



Prison Service Pay Review Body

Eighth Report
on
England and Wales
2009

Chair: Jerry Cope



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**Presented to Parliament by the
Prime Minister and the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty
July 2009**

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Prison Service Pay Review Body

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Standing terms of reference

The role of the Prison Service Pay Review Body is to provide independent advice on the remuneration of governing governors and operational managers, prison officers and support grades in the England and Wales Prison Service. The Review Body will also provide independent advice on the remuneration of prison governors, prison officers, prison auxiliaries and night patrol officers in the Northern Ireland Prison Service.

In reaching its recommendations the Review Body is to take into account the following:

- The need to recruit, retain and motivate suitably able and qualified staff taking into account the specific needs of the Prison Service in England and Wales and the Northern Ireland Prison Service;
- Regional/local variations in labour markets and their effects on the recruitment and retention of staff;
- Relevant legal obligations on the Prison Service in England and Wales and the Northern Ireland Prison Service, including anti-discrimination legislation regarding age, gender, race, sexual orientation, religion and belief and disability;
- Government policies for improving the public services, including the requirement to meet Prison Service output targets for the delivery of services;
- The funds available to the Prison Service in England and Wales and the Northern Ireland Prison Service as set out in the Government's departmental expenditure limits; and
- The Government's inflation target.

The Review Body shall also take account of the competitiveness of the Prison Service in England and Wales with the private sector, and any differences in terms and conditions of employment between the public and private sectors taking account of the broad employment package including relative job security.

The Review Body may also be asked to consider other specific issues.

The Review Body is also required to take careful account of the economic and other evidence submitted by the Government, staff and professional representatives and others.

Reports and recommendations for the Prison Service in England and Wales should be submitted to the Prime Minister and the Lord Chancellor and Secretary of State for Justice. Reports and recommendations for the Northern Ireland Prison Service will be submitted to the Prime Minister and to the Secretary of State for Northern Ireland.



Prison Service Pay Review Body Eighth Report on England and Wales: Summary

Key recommendations for 1 April 2009

- A 1.8 per cent consolidated increase to the maximum of the OSG and officer pay scales; to the Senior Officer (SO) salary, to the maximum of the principal officer (PO) scale; and to the maximum of the scales for night patrol, storeman, assistant storeman and auxiliary grades;
- A 1.5 per cent consolidated increase to the maximum of pay ranges A to G and compression of pay ranges;
- No change to the rate of specialist allowances or to the care and maintenance of dogs allowance;
- No change to the Required Hours Addition (RHA), Payment Plus (PP), Operation Tornado payments or to other allowances or payments; and
- No change to the rates of Locality Pay.

Introduction (*Chapter 1*)

We are a statutory, independent pay review body. Our standing terms of reference require us to make evidence-based recommendations that enable the Prison Service to recruit, retain, and motivate staff within our remit. At the request of the parties, we delayed our review this year while negotiations took place on workforce modernisation (WFM) linked to a three-year pay deal for which additional funding of £50m was available for 1 April 2009. Neither the POA nor the PGA felt able to recommend the WFM package to their membership and it was rejected by significant majorities in membership ballots in early 2009. In March 2009, we were invited to reactivate our review process and consider a one-year award for remit group staff to take effect from 1 April.

We examined detailed evidence on recruitment, retention, morale and motivation; affordability and broader economic considerations; and information on pay in the private custodial sector compiled for us by our secretariat. We considered written submissions from each of the parties and held oral sessions with each to explore the evidence in greater detail. We visited 15 Prison Service establishments to meet and talk to members of our remit group, to see their work and working environment and gain an insight to the state of morale and motivation.

We were told in evidence that NOMS intended to close the existing uniformed grades and introduce new pay and grading structures for new entrants from 1 September 2009 (appointments to the PO grade ceased with effect from 27 April 2009). We expect to receive evidence on the new structures for our 2009-10 round; they do not form part of our considerations for this Report.

Pay recommendations (Chapter 2)

Our deliberations this year have taken place against a very uncertain backdrop. Externally, the UK economy has not grown since the first quarter of 2008 and the lack of growth has been reflected in falling inflation, lowered earnings expectations, rising unemployment and increased pressure on public finances. We were unable to accept the proposition put to us by the unions and staff associations that many of these developments occurred outside the 'normal' timeframe for our review and that we should ignore them. Internally, we were aware of NOMS' broad intentions for uniformed grades, which, we were told, would be subject to consultation, though we will not learn the detail until the next round. Against this uncertain backdrop, our approach for uniformed grades has been to prioritise basic pay over allowances and staff on the maxima against those with access to increments. For managers we have prioritised the first step in a five-year strategy to rationalise pay ranges.

We recommend a consolidated 1.8 per cent uprating to the maximum of the OSG and officer scales, to the SO salary and to the PO maximum. For operational managers we recommend 1.5 per cent uprating to pay range maxima together with a first step in a five-year programme proposed by NOMS to compress the span between range minima and maxima and smooth the value of incremental steps. Our recommendations are designed to support the morale and motivation of staff on their pay maxima who do not have access to incremental progression and would otherwise experience a real terms decrease in pay. We were influenced by evidence on recruitment and retention that showed overall staffing within tolerance of the operational staffing requirement (OSR); a sound recruitment position; and low, and in the case of officers decreasing, turnover rates both in absolute terms and in comparison with the wider public and private sectors. The evidence on morale and motivation indicated some fragility arising primarily from changing demands in the work place and the collapse of WFM. Nevertheless, the Service continued to perform well against its Key Performance Indicators. We recommend that all specialist and other allowances; Required Hours Addition for operational managers; Payment Plus; Operation Tornado Payments; and Locality Pay should remain at their 2008 level. In view of the volatility in the housing market, we recommend no change to notional rents, but will review trends in the relevant index from October 2007 for our next Report.

Overall, our pay recommendations are designed to deliver, across the remit group, average earnings growth in line with the wider public sector.

Forward look (Chapter 3)

In Chapter 3 we look forward to the 2009-10 round and list those aspects of the current and proposed remuneration arrangements that we expect NOMS to examine in detail in, or in advance of, its evidence to us. These include the new uniformed pay arrangements and how they will operate; clear principles for the treatment of probationers; a long overdue review of remuneration for Governing Governors A and B who manage the most demanding establishments across the estate; and a replacement for Locality Pay. We continue to hold the view that, at some stage, the parties will need to agree a way forward on the modernisation of the pay and grading structures in order to engage the workforce and enable NOMS to continue to achieve its financial and operational objectives. In our judgement, this will require the investment of some or all of the £50 million pump-priming funding that was available under WFM.

Glossary of Terms

ACAS	Advisory Conciliation and Arbitration Service
CPI	consumer prices index
CSH	contracted supplementary hours
HMPS	Her Majesty's Prison Service
JE	job evaluation
JIRPA	Joint Industrial Relations Procedural Agreement
KPI	key performance indicator
LP	Locality Pay
MoJ	Ministry of Justice
NOMS	National Offender Management Service
NOMSTUS	NOMS Trade Union Side
OME	Office of Manpower Economics
OSG	operational support grade
OSR	operational staffing requirement
PCS	Public and Commercial Services Union
PGA	Prison Governors Association
PO	principal officer
POA	POA – The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers
PP	Payment Plus
PSPRB	Prison Service Pay Review Body
RHA	Required Hours Addition
RPI	retail prices index
RPIX	retail prices index excluding mortgage interest payments
SI	statutory instrument
SO	senior officer
TOIL	time off in lieu
WFM	workforce modernisation

The Prison Service¹ in England and Wales and our remit group

The aim of the Prison Service is to serve the public by keeping in custody those committed by the courts, looking after them with humanity and helping them to lead law-abiding and useful lives in custody and after release. In support of this, it has four objectives:

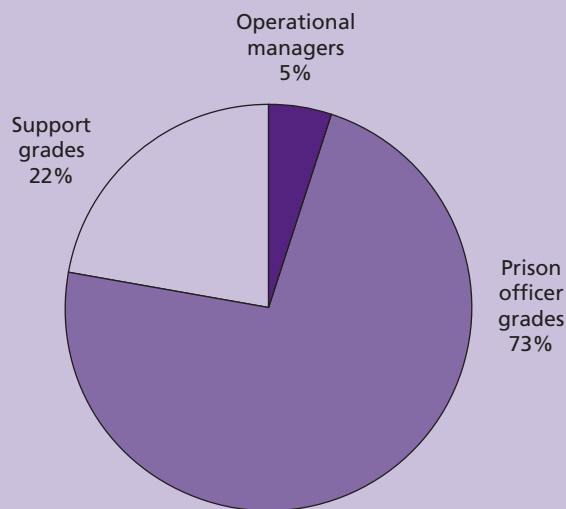
- To hold prisoners securely;
- To reduce the risk of prisoners re-offending;
- To provide safe and well ordered establishments in which to treat prisoners humanely, decently and lawfully; and
- To provide an effective custody and escort service to the criminal courts.

