

# Action on Pay

Bulletin No 1

## Incremental Progression

**The attached briefing on incremental progression has been produced for branch representatives as background to the meetings that should now be being held as a matter of urgency with Board Chairs. The meetings, which should be held prior to the NNC meeting on 4 March, should be used to press the case for the payment of increments from 1 April 2008.**

**The briefing has been produced jointly with Unison and branches are encouraged to make joint deputations to their local Board.**

**Branches are asked to let Judy McKnight have a report back of the outcome of the meetings.**

## Incremental Progression - Background Briefing

The Employers' Side of the Probation Service NNC have indicated that at the National Negotiating Council meeting on 4 March, they will be informing the Trade Union Side that they do not intend to pay the annual increments due to staff on 1 April 2008.

The Employers have stated that their position is that negotiations must take place on the number of increments to be paid as part of this year's pay settlement. The Employers are saying that they will seek to enter early negotiations with us on the substantive settlement and increments as agreed will then be backdated to 1 April 2008. The Employers accept that the payment of increments on 1 April 2008 is a contractual right.

The Trade Union Side have made it clear that we do not accept this position and will contest it at the March NNC meeting.

The Employers have stated that their position was reached following consultation with representatives from all Probation Areas.

In order therefore to exert maximum pressure on the Employers, Napo and Unison representatives at a Probation Areas level are asked to make urgent arrangements to meet with their local Board Chair prior to the 4 March 2008 NNC.

This briefing contains a summary of the reasons why the existing agreement to pay increments from 1 April should be honoured by the Employers with the increments paid with effect from the April 2008 pay.

## Breach of Agreement

The NNC Pay and Conditions Modernisation Agreement, as set out in Joint Secretary Circular 5/2005 and effective from 1 April 2005 contains the terms of the current agreement relating to pay and increments.

The NNC Agreement provides for a clear expectation on the part of employees that pay progression will form an ongoing and permanent feature of their pay arrangements. There is nothing in the Agreement suggesting that the current arrangements lapse after 31/3/2008.

There are various references to increments in the Agreement as follows:

Para 3.4: *"Within each pay band there are a number of pay points to allow pay progression in post(See Appendix C: NNC Salary Spines). Pay progression is applicable annually, on 1 April."*

Para 4.7: *"Pay progression, which is applicable annually on 1 April,..."*

Para 4.11: *"There will be a normal expectation of progression subject to satisfactory performance ..."*

Para 5.1: *“There will be a common pay progression date of 1 April for all employees.”*

## Length of Pay Bands

During the negotiations on the Pay Modernisation Agreement, both the Employers and the Trade Unions were committed to reducing the length of the pay bands if at all possible.

Ultimately the financial restraints on the overall cost of the settlement meant that we were not able to reduce the band lengths and we agreed that it was an issue we would both wish to return to in future years.

The current bands are currently unacceptably long, for an example a new starter on Band 3 or 4 would take 8 years just to get to the development point and it could be another 7 years before they reached the scale maxima.

Account needs to be taken of the potentially discriminatory nature of such long pay scales, on grounds of age and sex. The 2006 Age Discrimination Regulations highlight the potential for age discrimination from benefits based on length of service. The regulations exempt any benefit earned by five years or less. Any benefit that uses more than five years as a criteria will only be lawful if awarding or increasing the benefit is meant to reflect a higher level of experience of the employee, or to reward loyalty, or to increase or maintain the motivation of the employee, or the employer has reasonable grounds for concluding that using length of service in this way fulfils a business need of their undertaking.

The non payment of increments from 1 April and the implicit threat to the size of the current increments threatens Probation staff with even longer pay bands and could raise the threat of legal challenges on the grounds of age or sex discrimination.

## Timing of Pay Negotiations

The Employers Side have stated that they would wish to enter negotiations with the Trade Union Side “promptly” and we have no reason to doubt their genuine commitment in that regard.

What this ignores however is the Employers’ ability to enter pay negotiations in advance of



receiving the Treasury remit, and the length of time involved before any pay increase gets into members’ pay packets.

The process involves:

- The Treasury publishing the 2008/9 Pay Remit for the public sector. It should be noted that the Treasury Remit for 2008/9 has not yet been published. In 2007 it was published on 27 March 2007.
- The Employers agreeing what specific remit they are seeking for the staff covered by the NNC;
- The Treasury agreeing to that remit.
- Negotiations between the Employers and the Trade Unions commencing.
- Assuming agreement is reached the Trade unions then need to seek ratification of the agreement from their members. If agreement is not reached then references, to for example to arbitration, or the possibility of industrial action, delay the payment to members even further.

It should be noted that recent experience of settlement dates and payment has been as follows:

- 2003: Agreement promulgated in September, payment in October/ November 2003;
- 2004: Failure to agree promulgated in December, payment in January/ February 2005;
- 2005: Agreement promulgated in January, payment in February/ March 2006

## Lower take home pay

Delaying the payment of this year’s increments will have a specific impact on lowering the take home pay of probation staff. The increased contributions to the Local Government Pension Scheme, worth between 0.5% and 0.8% for most staff, come into effect from 1 April.

## Breach of Good Faith

The Pay Modernisation Agreement introduced a new modernised package of pay and conditions that benefited the Employers as well as staff. Staff benefited from improved pay rates based on job evaluation, with many staff who had been previously on the maximum of their pay band having the opportunity to obtain a higher pay band maximum, albeit via incremental progression. The Employers benefited from the harmonised terms of conditions including the harmonisation of annual leave.

If the Employers at this stage threaten the integrity of the new pay bands by threatening incremental progression, then staff will rightly feel that the Employers have broken faith with them and with the spirit of the Agreement.

## Outside Comparators

Although there are some public sector areas where increments are negotiated each year as part of the pay settlement, such arrangements are recognised in the nature of the pay agreements and the length of the pay scales.

Outside comparators that the Probation Service would identify with include Local Government, the Police, Teaching and the Health Service, (whose Agenda For Change agreement, the Probation Service Pay Modernisation Agreement was broadly modelled on), where increments are not taken into account in the annual pay round.

## Morale

Probation staff are facing threats and change on many fronts. It is accepted by bodies such as the Probation Inspectorate and the National Audit Office that the Probation Service and its staff are working harder and more efficiently than ever.

The Employers are asked to consider the implications for morale if they, the staff's own Employers, take the unprecedented step of holding back and implicitly threatening, staff's annual increment. Such a step would clearly not be one that the Treasury had asked the Employers to take, but a step of their own volition.

Industrial relations in the Probation Service have traditionally been good over a period of many years, as staff have known that whatever the problems of public finances, their own Employers have done their best by their staff, in sometimes difficult circumstances.



Employers are asked to consider carefully the long term price that will be paid by changing that approach towards good industrial relations and paying seemingly scant regard to the importance of staff morale.

## Conclusion

At the January NNC, the Employers agreed to fast track discussions with the Trade Union Side on the issue of increments to see if it may be possible to find an agreed way forward to bring to the March NNC.

The Trade Union Side still hope that the Employers will reconsider their position on increments and bring proposals to the March NNC to ensure that they can be paid in the usual way, with effect from 1 April 2008.

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