



**The Professional Trades Union for Prison,
Correctional & Secure Psychiatric Workers**

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POA Circular 54/2015

16th June 2015

Dear Colleagues

NOMS AND POA OSG AGREEMENT 2015

Please find attached the above Agreement and synopsis which needs to be copied or forwarded to all your affected OGS's and or Band 2's, prior to your meeting and the workplace ballot.

This agreement is subject to the workplace ballot as set out in Branch Secretary Circular 20/2015.

Thanking you in anticipation of your support and co-operation

Yours sincerely

STEVE GILLAN
General Secretary

Action		Information	
England/Wales	<input checked="" type="checkbox"/>	England/Wales	<input type="checkbox"/>
Scotland	<input type="checkbox"/>	Scotland	<input checked="" type="checkbox"/>
Northern Ireland	<input type="checkbox"/>	Northern Ireland	<input checked="" type="checkbox"/>
Special Hospitals	<input type="checkbox"/>	Special Hospitals	<input checked="" type="checkbox"/>
Private Sector	<input type="checkbox"/>	Private Sector	<input checked="" type="checkbox"/>
IRC	<input checked="" type="checkbox"/>	IRC	<input type="checkbox"/>

Enclosure

NOMS and POA OSG Agreement 2015

This agreement recognises the importance both NOMS and the POA attach to motivating and retaining experienced staff in closed grades, whilst recognising the Fair and Sustainable reforms. It sets out some immediate actions that will be taken to recognise the contribution closed grade OSGs provide, and commits NOMS and the POA to explore longer term options to improve this staff group's motivation and retention.

Specifically we agree to implement the following actions:

1 – Improved F&S Opt In Arrangements

NOMS will enable OSGs who have reached their pay scale maxima, to opt-in to F&S at the top F&S pay point rather than the penultimate pay point as would follow from the normal application of the opting-in rules. This will result in an increase of £539 for a nationally based OSG not in receipt of Local Pay Allowances or other additions as opposed to £109 under normal arrangements.

The vast majority of OSGs at the pay maxima will benefit financially from opting-in to F&S, moving to a higher, consolidated salary, and with the prospect of further pay increases over time, subject to Pay Review Body outcomes.

The decision to opt-in remains an individual's choice. A retention bonus payment as outlined at 3 below will not be available to individuals identified as benefiting financially from opting-in to F&S (but see provision at 9 below for any individuals whose immediate financial benefit from opting-in to F&S may be lower than the value of the one-off payment available).

The opportunity to opt-in will be as part of the standard annual options exercise later in the year. Any increase in pay will, however, be fully backdated to 1 April 2015. Payment for 2 additional hours in excess of a standard 37 hour working week will be retained on the provision that staff continue to work the 2 additional hours. This will be paid as a pensionable allowance (Additional Committed hours, or ACHP) in addition to basic salary and the similarly separate allowance for working unsocial hours. As is the case for all staff there will be no attempt by NOMS now or in the future to deny staff the entitlement to work, and therefore receive payment for, the additional 2 hours or working unsocial hours.

2 – Unsocial Hours guarantee on opting-in to F&S

In order to reassure OSGs considering whether to opt-in to F&S, NOMS guarantees that following opting-in their entitlement to receive the unsocial hours pay addition (17% of base pay) will never be involuntarily removed from them whilst in the F&S grades. All OSG roles require an element of unsocial hours working and attendance patterns reflect this.

3 - Retention Bonus Payment

OSGs who have reached their pay scale maxima and who do not benefit financially by opting in to F&S, will receive a one-off, non-consolidated retention bonus payment. This is in recognition of both the valuable contribution they have made to the organisation in the past 12 months and of the value NOMS places in retaining experienced staff in the future.* The retention bonus payment amount will be £300.

The retention bonus payment will be subject to tax and national insurance deductions.

4 - Use of Agency OSGs

NOMS is committed to maintaining OSG staffing levels in all prisons. It is recognised that the best way to ensure successful delivery is the recruitment and retention of permanent members of staff to maintain the number of Staff in Post as close as practicable to the Target Staffing Figure. Where vacancies exist against current and anticipated TSFs, NOMS will **always** seek to fill them substantively.