On 12 June 2009, the prisoner population was 83,001, 0.2 per cent lower than a year earlier.

The Prison Service had a net operating cost of £2.1 billion in 2007-08 of which £1.6 billion related to the paybill (including social security and other pension costs) for all staff.

At the end of May 2009, there were 52,654 Prison Service staff, of whom 35,838 were in our remit. The composition is shown below.

Our remit group in England and Wales, as at 31 May 2009



	<i>Headcount</i>
Operational managers	1,632
Prison officer grades	26,186
Support grades	8,020

Source: Prison Service Personnel Corporate Database.

¹ Data are the latest available.

Chapter 1: Introduction

Our remit 1.1 PSPRB is a statutory pay review body² set up to examine and report on matters relating to the rates of pay and allowances to be applied in the prison services in England and Wales and Northern Ireland. The Regulations provide that the Secretary of State may direct us as to the considerations to which we should have regard and the timing of our Report. We have standing terms of reference (reproduced at page vii) which complement our statutory remit; these emphasise that we should provide *independent* advice based on the range of evidence available to us.

Outcome of our last report 1.2 In our 2008 Report, we recommended:

- A six point incremental scale for operational support grades (OSGs) incorporating a 2.2 per cent increase over the 2007 scale at minimum and maximum, together with a common incremental date of 1 April;
- A 2.2 per cent consolidated increase to the minimum and maximum of the officer pay scale; to the maximum of the principal officer (PO) scale; and to the maximum of the scales for night patrol, storeman, assistant storeman and auxiliary grades;
- A 2.7 per cent consolidated increase to the senior officer (SO) salary and to the minimum of the PO scale;
- For operational managers, a 2.7 per cent consolidated increase to the maximum of pay range A and a 2.2 per cent increase to the maximum of pay ranges B to G and the decoupling of the pay ranges from the pay spine;
- A 2.2 per cent increase to the Required Hours Addition (RHA); contracted supplementary hours (CSH), Bedwatch, Constant watch and Operation Tornado payments; and to other allowances; and
- No change to the rates of specialist allowances, the care and maintenance of dogs allowance or Locality Pay.

1.3 The Government accepted our recommendations and implemented them in full from 1 April 2008. We welcome this decision; the staged payment of the 2007 award had unwelcome consequences for employee relations in the Service and undermined trust in the independent review body process which is in part intended to compensate our remit group for the absence of the right to take industrial action.

Machinery of Government changes 1.4 In May 2007, under Machinery of Government changes, the Ministry of Justice (MoJ) was created, bringing together the Department for Constitutional Affairs and parts of the Home Office including the National Offender Management Service (NOMS) and the Prison Service Agency. In December 2007, Lord Carter of Coles reported on his review of NOMS³ and at the end of January 2008, an internal review of the new MoJ confirmed a restructuring of NOMS to bring the Prison and Probation Services together under a new Headquarters and regional structure. In July 2008 the NOMS Agency Framework Document⁴ was published setting out the

² The Prison Service (Pay Review Body) Regulations 2001 (SI 2001 No. 1161). PSPRB operates in England and Wales and Northern Ireland; the Scottish Prison Service is outside our remit.

³ 'Securing the future: Proposals for the efficient and sustainable use of custody in England and Wales', Lord Carter of Coles, December 2007.

⁴ National Offender Management Service – Agency Framework Document; published by the Ministry of Justice, July 2008 and available on the NOMS web site.

objectives, services and freedoms of the new executive agency. It remains the case that our remit group in England and Wales operates exclusively in Her Majesty's Prison Service (HMPS). For the purposes of this Report, references to the 'Service' denote HMPS.

Workforce modernisation

1.5 The workforce modernisation (WFM) agenda has dominated much of the period since our 2008 Report was published. In 2008 we reported that the Government had made funding available to NOMS for 2009-10 for WFM, subject to a properly costed business case. The Secretary of State later confirmed that the sum available would be £50m new money. In August 2008, the Minister of State at MoJ wrote to our Chair confirming that the trade unions and staff associations had agreed with NOMS management to delay the submission of evidence for this Report, at least until mid-November 2008, to enable WFM plans to 'solidify' and negotiations to take place. At our request, we received an update from the NOMS Director of Human Resources in mid-November informing us that negotiations were progressing and seeking a further postponement to the submission of evidence.

1.6 In January 2009, the POA and the PGA separately informed us that they would put the WFM proposals and an associated three-year pay deal to membership ballots. Neither the POA nor the PGA felt able to recommend the proposals to members and, in both cases, the ballots resulted in rejection of the WFM proposals by significant majorities. Engagement through the Advisory Conciliation and Arbitration Service (ACAS) in March and April failed to resolve the differences between the parties. It fell to us, therefore, to launch our review of pay for April 2009.

Activation letter

1.7 Each year since PSPRB was established, the Secretary of State, or Minister of State on his behalf, has issued a remit letter outlining the considerations to which we should have regard in our review and the timing of our Report. In November 2007, the Secretary of State for Justice confirmed his intention not to issue an annual remit letter unless specific circumstances required him to do so, in which case he undertook to explain his reasons for writing. Following the rejection of WFM proposals in workforce ballots, the Minister of State wrote on 16 March to activate our pay review process and to invite us to make recommendations for a one year award for 2009. His letter is at Appendix A. In response, we undertook to complete our processes as quickly as possible, consistent with taking the time necessary to consider the evidence fully and to arrive at well-founded recommendations.

Our evidence base

1.8 In spring and summer 2008, we followed developments in relation to the coming round in general, and for WFM in particular, through informal meetings between our Chair and representatives of each of the parties and up-dates provided for our July strategy meeting. When it became clear that we would be required to recommend a one-year award, we considered, and based our recommendations on:

- Written and oral evidence from NOMS and the unions and staff associations;
- Statistical data provided by NOMS in the summer of 2008, subsequently updated, and shared with all the parties;
- Information gathered during our visits to prison establishments; and
- Independent research carried out by our secretariat or commissioned by them on our behalf.

1.9 We received written submissions from the parties in April 2009 and held oral sessions in May 2009 with the Lord Chancellor and Secretary of State for Justice, Jack Straw and the Minister of State, David Hanson together with NOMS led by the Director General, Phil Wheatley, and accompanied by representatives from HM Treasury; with the POA led by the Chairman, Colin Moses, and General Secretary, Brian Caton; with the PGA led by Paul Tidball, President, and Paddy Scriven, General Secretary; and, in June 2009, with PCS led by Mike Nolan, NOMS Group President with colleagues from other member unions of the NOMS Trade Union Side. Oral sessions allow us to probe the parties on their written submissions and the evidence that underpins them. In line with our independent status, we examine the evidence from all the parties impartially but vigorously.

