

**BR 94/14
IL/DH**

**To: Branch Chairs
Branch Secretaries
Convenors
NEC
NAPO Officers
Napo Officials
Napo Staff
Napo National Representatives
FCS (for information only)**

Dear Colleague,

NNC meeting outcomes and news about Facilities Time

Last Friday saw the first meeting of the reconstituted National Negotiating Council (NNC) take place in London. This was the first meeting since the imposed division of the Probation Service on 1st June.

As you would expect, there was a heavy agenda for discussion, but I am pleased to report that the probation unions and employers representatives for NPS and the CRC's were able to reach agreement in a number of important areas. These will be the subject of further circulars from the NNC Joint Secretaries. In particular we have agreed to reconvene the 'Measures' discussions on the policies that will mainly apply to staff within the NPS. A further BR Briefing will also be issued to update Napo Branch Representatives on what has been agreed so far and what is still requiring discussion centrally.

NNC Outcomes

Below is a short summary of the key outcomes from the NNC:

- New NNC constitution agreed: single bargaining machinery to cover both NPS and CRCs
- Joint Secretaries to issue guidance via joint circular to NPS Divisions and CRCs regarding:
 - Model NPS Divisional Joint Consultative Council (JCC) constitutions
 - Model CRC Joint Negotiating and Consultative Council (JNCC) constitutions
 - NPS National Health and Safety Forum
 - NPS/CRC National ICT Forum
- Trade Union Recognition Agreement ratified for NPS; to be replicated in each CRC (joint circular to follow)
- Staff Commission agreed: will hear cases of appeal against staff assignment process via an independent panel (joint circular to follow)
- Employers agreed to respond to unions' 2014 pay claim in the next four weeks

- Work to restart on NPS measures: potential harmonisation of former Probation Trust procedures and policies for staff transferred to the NPS
- Joint Secretaries to report on the implementation to date of the Enhanced Voluntary Redundancy (EVR) scheme and on plans for future roll out of further VR offers
- Joint Secretaries to meet to discuss how the national Workload Prioritisation/Employee Care Agreement (Workload Management) will be reviewed and ratified before roll out to the NPS and each CRC.

The NNC is due to meet again in September. Further information on the above issues will be issued when available.

Trade Union Facility Time: Update

Napo and Unison are continuing to challenge the MoJ and NOMS interpretation of the so-called "50% rule". Our re-reading of the Cabinet Office Framework and Guidance suggests that it is clear that a). this rule applies to individuals and not posts and, b). the Framework explicitly refers (and applies) to civil servants. Employees of CRCs are not civil servants, yet it is clear that MoJ/NOMS are seeking to extend the Framework to cover union representatives in the CRCs at least whilst they remain in the public sector; but again, the Framework clearly refers to civil servants only. Non Departmental Public Bodies are "expected to adopt the framework" but it is only an expectation, and Napo has regularly made the argument that CRCs who are currently in this category, should be exempted if the intention is to change their status to being independently run organisations. More news on these discussions will follow once it becomes available.

Union Reps Training

We have also said that the Framework is silent on the issue of union reps training. It says that an individual's allowance is to cover ALL facility time including duties, H&S reps and ULRs, but it is silent on training. There is one reference to training in the guidance which is aimed at line managers. Training is not included in the list of duties - albeit this is not an exhaustive list.

Our view remains that the law: TULR (Consolidation) Act 1992 Section 168 (2) shows training as separate and additional to the duties described in Section 168(1) - An employer (He) 'shall *also* permit...' The ACAS Code of Practice on Facility Time also describes training as separate and additional. The logic is that if one is on training one is not carrying out one's normal duties, in the same way as when somebody is undertaking the academic segment of PQF, they are not available to undertake their primary role as a practitioner, or indeed anything else.

We are also arguing that there is a case for additional training time on the basis that the "need" has been created specifically by splitting Probation in two and thereby scattering reps, often in the wrong places. We also maintain that under the National Agreement on Staff Transfer & Protections - facility time should be maintained in terms of funding levels both nationally and locally - with the potential for additional resources.

Recording of Facilities Time

Unfortunately, a letter from the Head of Employee Relations in NOMS (dated 14 June 2014) and attached spreadsheet, was issued to CRCs/NPS without consultation and has caused some confusion. This letter does not seem to accord with existing advice as previously issued by the NNC Joint Secretaries (NNC Circulars 7/11 and 9/12) - with cross-reference to Section B17 of the National Agreement on Pay and Conditions of Service. To the best of our knowledge, local union officials have been complying with these circulars, which provide for, and indeed supply, simplified returns. We have asked to see the data collected so far, so that a more informed discussion might take place.

As we clearly do not yet have an agreed format for the collection of facility time records, we are suggesting that Napo representatives continue to use the NNC endorsed facility time return sheet with effect from the 1st June split, until further notice; NNC circular 7/2011 refers (attached for ease of reference)

You should indicate to your employer that you will continue to use the existing NNC facility time return form until you have received further advice from the NNC Joint Secretaries which I hope we can agree and issue in the near future.

Interim Arrangements Now Agreed

Also agreed at last week's NNC was an interim approach to trade union facility time. The unions signalled that we were unable to sign up to the proposed National Facility Time Agreement for NPS/CRC's on the basis that it remains unclear what amount of facility time the agreement would provide unions with locally.

Instead, it was agreed that the NNC would monitor trade union facility time for an interim period to allow all parties to properly assess the overall demand on facility time in respect of the Transforming Rehabilitation process. This will require the collection of trade union facility time records at both NPS Division and CRC level. In the interim, we do not expect NPS Divisions or CRCs to make any negative changes to existing facility time arrangements at local level.

I hope that you have found this circular useful. Any enquiries about its contents can be referred to Mike McClelland (mmclelland@napo.org.uk) or myself.

Ian Lawrence
General Secretary