PSI 62/2010 allows the use of agency OSGs; this agreement replaces PSI 62/10 for OSG Agency staff only.

In future Governors will only engage Agency staff after they have ensured that directly employed OSGs have been offered overtime to cover detailing shortfalls.** In addition, Governors will not use agency staff to cover OSG roles where the individuals concerned have not had the appropriate training to perform the role safely and securely. This is particularly relevant to night working where OSGs will not be permitted to work at night unless they have received ACCT and Fire Safety training.

This is an agreement that will be reviewed as part of the joint work referred to in section 9 below.

5 - OSG Tornado Payment

It is recognised that there are occasions when OSG staff will be required to drive vehicles to enable prison officer colleagues to respond to emergencies across the estate and that this represents work over and above that which is usually expected of an OSG. As such, NOMS will introduce an OSG Tornado payment (at a rate of £14 per hour) which will be payable for almost all periods when an OSG is absent from his or her usual workplace under Operation Tornado due to driving an emergency response vehicle.

The only instances in which this will not necessarily be payable is when OSGs who are on Fair and Sustainable terms undertake such duties outside of scheduled shifts at weekends. This is because existing weekend overtime

arrangements may be favourable. In cases such as this staff will therefore receive the more favourable of overtime at existing rates or the OSG Tornado payment.

6 – OSG Dirty Protest Payment

OSG staff who perform duties for which Prison Officer colleagues would qualify for Dirty Protest Payments will in future be able to access the same payment. As such it is agreed that the availability of the Dirty Protest Payment (at a rate of £5.75 per period of up to 4 hours or £11.50 for more than 4 hours) will be extended to OSG staff working night shifts and carrying out such duties.

7 – PSI 42/1997 (Introduction of Operational Support Grade)

The above PSI is not varied by this Agreement, save for the two following clarifications:

Schedule 1 – Rest Days: with immediate effect, the routine working of no weekends by OSGs **is** precluded (which reflects the status quo and would not be consistent with the unsocial hours guarantee at point 2 above).

Schedule 3 – Options to meet a shortfall of OSG staff: it is agreed that these options are not exhaustive and do not preclude the use of Agency OSGs, subject to the provisions at point 4 above

8 - Non-mobile Assurances in Opting-in to F&S

In order to reassure those OSGs considering whether to opt in to F&S, NOMS confirms that following opting in their status as a non-mobile grade remains in place as set out in schedule 1, Chapter 3 of PSI 42/97.

9 – Other Commitments

NOMS and the POA are committed to work together going forward with a view to producing evidence to the Prison Service Pay Review Body on areas where we have reached agreement through collective bargaining. This may include but is not limited to:

- OSG Overtime Rates/Payment Plus Scheme
- Contracted Additional Hours Scheme

NOMS will write to all OSGs at the maxima of the closed grade to outline which option (retrospective F&S opt in or retention bonus payment) is relevant to them. For any individuals whose financial benefit upon opting-in to F&S is smaller than the value of the one-off retention payment outlined at 3 above, then the individual may elect to defer opting-in to F&S and receive instead the one-off payment available

** OSGs who are subject to formal poor performance procedures on 30 April 2015 will not receive the bonus (in line with PSI 12/2013 Poor Performance, staff have an avenue of appeal against poor performance). Given that this payment is a retention bonus, OSGs who voluntarily resign before retirement age between 1 April 2015 and 31 March 2016 will have the bonus payment recovered prior to exit. OSGs who retire during this period will retain the payment.*

*** All overtime must be compliant with the Working Time Directive*

Dear Colleagues,

NOMS and POA OSG Agreement 2015 (Synopsis)

Prison Service Pay Review Body Awards and Recommendations

The POA has been subject to anti-trade union legislation as a result of the 1994 Criminal Justice & Public Order Act (as amended).

The restrictions placed on the POA, required the Government to put in place adequate compensatory mechanisms in respect of industrial relations and pay.