Quality of evidence

1.10 We are remitted to make independent, evidence-based recommendations. Our process is very different from a negotiation where the parties expect to work towards a solution from opposing opening positions. We require submissions from the parties that are based on hard evidence on staffing, recruitment and retention and the indicators for morale and motivation. We do not dismiss qualitative evidence on morale and motivation which are hard to measure with certainty, but that evidence must be credible when set alongside the hard data. The POA argues that it is reliant on the employer for data and that it lacks the resource to challenge them effectively. We have asked our secretariat to invite the parties to meet to discuss the data when it is made available for the 2009-10 review. If, following the meeting, any party has reason to doubt the integrity of the data provided by NOMS, we would expect them to raise that with us through our secretariat so that we can make the appropriate enquiries in advance of the round.

Economic and Management Evidence

1.11 The NOMS written submission incorporated evidence on the Government's overall policy for public sector pay and affordability evidence specific to the Service. In September 2008, prior to the start of the pay round, the Chairs of the pay review bodies met the Chief Secretary to the Treasury to discuss prospects for the economy and for inflation, particularly in the light of the turmoil in the financial markets and in the context of the Government's determination to control public spending and inflation. We assess the economic context and affordability evidence in Chapter 2.

Independent research

1.12 Each year from 2002 to 2006 our secretariat commissioned on our behalf independent research comparing pay and benefits in the public and private prison sectors. The 2006 research included a trend analysis of the previous five years which indicated a consistent pattern of relativities between the two sectors over the period. In the light of this analysis, our secretariat contacted the private sector providers directly in 2007 and 2008 for updated information on pay and conditions. The information provided by respondents suggests that the pattern of relativities remains substantially unchanged.

1.13 Our terms of reference require us to take account of any differences in terms and conditions of employment between the public and private sectors. We intend to commission independent, consultant-led research into pay and benefits in the private sector for our 2010 Report and will consult the parties on our approach. It is important to note, however, that the private sector operates 11 establishments outside central London, none of which is part of the high security estate. We are cautious, therefore, about the extent to which the research can compare like for like.

Visits

1.14 In 2008 we visited 15 establishments (listed at Appendix B) including the Prison Service Training College at Kidlington to observe Operation Tornado training. Our visits to prisons comprise a series of discussions with staff from all grades, a meeting with the Governing Governor and his/her management team, a meeting with local union and staff association representatives and a tour of the establishment where we can talk informally to staff on the landings. For the second year running, a member spent a day in an establishment 'shadowing' members of staff to gain a deeper understanding of their roles and the challenges they face. We are aware that our visits require considerable organisation and interrupt the working day. We were particularly impressed by, and grateful for, the efforts made by staff at all levels to ensure that our visits in 2008 added to our understanding of our remit group and their work. Because of the delay to this Report, we expect our 2009 visits programme to begin in July and run through to September. We look forward to meeting members of our remit group and invite as many as possible to join in discussion groups and/or speak to us as we walk around the establishments.

Our Report 1.15 In its evidence to us, NOMS set out its intention to close the existing uniformed grades to new entrants (appointments to the Principal Officer (PO) grade ceased with effect from 27 April 2009) and to introduce a new uniformed pay and grading structure for new entrants from 1 September 2009. We were informed that these arrangements would be subject to consultation. We expect that the outcome of consultations will be reflected in evidence for our 2010 Report. In the interim, our role is to consider the evidence and make recommendations for a one year award for staff in our remit effective from 1 April 2009. Our detailed examination of the evidence and our recommendations are set out in Chapter 2 and, in Chapter 3, we look forward to developments that may influence our 2010 Report.

Secretariat 1.16 Our secretariat is provided by the OME. We are very grateful for the help and support they provide, without which we could not perform our duties properly.

Chapter 2: Pay and allowances

Introduction 2.1 In this Chapter, we assess the evidence available to us on recruitment, retention, morale and motivation; the economic context; the affordability considerations applying to the Service; and pay comparisons with privately operated custodial services. This evidence underpins our recommendations for a one-year award for 1 April 2009.

Staffing levels 2.2 We would normally base our analysis on data relating to the Service's overall staffing position at 31 March 2008 and joiners and leavers over the previous twelve months. However, for this Report, we received some staffing data updated to 31 December. Where these later data are quoted in the following paragraphs, this is made clear in the text. All the data have been shared with the unions and staff associations.

2.3 At 31 March 2008 there were 35,179 staff in our remit, an increase of 3.1 per cent from the previous year. In every grade, the number of staff was higher than a year earlier. Twenty-six per cent of the remit group were female (up from 25 per cent the previous year) compared to 36 per cent in the Service overall. Figure 2.1 shows the number of remit staff in post at 31 March each year from 2004 to 2008.

Figure 2.1: Headcount of remit group staff in post, at 31 March

Staff group	Headcount of staff in post at 31 March					Change between 2007 and 2008	
	2004	2005	2006	2007	2008	No.	%
Operational manager grades	1,357	1,428	1,418	1,465	1,518	53	3.6
Prison officer grades:							
Principal officers	1,337	1,316	1,283	1,306	1,327	21	1.6
Senior officers	3,794	3,901	3,946	3,964	4,094	130	3.3
Prison officers	19,091	19,223	19,499	19,711	20,082	371	1.9
Total prison officer grades	24,222	24,440	24,728	24,981	25,503	522	2.1
Operational support grades	7,525	7,314	7,461	7,663	8,158	495	6.5
Total (remit groups)	33,104	33,182	33,607	34,109	35,179	1,070	3.1

Note: Figures are on a headcount basis (i.e. part-time staff count as one)
Source: Prison Service Personnel Corporate Database

2.4 At 30 April 2008, there was a deficit of staff in the unified grades⁵ of 1,051, or 3.9 per cent, against an operational staffing requirement (OSR) of 26,940. However, contracted supplementary hours (CSH) provided the equivalent of 658 whole-time staff, compared to 499 at 1 April 2007. This reduced the deficit against OSR to 393 or 1.5 per cent, within NOMS tolerance of 2 per cent.

⁵ Unified grades comprise officer, senior officer, principal officer and operational and senior operational managers.

Payment Plus

2.5 On 13 July 2008, following an agreement negotiated between NOMS and the POA, Payment Plus (PP) replaced CSH, Bedwatch and Constant watch payments (for a fuller explanation of PP, see paragraphs 2.57 to 2.59). We were provided with data covering the operation of PP in the four months to end February 2009 which showed that, on average, the numbers in receipt of the payment equated to 800 whole-time equivalents. Data on overall staffing against OSR for 31 December 2008 showed an overall deficit of 853 officers in establishments (3.3 per cent of the requirement) which was almost offset by the numbers then in receipt of PP.

TOIL

2.6 The outstanding TOIL balance at 1 June 2007 was 403,000 hours. At 31 March 2008, the balance had risen slightly to 413,000 hours, though the overall average for uniformed staff had stabilised at 12 hours.

2.7 We note that the use of CSH increased year on year over the five-year period to April 2008. The limited data available on PP suggest that this trend has continued, though we must sound a note of caution here as different rules apply to CSH and PP. NOMS argues that CSH, and now PP, together with TOIL, provide governing governors with the necessary flexibility to respond to changing circumstances and unforeseen demands on staff time. It also argues that the opportunity to work additional hours at a premium rate is welcomed by some staff. On the other hand, the POA expressed the view that PP and TOIL allow the Service to operate with an artificially low OSR. To date, we have no hard evidence that this is the case, but we will continue to monitor the data on PP and TOIL and to discuss attitudes to their use during our visits to establishments.

