our members.

Napo members have faced unreasonable workloads, a seven year pay freeze and the dreadful impact of TR, but contrary to the arguments to retain national collective bargaining it is some years since it has produced tangible benefits for our members in the face of the Tories austerity policies and the pay freeze. If we are to rebuild our membership density and restore confidence to take the fight to employers from a position of strength, then we need to recognise the reality of the future negotiating landscape.

Please reject Motion 11 and support Motion 10.

**Probation Negotiating Committee**

***10. NNC reform - collective bargaining arrangements in probation***

 *This AGM recognises the complexities around the provision of probation services since the TR split. All employers have stated that they want independent negotiating arrangements with the unions.*

*AGM agrees that Napo must offer a proactive and consistent approach to future negotiations with employers to protect and promote the professional and industrial concerns of members.*

*This AGM endorses the proposed new national collective arrangements, transitioning local single table bargaining, on condition of the following:*

* *all employers provide adequate facility time, rights for local representatives, sufficient time for training, and opportunities for access to members and potential members;*
* *an updated NNC Handbook, which will be recognised as a ‘national benchmark’ for pay, terms and conditions;*
* *proposed local agreements must be referred to Napo’s Probation Negotiating Committee for guidance, to ensure accountability, consistency and coherent strategic direction;*
* *the retention of the NNC Joint Secretaries for the referral of ‘legacy’ issues and the availability of local dispute and arbitration machinery which includes the involvement of ACAS;*
* *all employers to support a Probation Professional Practice Forum (3PF);*
* *The Probation Negotiating Committee are to provide regular reports to members on the effectiveness of the new arrangements.*

***Proposer: Probation Negotiating Committee***