In 2001 the PSPRB was introduced, its first recommendation was a pay award of 6% but this was staged by Government and the first indication that the PRB was neither fair nor fit for purpose but a Government body which would be used to restrict the pay for the professional men and women of the Service.

Successive PRBs have adhered to the Government's remit letter and despite strong submissions from the POA in respect of pay and allowances, pay has declined in real terms year on year.

The 2015/16 recommendations of the PRB were disgraceful and demonstrated that no matter what evidence the union put forward the PRB would continue to follow the direction of Government. At the POA's 76th Annual Conference in May, a number of motions were adopted and as a result the POA will no longer submit evidence to the PRB. It was vital that the union has an opportunity to engage in collective bargaining in respect of pay with the employer.

NOTE:- Therefore, following the announcement of the 2015/16 recommendations urgent discussions with NOMS and the Secretary of State for Justice took place. These discussions were positive and have led to a number of changes which are set out below.

Fair & Sustainable

In February 2012, during the global recession, NOMS introduced Fair & Sustainable and a new pay model for staff who opted-in, promoted, transferred and/or new starters to the Service.

This was at a time when prison competition and wholesale privatisation was at the forefront of the Government's agenda.

As part of the negotiations on F&S, the POA secured life time protection for existing terms and conditions, these remain unaffected by this Agreement.

As part of F&S, Job Evaluation (JES) was imposed in addition to the requirement that all operational staff had to work unsocial hours. F&S also removed local pay allowances in 20 establishments and introduced national pay with inner and outer London allowances. These changes, in the opinion of the POA, was a policy decision that would result in recruitment problems across the prison estate. The opinion of the POA is now being realised by NOMS as staffing issues are becoming more and more acute in certain prisons.

The POA advised NOMS and the Government that F&S was neither competitive nor fit for purpose, but due to the 2 year Government recruitment freeze from 2012 to 2014 the pay model was never really tested.

The recent recruitment of 1,700 new Prison Officers may suggest that the current rates of pay within F&S are fit for purpose, but nothing could be further from the truth. The Service has lost and continues to lose around 80 staff per month and the need for detached duty, additional hours paid and unpaid is the only reason the Service is avoiding a real staffing crisis. This is not acceptable.

Change must be introduced as part of the NOMS/POA 2015 Agreement, through collective bargaining within the areas of work set out below if we are to have appropriate pay, fully staffed and safe prisons with decent working conditions.

Retention and Recruitment of Staff

In the last 5 years NOMS has allowed too many operational staff to leave the service on VEDS and around 80 staff leave the Service each month. As a result, more and more prisons find themselves desperately short staffed and unable to recruit because the pay on offer is simply not competitive enough within the locality of their prison and of course more and more people seeking employment find the Prison Service less appealing.

In 2013/4 the prospect of introducing regional pay for the Service was defeated following strong representations from the POA on the basis that Local Pay Allowances had worked well in the past and should be reintroduced to address recruitment and retention in the future. This will be addressed as part of the overall work as part of the NOMS/POA 2015 Agreement.

The Service is over recruiting in certain areas of the country and this is distorting figures but not resolving the real problems in our prisons.

The NOMS/POA 2015 Agreement

Following the signing of the NOMS/POA 2015 Agreement prior to Annual Conference, the National Chairman PJ McParlin and General Secretary Steve Gillan determined teams to progress identified area of work through collective bargaining (these are set out below).

It was decided that work in respect of OSGs was a priority.

The OSG team, led by Ian Carson supported by Mike Rolfe and Jackie Marshall were eager to commence negotiations because they were conscious that OSGs had not received the bonus retention payment which had been given to other closed grades on pay maxima. This was because during the initial negotiations on the NOMS/POA 2015 Agreement, NOMS did not have the correct data available to put forward any offer at that time, however, the Executive made it clear this had to be revisited as a matter of urgency.

NOMS were forthright in their view that:-

A – The bonus retention payment would not be paid to anyone on pay maxima who would financially benefit by opting-in to F&S

and;

B – That in their opinion all OSGs would benefit financially by opting-in to F&S

The POA did not agree with this view.