Recruitment and retention

2.8 In the year to 31 March 2008, 1,971 new officers joined the Service while 1,272 staff left from the officer and managerial grades combined. The proportion of officers leaving the Service continued to fall, to 4.9 per cent, while the leaving rate across the remit group as a whole increased slightly to 7.3 per cent. Of the latter, 3.4 per cent were resignations and 1.6 per cent retirements. For comparison purposes, data from the Chartered Institute of Professional Development (CIPD)⁶ for 2008 show turnover rates in the economy as a whole at 17.3 per cent and 13.5 per cent in the public sector. Similarly, the CBI/AXA⁷ 2008 survey suggests that the turnover rate for the whole economy was 15 per cent with the public sector at 13 per cent and the private at 16 per cent. Looking at early-years turnover for uniformed grades, we note that the highest leaving rates are in years one and two, thereafter tailing off. Overall 59 per cent of permanent OSGs have less than five years service. However, around a quarter of OSG joiners become officers within five years. Of the officers recruited since July 2002, 15 per cent left the service within three years with the figure for London, 26 per cent. CIPD does not provide a regional breakdown but the CBI/AXA survey indicates overall turnover was highest in the southern region⁸ at 22 per cent, with London at 17 per cent and the south east, 15 per cent.

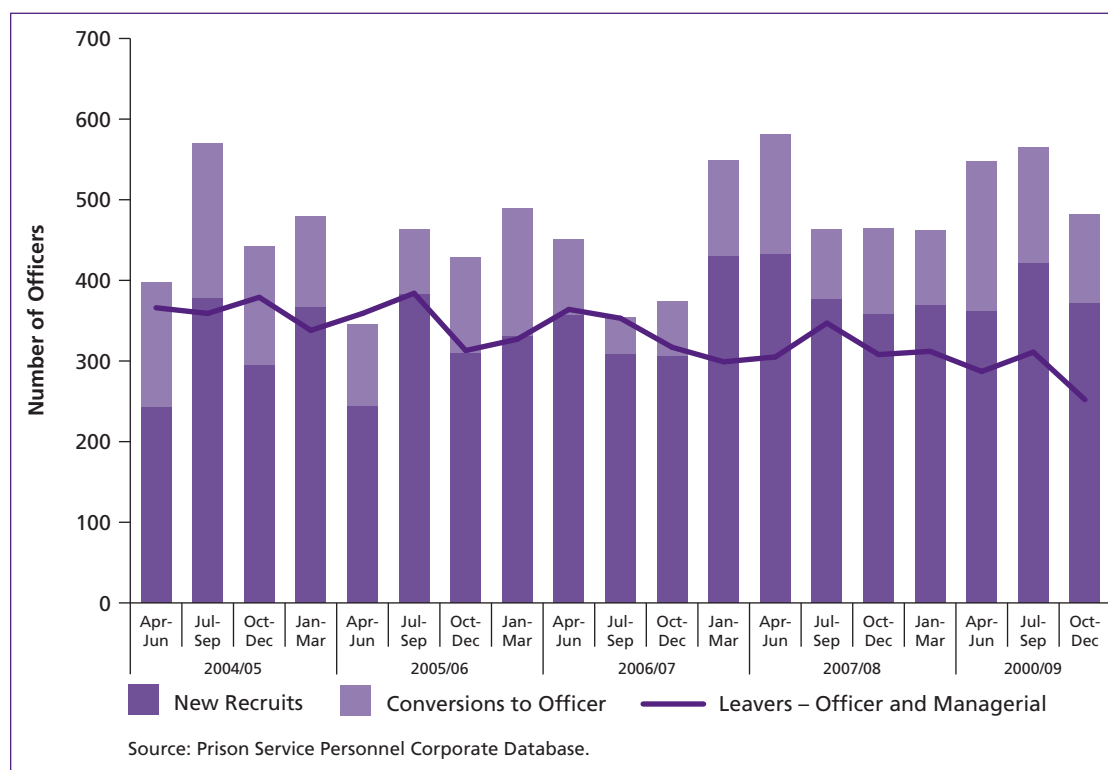
2.9 The Service anticipated the need to recruit 1,919 officers over the 2008-09 financial year, slightly lower than the numbers recruited in 2007-08. Data for the first three quarters of the financial year showed that the Service had been able to recruit 1,595 officers, on target to meet its anticipated requirement.

⁶ Employee Turnover and Retention: CIPD, April 2008.

⁷ CBI/AXA Absence and Labour Turnover Survey, 2008.

⁸ Respondents to the survey self-designate their region.

Figure 2.2: Recruits, conversions and leavers from the unified grades, April 2004 to December 2008



The recruitment process

2.10 In 2007, the Service piloted a new prison officer 'attraction strategy' in South Central area targeted at broadening the recruitment pool and improving the quality and quantity of applicants. We were told that the recruitment process had been streamlined to reduce both the number of days on which applicants had to attend and the time taken from application to entry to training. Following the pilot, in January 2008, the 'National Officer Campaign' was launched. Changes were made to the Prison Officer Selection Test (POST), which the Service argues were designed to ensure that it remained job-related and legally defensible and an advertising campaign was launched which sought to change perceptions of the officer role and attract a more diverse range of applicants. The Recruitment Assessment Day (RAD), which had formed part of the pilot, expanded on the Job Simulated Assessment Centre (JSAC) and incorporated the POST numerical re-test, POST language test, a reflective interview, JSAC and medical results. In all, 3,261 candidates passed the RAD and 1,203 job offers were made and allocated leaving a pool of prospective prison officers against future requirements. NOMS' evidence recorded that, since the campaign closed at the turn of the year, 8,000 people had registered interest for future campaigns.

Quality of recruits

2.11 There are conflicting views on the quality of recruits which we find difficult to reconcile. It would be helpful to us if, through discussion, the parties could establish a consensus as to how the quality of recruits can be measured. The POA argues that the number of people dropping out of the recruitment process (27,000 people completed the on-line POST but just over 3,000 candidates passed the RAD of whom, the POA said, around half had taken other employment) and changes to POST represented a lowering of the bar for entry to the officer grade. The PGA also expressed concerns in oral evidence about the quality of recruits, though added that every intake would comprise a range of ability and aptitude. When we raise the issue of quality during our visits, some Governors and longer serving staff tell us that quality has declined; others argue that new recruits are generally of good quality and bring different – but no less valuable – skills and attitudes to the role, the nature of which is also changing.

2.12 NOMS maintained that the standard of recruits and of training was being maintained. In support of its view, it pointed to the fact that the number of officers dismissed within their first year of service had steadily declined over the five years to end March 2007 from around 14 per cent to just over 8 per cent. In addition, since September 2007, all new officer entrants must achieve NVQ level 3 in custodial care to pass probation. NOMS argued that the Service would not be able to sustain its performance against key targets, despite all the pressures on it, if the quality of staff was declining. In its view, which is consistent with some of the views we hear on visits, it was necessary in all large organisations to refresh the skills mix over time to keep pace with change.

Morale and motivation

2.13 In its evidence, the Service pointed to indicators that it considered demonstrated that staff morale and motivation were holding up despite the pressures on the Service. These comprised high retention rates and the willingness of staff to volunteer for PP (both covered above); staff survey results; reduced sickness absence; and overall performance against targets. We note, however, that the staff survey pre-dated the conclusion of WFM negotiations.

Staff survey

2.14 Sixty-seven per cent of NOMS staff responded to the 2008 staff engagement survey including 55 per cent of officers and 49 per cent of OSGs. From the results, we note that over 60 per cent of officers and OSGs agreed that they were challenged and motivated in their work rising to almost 90 per cent for operational managers. Two-thirds of OSGs and officers agreed that their work gave them a sense of personal accomplishment, again rising to almost 90 per cent for operational managers. Around three-quarters of OSGs and officers considered that staff-prisoner relations were good in their establishment and that the establishment encouraged prisoners to treat each other with decency. The proportion of officers giving positive responses to questions relating to job satisfaction, pride in the Service and being treated with fairness and respect was higher than in 2007. Overall, however, officers were significantly more negative than other staff in almost every area. By contrast, operational managers tended to be more positive than other NOMS staff across all areas. However, responses to questions relating to pay were less positive, with a quarter of NOMS staff feeling that their pay and benefits adequately reflected their performance. There was a distinction between Officers and OSGs where around a fifth gave a positive response and operational managers where approaching a half gave a positive response.

Sickness absence

2.15 Sickness absence can be an indicator of morale and motivation. In 2007-08, on average, 11.7 working days were lost to sickness against a key performance indicator (KPI) target of 11 days. While the target had been missed, the outturn continued a downward trend across the remit group from an average of 12.7 days in 2004-05. The Service anticipated that the outturn for 2008-09 would be 11.5 days. Stress-related absence accounted for more than 12 per cent of all working days lost. On average, 1.32 days were lost to stress-related illness in 2007-08 compared to 1.27 days in 2004-05. The number of assaults and serious assaults on staff was lower in 2007-08 than in the previous year but these figures fluctuate year on year.

Service performance against KPIs

2.16 Despite the pressures on the Service, it met or exceeded 9 of the 12 delivery targets set for 2007-08. Those it missed, in addition to staff sickness, related to overcrowding, self inflicted deaths and the representation of minority ethnic staff. The Service told us that it was again on track to meet or exceed the majority of its targets in 2008-09.

Our visits

2.17 From the soundings we took in discussions with staff during our 2008 visits programme, we formed the view that morale varied across establishments. Positive influences included the category of the establishment and the extent to which staff felt that their interventions could change lives and staff/management relations. Negative factors included increasing workloads and paperwork, the rising numbers of prisoners with mental health or dependency problems, who staff felt required medical rather than custodial care, and the uncertainty that then surrounded the WFM agenda. The staging of the 2007 award remained a source of discontent. Nevertheless, the staff we met remained highly motivated, even in very challenging circumstances, particularly those who felt they were contributing directly to positive outcomes for prisoners.

2.18 We are aware of the need to be cautious this year in our interpretation of the indicators for morale and motivation because they pre-date the final breakdown of WFM negotiations. The POA argued that the overwhelming rejection of WFM in its membership ballot indicated that morale, already impacted by the increasing prisoner population, perceived staffing shortages and a lack of trust in the review body system, had been severely damaged by the Service's WFM proposals. The PGA similarly pointed to its ballot outcome, and to its own survey of members, as evidence that the morale of the operational management cadre, while not at 'rock bottom', had certainly dipped.

Economic context

2.19 As part of its submission, NOMS provided HM Treasury's assessment of the economic context for our deliberations. The evidence reflected the impact of the global economic downturn which has seen the UK economy contract since the second quarter of 2008. In the first quarter of 2009, GDP contracted by 1.9 per cent, the largest quarterly contraction since 1979. Most independent forecasters anticipate that UK GDP will continue to contract through 2009; the Budget forecast is that GDP will contract by 3.5 per cent in 2009, but begin to pick up in 2010 and 2011. The contraction of the economy had impacted on private sector employment primarily. On the International Labour Organisation measure, unemployment rose from just under 2.0 million, in December 2008 to 2.2 million, or 7.1 per cent, in March 2009.

Inflation, settlements and earnings

2.20 In our deliberations, we look at a range of economic indicators alongside all the other available evidence. On our normal timetable, we would have available indicators through to December, but for this Report we have been able to take account of indicators to end-March 2009. The impact of recession is clear from the indicators. CPI peaked at 5.2 per cent in September 2008 falling back to 3.1 per cent by December 2008; at March 2009 CPI was 2.9 per cent against the Government's target of 2.0 per cent. The retail prices index (RPI) stood at 5.0 per cent in September 2008 but declined to 0.9 per cent by December 2008. The decline continued in 2009 to the extent that RPI stood at -0.4 per cent at March 2009. The retail prices index excluding mortgage interest payments (RPIX) also peaked in September 2008 at 5.5 per cent, fell back to 2.8 per cent by December and to 2.2 per cent at March 2009. Median settlements in the 3 months to December 2008 remained at or above 3 per cent but began to fall back in the first quarter of 2009 to at or below 3 per cent. Forecasts suggested that settlements would fall further driven by negative inflation and company profitability. Whole economy earnings growth, including bonuses, in the 3 months to December 2008 was 3.0 per cent with the private sector at 2.8 per cent and the public sector at 4.0 per cent. By March 2009, the whole economy rate had fallen to -0.4 per cent, with the private sector at -1.2 and the public sector at +3.6 per cent. The Budget forecast is for CPI inflation to fall to 1.0 per cent by the end of 2009 and to remain below target during 2010, returning to target during 2011.

2.21 The evidence stressed that Government's public sector pay policy remained substantially unchanged; public sector pay settlements should not respond to historic inflationary spikes which would lead, in the Government's view, to a self-defeating spiral of rising wages and prices.

Affordability 2.22. The evidence explained the financial pressures on the MoJ, of which NOMS forms a substantial part. Under the 2007 Comprehensive Spending Review (CSR) MoJ is required to make savings of £1 billion per year (equivalent to 3 per cent per year) over the three-year CSR period. In the summer of 2008, in response to the tightening economic and fiscal position, the Department undertook a zero-based review to underpin a Performance and Efficiency Programme designed to ensure that MoJ achieved its business objectives while remaining within budget. In November 2008, the Chancellor's pre-budget Report announced that an additional £5 billion savings would be required across Government in 2010-11; the MoJ's contribution will be £70m, a proportion of which will come from NOMS. The Government had committed additional resource and capital funding for capacity expansion amounting to £1.2 billion over three years, but NOMS was required to achieve cumulative savings of over £320m by 2010-11.

2.23 The Service pointed out that the legacy of successful efficiency programmes including Phoenix⁹, the Transformation of the Prison Service Procurement and the rationalisation of national and regional HQ operations, coupled with the high proportion of its budget committed to fixed, non-discretionary costs, meant that there was limited scope for making savings that would not impact on services or staffing levels. In 2008, part of the required savings had been realised through the introduction of the core day and the benchmarking exercise; looking forward, in NOMS' view, there was no capacity to absorb additional pay costs beyond those proposed in evidence without impacting on delivery outcomes.

⁹ The Phoenix project moved transactional HR, Finance and Procurement work to a shared service centre, supported by field-based teams.

External pay comparisons 2.24 We have previously commissioned MCG Consulting to provide a comparative analysis each year of pay and benefits in the public Prison Service and the privately operated custodial sector. Prisons operated by private sector companies do not come within our remit, though the statutory bar on the right to strike extends to their staff. MCG's analyses have covered the pay package in the companies responsible for eleven privately managed prisons and young offenders' institutions and six immigration centres. For our 2007 Report, MCG provided an analysis of five-year trends in comparative remuneration from 2002.

2.25 As we noted in Chapter 1, the trend analysis indicated that broad relativities had remained unchanged; Prison Service staff continued to have a lead over their counterparts in private sector prisons up to SO level, although the differentials had narrowed over time. The basic pay lead for these uniformed grades was significantly enhanced when the value of benefits, principally pension and holiday entitlements, was included. The tipping point was at PO, where the balance of advantage rested with the public sector only when the value of benefits was taken into account. Above PO, even when benefits were taken into account, the private sector retained a lead and, in the case of governing governor, a substantial lead.

2.26 In 2007 and again in 2008, we asked our secretariat to contact the private sector providers directly for information on remuneration to enable us to assess whether the relative advantage/disadvantage between the two sectors had shifted. We received no indication that the relative position described by MCG in their 2006 Research had changed materially.

2.27 Both NOMS and the PGA covered relativities with private sector providers in evidence this year. Their conclusions were consistent with our own information. As we noted in Chapter 1, however, we need to be clear about the extent to which we are comparing like with like. We intend, therefore, to commission a thorough comparisons exercise for our 2010 report which will examine pay and conditions and pay determination mechanisms in the private sector. We have asked our secretariat to take the views of the parties on the data and research requirements that will enable us to meet that part of our terms of reference relating to comparisons between the two sectors. We will take those views into account when drawing up a research specification.