NOTE:- All staff who were entitled to the retention bonus as set out in this agreement will have received their monies although one oversight has been rectified in relation to some specialist Band 4s and NOMS have agreed to pay this in the near future.

Future Collective Bargaining Six Strands of Work

The six strands of work are being overseen by National Vice-Chairman Ralph Valerio in respect of Payment Plus which is being led by Jackie Marshall, supported by Chris Donovan and Mark Fairhurst; Reward/Retention, Maxima Grades and Difficult to Recruit Prisons, led by Terry Fullerton supported by Mike Rolfe, Ian Carson and Glyn Travis.

Andy Darken DGS is overseeing negotiations on Annual Leave & TOIL with Mike Rolfe as the lead supported by Jackie Marshall and Ian Carson; H&S Review lead Chris Donovan, supported by Mark Fairhurst and Joe Simpson; OSGs led by Ian Carson, supported by Jackie Marshall and Mike Rolfe.

The National Chairman and General Secretary taking forward the issue of Pensions and the '68 Too Late' campaign supported by Joe Simpson.

NOMS and POA OSG Agreement 2015

The final version of this Agreement is attached to POA Circular 54/2015 and will be subject to a workplace ballot of those affected members. The Executive believe that it is in the interest of all OSGs and Band 2s to be a member of the POA as the discussions through collective bargaining will bring the union together and hopefully improve the terms and conditions of all grades/Bands.

NOTE:- Local meetings of all affected staff and members will take place and non-members should approach local committees to join the POA as should local officials approach non-members.

Turning to the negotiations

The POA negotiators quickly demonstrated that NOMS were incorrect in believing that all OSGs as outlined above in point B would benefit by opting-in to F&S. In fact the proposals from NOMS resulted in the vast majority of OSG's receiving well below that of the 1% given to other closed grades as a retention bonus.

Following negotiations the final Agreement provides significantly more financial benefits to those who decide to opt-in to F&S than those who were being considered by NOMS as part of the retention bonus.

This Agreement also protects existing staff from having the unsocial hours element removed, a position that many OSG's feared should they opt-in to F&S.

As part of the final negotiated position, any OSG on pay maxima who opts-in to F&S will map across to the F&S maxima which provides an increase of pensionable pay of approximately £500 per annum. There are exceptions to this and individuals should ensure that they seek advice from their local HRBPs in respect of their new pay scales should they decide to opt-in to F&S if the Agreement is accepted by those affected grades.

OSG's who do not opt-in to F&S where it is not financially beneficial to do so because of their current pensionable pay will receive a non-consolidated retention bonus of £300.

Should any OSG not opt-in to F&S (by choice) where it is financially beneficial for them to do so, NOMS has refused to give them any retention bonus, under this Agreement.

Those staff who opt-in to F&S will have their pay award back dated to the 1st April 2015 and pay aligned as soon as possible by NOMS.

As part of the Agreement the NEC have agreed to lift the £10,000 cap in respect of using agency workers to cover OSG work under PSI 62/2010. Currently, there are the equivalent of 520 full time OSG positions being covered by agency workers and a further 241 on contractor escort duties. The Executive continue to encourage all local committees to enter into discussions with management to seek full time employment positions for OSGs, the reality is that agency workers are being used across the prison estate.

As part of this agreement the POA has secured that all agency OSGs will receive appropriate training in the areas of work they are covering equivalent to that of an employed OSG/Band 2.

NOTE:- The NEC will be entering into discussions with Hays to secure recognition rights for OSG agency workers to ensure that these workers are not misrepresented and that they have the opportunity to secure full-time employment.

PSI 42/1997

Whilst there has been some minor amendments to 42/1997 the identified areas of work which OSGs/Band 2s can perform has not changed and there have been no fundamental changes to terms and conditions for existing OSGs/Band 2s. Again, the Executive urge local committees and OSGs/Band 2s to ensure they only perform the work that they are paid to do as set out within PSI 42/1997.

Conclusion

This Agreement secures protections for existing staff and provides individuals with a choice.

The Agreement is a stepping stone for the work that the Executive is progressing to improve terms and conditions.

The Agreement is being recommended by the Executive because of the assurances and commitments it provides.