Considerations for this Report 2.28 Before we turn to the detail of our pay recommendations, there are a number of considerations for this round that require comment:

- First, in its evidence, NOMS outlined a new uniformed pay and grading structure which it intended to introduce for new entrants from 1 September 2009. In his activation letter, the Minister of State invited us, in addition to our standing terms of reference, to take account of NOMS' intentions which he linked to compliance with NOMS' statutory obligations under employment law. We note NOMS' plans, but do not consider that they form part of this review which relates solely to staff in our remit on their current structures. We expect to receive evidence on the new structure for 2010. Different considerations apply to the proposals for compressing *current* pay ranges covering operational and senior operational managers. We consider NOMS proposals for managers on their merits below.
- Second, the unions and staff associations argued that our deliberations on an annual award for 1 April 2009 should not be influenced by the delay to the pay round; in particular by the deterioration in the economy which is reflected in the main economic indicators. We cannot accept this proposition. It would be irresponsible for a pay review body to ignore the dramatic changes to the economy that occurred in the latter part of 2008 and the first quarter of 2009. We would normally look at trend information during our deliberations; we have therefore taken note of the main economic indicators for December 2008, as we would in a 'normal' round and cross checked these with the figures for March 2009. Figures for April and beyond will form part of the evidence base for our 2010 Report.

- Finally, the POA has consistently argued in evidence that annual increments are an entitlement and that access to increments should not be used as a 'substitute' for annual uprating. We fully accept the principle of entitlement to increments which are an integral part of the pay structure. However, whether there should be an annual award, at what level, and how it should apply to pay scales and ranges, are issues for us to consider each year on the basis of the evidence. The net pay bill cost of incremental progression is one of the factors that we take into account in our considerations.

Pay recommendations 2.29 Our primary responsibility under our standing terms of reference is to recommend appropriate levels of pay to enable the Service to recruit, retain and motivate staff of the quality it needs. In the following paragraphs we weigh the evidence and set out our conclusions and recommendations.

Basic pay *Pay proposals*

Uniformed grades

2.30 NOMS proposed 1.5 per cent annual uprating to the maxima only of pay scales for OSGs (and other support grades), officers, SOs and POs. In support of its proposals, NOMS pointed to a healthy and improving recruitment and retention position and the competitiveness of the overall reward package, particularly in the light of the economic downturn which enhanced the value of job security and access to a defined benefit pension scheme. In the absence of any recruitment and retention difficulties, NOMS considered that there was no case for an across the board uprating. However, its proposal to uprate pay maxima was necessary to recognise and reward the contribution of staff at the top of scales to managing the sustained pressures on the Service and delivering against its KPIs.

2.31 NOMS additionally informed us that, subject to the affordability of our pay recommendations, it intended to change the qualifying period for 30 days leave for uniformed grades from 18 to 10 years service to bring them into line with the rest of the workforce. Annual leave lies outside our remit and it is not for us to decide how to prioritise a change to leave entitlement as against other elements of the remuneration package. We note NOMS intention, therefore, but we do not consider that it should influence our evidence-based pay recommendations.

2.32 The POA proposed, as one element of a package of measures, a consolidated increase to basic pay for all uniformed grades of £2,000 or 7.5 per cent, whichever was greater. As last year, the Union based its proposals on the need to make good the financial loss caused by the staging of the 2007 pay award and successive below inflation pay awards; the need to improve the reward package to attract and retain sufficient staff of the right quality and reduce NOMS' reliance on PP and TOIL; and the need to demonstrate and restore confidence in, the independence of the review body process. It pointed to the 2.33 per cent award for MPs which is derived from a formula based on various public sector awards, including the Prison Service, in the previous year (in this case for 2008); the POA noted that the Prison Service award was one of the lowest taken into account. The Union rejected any suggestion that incremental progression should be offset against an annual award. It stressed that its priority was a fair award for its members that reflected the contribution they made to the Service.

2.33 As far as the officer and OSG scales were concerned, the POA believed that there should be further shortening to secure full compliance with legal obligations on age and sex discrimination.

2.34 PCS represents a range of non-operational grades working in NOMS with a direct or indirect interest in our recommendations. These include Phase 1 non-operational managers who are remunerated on the same pay system as operational managers in our remit; and certain clerical and administrative grades who were covered by an equal pay settlement reached with the then Prison Service Agency in 2006. As a result of the settlement, there is a read across to their pay from our recommendations for uniformed grades. PCS proposed a 6 per cent uprating to pay with cash underpin of £1,000 to help address low pay. Its proposals, which follow PCS national policy, were primarily designed to target low pay and make good the deficit in pay rises compared to inflation over the past three years.

Analysis and recommendations

2.35 We examined the parties' proposals in the light of our remit to recommend rates of pay that, as part of an overall remuneration package, enable the Service to recruit, retain and motivate staff, taking account of affordability. The evidence on recruitment suggests that the changes that have been made to improve the Service's recruitment processes have enabled it to attract recruits of the appropriate quality in most areas. There are areas of recruitment difficulty, primarily in London and the South East, but even here, the national campaign appears to have made progress. To some extent, the Service will enter new territory from 1 September and we will examine the data carefully to satisfy ourselves that the new pay and grading structure is priced at a level that maintains the Service's ability to recruit from the market.

2.36 The data demonstrate that the Service has exceptionally low turnover rates, both absolutely and relative to the wider economy. The proportion of officers leaving the Service continued to fall in 2007-08 to 4.9 per cent, while the leaving rate across the remit group as a whole increased slightly to 7.3 per cent. This compares with turnover rates in the economy as a whole of 17.3 per cent and, for the public sector, 13.5 per cent. Turnover rates are higher in the first two to three years – 15 per cent for officers and 23 per cent for OSGs – but it is not clear to us from the evidence whether the nature of the work, rather than pay is the determining factor.

2.37 Turning to morale and motivation, we note the various indicators quoted in evidence to support the Service's view that morale and motivation are holding up, despite the pressures on it. We observe, however, that many of these indicators pre-date the workforce ballots on WFM and, therefore, we treat them with caution. As we have yet to undertake our 2009 visits, which will enable us to test the mood in establishments, we cannot dismiss the POA's view, to some extent shared by the PGA, that morale has been damaged.

2.38 We were aware that the CSR07 settlements were significantly tighter than the preceding two spending rounds and, as a result, NOMS is required to make significant savings over the three-year CSR period. The financial pressures on the Service have intensified as a consequence of the Chancellors' Budget Report. The POA argued that staff should not bear the brunt of these savings in their pay but that it was the responsibility of the Secretary of State to seek additional funding to enable the Prison Service to meet its commitments. The indications are, however, that *all* Departmental and Agency budgets will remain under pressure as the Government seeks to increase value for money from public sector services.

2.39 The Government remains of the view that review body recommendations should be consistent with the achievement of the CPI target rate of 2 per cent. It is not our role to index our recommendations against inflation, but to make a judgment based on the evidence each year. The evidence on the economic context urged us to avoid an award that reflected temporary peaks in inflation in autumn 2008 which could lead to a wage/price spiral. We have examined the data for end 2008, when we would normally have been formulating our recommendations, and in the first quarter of this year. We note that the economy has been contracting since the mid-point of 2008; CPI was 3.1 per cent and RPI, 0.9 per cent; settlements remained around 3 per cent; by March 2009, inflation on all measures had fallen back with RPI, which traditionally influences pay bargaining in the wider economy, in negative figures by March 2009. Whole economy average earnings growth in the three months to December was 3.0 per cent. By March 2009, average earnings had fallen back to -0.4 per cent for the whole economy but were at +3.6 per cent for the public sector.

2.40 We do not consider that the evidence available to us supports the POA's proposal for an increase of 7.5 per cent. Indeed, overall staffing levels, healthy recruitment and exceptionally high retention rates suggest that the current remuneration package is sufficient to support recruitment and retention. Moreover, in the current economic climate the relative attractiveness of the package in terms of job security and access to pension is likely to increase in the short to medium term. There would be longer term risks to recruitment and retention if pay were to fall out of line with the market. It is difficult to assess at this stage the longer term impact of the recession on pay in the wider economy but the evidence does not support a readjustment against the market this year. As we said earlier in this report, we treat comparisons with the private custodial sector with caution given the narrower range of prisons operated and the higher staff turnover rates. Nevertheless, those comparisons do not suggest that the pay of POA members is behind the market to the extent implied by the POA's proposals.

2.41 We conclude from the evidence that the case for annual uprating rests on the need to signal to staff that their contribution is recognised and valued and the need to maintain morale and motivation. Given the economic context and the tight and increasing budgetary pressures on NOMS, we cannot ignore the fact that around half of officers and two thirds of OSGs will have seen their pay rise in real terms through incremental progression effective from 1 April each year. We believe that we should target those staff at the top of their scales who have seen a real terms decrease. As to the level of the award, we note that in the 12 months to March 2009, average public sector earnings grew by 3.6 per cent; by definition, this average will represent a range of earnings outcomes above and below 3.6 per cent. In the circumstances applying this year, we have decided that our recommendations should deliver average earnings growth across the remit group that matches the average for all public sector workers. Consistent with that objective, we recommend a 1.8 per cent consolidated increase to the maximum of the OSG and officer scales; to the SO salary; the PO maximum; and to the maximum of the pay scales for night patrol, storeman and assistant storeman and prison auxiliary grades.

Recommendation 1: We recommend, with effect from 1 April 2009, a 1.8 per cent consolidated increase to the maximum of the OSG and officer scales; to the SO salary; the PO maximum; and to the maximum of the pay scales for night patrol, storeman and assistant storeman and prison auxiliary grades.

The pay scales resulting from our recommendations are set out at Appendix C.

2.42 We turn now to the POA's proposal that we should recommend further shortening of the OSG and officer pay scales. We do not consider that this is the year to make such recommendations. First, there are significant costs associated with range shortening and, in our judgement, the priority for uniformed grades this year is the uplift to scale maxima. Second, NOMS intends to close the current OSG and officer scales to new entrants from 1 September and, over time, the lower incremental points will fall into disuse. We will review the issue of legislative compliance when we are clearer about the pay and grading structures that NOMS intends to introduce.

Probationers

2.43 In 2007 for officers and 2008 for OSGs, we recommended, at the request of the then Prison Service Agency, a common incremental date of 1 April. For probationers entering the Service after 1 April 2007 (1 April 2008 for OSGs), the first increment would be payable on 1 April following completion of probation. As a result, some joiners had to wait up to 23 months before they received their first increment, though the shorter scale meant that their progression thereafter to the maximum was significantly quicker and life time earnings enhanced. The POA has consistently argued that this change had been disastrous for individuals (though staff already on probation when the change was introduced retained their right to their first increment on the anniversary of appointment), and alleged that the Service had manipulated start dates to maximise delay in incremental progression.

2.44 An examination of quarterly recruitment data demonstrates that the POA's concerns about the manipulation of starting dates are unfounded. In 2008, to support recruitment, we recommended uprating to the minimum of the OSG and Officer scales, which will have ameliorated the financial impact of delayed progression for probationers. We note that, in their proposals for the new uniformed grading structure, NOMS proposes to retain the common incremental date, but the intention is that staff who join before 1 January will be eligible for the progression increment on 1 April. Under this arrangement, the maximum wait would be 15 months. We expect probationers on the current system to be treated no less favourably; in response to a request for clarification, NOMS indicated that it intended to extend the 15 month principle to them. Given the Service's intention to close the current structure to new entrants from 1 September, we presume that terms and conditions for new entrants, including those covering pay for probationers, will need to be finalised in advance of our 2010 Report. We would be happy to consider probationers' pay arrangements, and how they should read across to probationers already in the system, in advance of the 2009-10 round.

Operational managers

Pay proposals

2.45 For operational managers NOMS proposed, as for uniformed grades, a 1.5 per cent increase to the maxima of pay ranges. In addition, it set out a five-year programme to compress the span between pay range minima and maxima, which currently ranges between 34 and 54 per cent, and to smooth the very uneven incremental steps (ranging from 4.1 to 16.4 per cent). The objective was to reduce pay drift. NOMS argued that, in the absence of WFM and without the additional funding, this could not be achieved in one step; stage one for 2009 would cost £500k.

2.46 The PGA proposed a 3.2 per cent uprating to pay ranges. In support of its proposals the Association pointed to the extent to which pay awards for operational managers had failed to keep pace with inflation or with comparable public sector groups; pay differentials, particularly for governing governors, with private sector counterparts; and the essential contribution 'all hours worked' managers made to maintaining safe and secure prisons. In oral evidence the PGA stressed that its priority was to ensure that all members received a pay increase in excess of the value of their expected increment.

Analysis and recommendations

2.47 We would have preferred rationalisation of the managerial pay system to have been part of a WFM package. In the absence of such a package, we welcome NOMS' intention to adopt a strategic approach to pay for managers, an approach we have long advocated. We recognise that it may be difficult to see through the five-year strategy given the current economic climate, the affordability pressures on the Service and the fact that the strategy spans the end of the current CSR period. Nonetheless, we endorse both the principle and the detail of the Service's proposals for compressing ranges. We will wish to look at revalorisation of the structure each year on its merits on the basis of the evidence.

2.48 Turning to the annual award, we are influenced by three factors. First, the benefits that will flow from range compression for those below range maxima which should go some way towards restoring morale, which the PGA told us had dipped as a result of the outcome of WFM; second, the overall economic environment and the state of public finances; third, the data showing a surplus of operational managers, which suggests that there is no strong recruitment or retention argument for pay uprating. These factors, combined with the importance we attach to allocating money this year to range compression as part of a strategic approach to managers' pay, lead us to conclude that there is no case this year for an award in excess of the 1.5 per cent consolidated increase to range maxima proposed by NOMS. We recommend accordingly.

2.49 In its submission, NOMS told us that it intended to review the pay of the most senior managers A and B, though it did not set out a time frame. We consider that such a review is essential and long overdue. For our part, we intend to gather data on pay for comparable leadership groups in the wider public sector and the private custodial sector to inform our deliberations for our 2010 Report.

Recommendation 2: We recommend, with effect from 1 April 2009, a 1.5 per cent increase to the maximum of pay ranges A to G. We further recommend compression of pay ranges A to G.

The pay ranges resulting from our recommendations are shown at Appendix C.

Allowances and ex-gratia payments

Required hours addition (RHA)

2.50 RHA is a taxable and pensionable allowance payable to operational managers E, F and G where the role requires unpredictable and unsocial working hours. NOMS proposed separating out the RHA element of pay for all new managers D and showing it as an allowance as it is now for E,F and G (there are no longer governing governors in pay range D). This would distinguish the pay arrangements for operational managers D from their non-operational counterparts. We were assured that there would be no financial detriment to remit group staff associated with the change and we are content to endorse this proposal for new managers D. NOMS further proposed that the level of the allowance should be frozen on affordability grounds.

2.51 The PGA proposed that RHA be uprated by 3.2 per cent. It did not address the 'separation' issue in detail but focused in evidence on what it saw as the undesirable and risky blurring of boundaries between the duties of operational and non-operational staff.

Analysis and recommendation

2.52 In view of the additional investment in managers' pay represented by the compression of pay ranges, as part of the five-year strategy for managers' pay, and the tight affordability constraints applying this year, we do not consider that an increase to RHA is appropriate. We recommend accordingly.

Recommendation 3: We recommend no change to the level of RHA paid to operational managers from 1 April 2009. We endorse NOMS' proposal to separate out the RHA element of pay for all new managers D and to show it as an allowance.

Deputy Governor's allowance

2.53 The PGA proposed a Deputy Governor's Allowance equivalent to 3 per cent of basic salary to be paid for periods deputising. The allowance would replace substitution pay which was administratively complex. We learned that this proposal was originally made by NOMS in negotiations on WFM. In oral evidence, however, NOMS stated that it was disinclined to agree to the allowance outside a WFM package.

Analysis

2.54 In our view, the proposal for an allowance has merit. However, we are aware from the various problems relating to RHA that have been referred to us that the rules governing allowances and their operation require careful consideration to avoid disputes arising. We suggest that NOMS and the PGA give further consideration to such an allowance with a view to submitting joint evidence for, or in advance of, our 2010 Report.

Specialist allowances, other allowances, Payment Plus and Operation Tornado

2.55 NOMS proposed that all allowances and payments should be frozen on affordability grounds. By contrast the POA proposed, with two exceptions, that all allowances should be uprated by 7.5 per cent, in line with base pay. The exceptions were the care and maintenance of dogs allowance¹⁰, which the POA proposed should be increased by £1,500 to bring it into line with the Northern Ireland Prison Service; and Operation Tornado payments which should be increased to £21 per hour. The PGA and PCS did not comment on allowances.

2.56 We have made clear in successive reports that we do not consider the payment of a narrow range of specialist allowances to be consistent with the developing complexity of the role of officer grades under the offender management agenda. We had looked forward to their future being resolved as part of the WFM reform agenda. We expect NOMS to clarify in evidence for our 2010 Report how officers with specialist roles, including dog handlers, will be accommodated in the structure to be introduced for new entrants and the role it anticipates for Dirty protest, On-call and Standby allowances. In the interim, in the absence of evidence to demonstrate that current levels of all allowances are impacting adversely on operational capability, we recommend that their levels be frozen.

¹⁰ We established for our 2006 Report that this allowance reflects time spent by dog handlers in caring for the dog rather than additional expense incurred.

2.57 In June 2008, we received a joint letter from the National Chairman of the POA and the NOMS Chief Operations Officer, telling us that an agreement had been reached on a new scheme, Payment Plus (PP), which would replace CSH, Bedwatch and Constant watch payments, but not Operation Tornado. PP, at a rate of £17 per hour, would operate from 13 July 2008; payments would be non-consolidated and non-pensionable and paid in arrears for qualifying hours worked.

2.58 PP is available exclusively to staff Bedwatches and Constant watches; Category A escorts over and above profiled staffing levels; and new accommodation and temporary staff-in-post vacancies against the OSR where authorised by the Area Manager. It cannot be used to cover sick absence, annual leave or training. Staff may volunteer to work additional hours, though Bulletin 8 procedures apply where there are insufficient volunteers; equally, staff can opt out of Payment Plus on implementation or thereafter with 28 days notice.

2.59 We welcomed and endorsed this agreement between the parties. The POA in evidence for our 2008 Report had explained some of the advantages of the scheme then in negotiation. We were told that the system was fairer to staff because it opened up the opportunity to work additional hours to those whose personal circumstances allowed them to volunteer on an ad hoc basis but not to make a longer term commitment to work additional hours as was the case under CSH. It was fairer to the Service also in that it extended the potential pool of volunteers. Moreover the savings made by moving to a system of payment in arrears could be ploughed back into a higher hourly rate which better rewarded staff for their additional contribution to operational effectiveness.

2.60 In our 2007 Report, in response to evidence submitted by the POA, we recommended a rate of Operation Tornado payment above that applying to CSH and watches. We were persuaded that a number of factors distinguished Operation Tornado duties from other additional hours worked. Operation Tornado requires additional training and staff can be called upon at short notice to work in hostile environments outside their own establishment and be exposed to levels of risk beyond that associated with their normal duties. In 2008 we observed Operation Tornado training at the Prison Service College at Kidlington and were able to talk informally to staff undergoing the training. We were impressed by its rigour. The staff we spoke to agreed that Operation Tornado was materially different from their daily work; they were motivated to volunteer by the fact that colleagues across the Service depended on them in a crisis, as they depended on other Tornado-trained staff.

Analysis and recommendations

2.61 We note that PP was introduced at an hourly rate of £17, which represented a significant increase over the rate for CSH and watches. Both PP and Operation Tornado represent a premium hourly rate, even for those on the PO maximum. There is no evidence to suggest that the Service is unable to meet its requirements at the current rates. We therefore recommend that the rate of the payments remains unchanged for 1 April 2009.

Recommendation 4: We recommend no change to the rate for Payment Plus, Operation Tornado payments and specialist and other allowances, from 1 April 2009.

The rates of allowances are set out at Appendix E.

Other issues

2.62 The POA asked us to recommend an increase to the overtime rate for OSGs and other support grades from time and one fifth to double time and time and a half. We examined this proposal in the light of NOMS' plans for the OSG overtime rate in the new structure which, on first sight, appeared more generous at time plus one half. When we challenged NOMS on this in oral evidence, it was explained that, under the new structure, OSG pay would separately identify base pay and an operational element. Overtime would be calculated on base only giving a cash outcome in line with time plus one fifth under the current arrangements. Having satisfied ourselves on this point, and in the absence of objective evidence to indicate that current overtime rates impede the Service's operational capability, we make no recommendation.

Locality Pay 2.63 With the exception of the £250 band, NOMS proposed no change to Locality Pay (LP) rates or to the banding of individual establishments. It proposed that the £250 band should be removed from 1 October 2009 on the grounds that it had had no discernable impact on recruitment and as a first step towards rationalising the number of rates in payment. Recipients of the £250 payment would retain it on a mark time basis.

2.64 As for our last Report, the POA proposed a £500 increase to all existing rates of LP and the introduction of a £500 basic rate for all establishments across the estate not currently covered by the scheme. The POA argued that the payment was necessary to assist staff to live in higher cost areas away from prisoners' families and associates and so avoid the risk of coming under, or being perceived to be under, pressure to behave inappropriately. The allowance would also help to defray the consequential additional costs of travel to work.

2.65 PCS proposed a flat rate premium of £4,500 above national pay rates for all establishments within the M25 on the basis that a flat rate gave greatest benefit to the lowest paid. The PGA did not address LP in evidence.

Analysis and recommendation

2.66 In our view, the LP scheme is poorly designed and operated. The Service regards it as a recruitment and retention tool whereas staff almost exclusively view it as a cost of living allowance which should be extended to high cost areas regardless of the staffing position. Promised reviews of the scheme have been pushed aside by more pressing business, latterly WFM. In the absence of a full review, we are not persuaded by NOMS' proposal for removing the £250 band; it would represent marginal change to a fundamentally flawed system but for the staff concerned, the mark time arrangements would lead to the £250 being offset this year against any increase in pay. Nor do we accept the POA's argument that a scheme that is designed, even if imperfectly, to target recruitment and/or retention difficulties should be extended to all establishments despite their staffing position. In the absence of convincing evidence to the contrary, we recommend no change this year to the rates or coverage of LP.

Recommendation 5: We recommend no change to the rates of Locality Pay for 1 April 2009.

The rates are set out at Appendix D.

2.67 We last updated LP rates in 2006. Since 2006, we have recommended no change in anticipation of a promised replacement scheme that would be better targeted and more responsive to changing circumstances. The effect has been that the percentage increase in pay for staff has been lower in the harder to recruit and retain areas, primarily in London and parts of the south east, than in the remainder of the country. This cannot continue indefinitely. In its evidence NOMS undertook to look at LP again for our 2010 Report; we expect the Service to deliver on this undertaking. In the absence of any firm proposals for a replacement or improved scheme, we will consider, on the evidence, whether we should uprate LP to correct the imbalance between the areas where it is harder to recruit and retain and the remainder of the country.

Notional rents 2.68 Since our 2005 Report we have adhered to the principle of uprating notional rents in line with the movement in market rents as indicated by the rental component of RPI in the October before the award was due. We continue to consider that a link to accommodation costs is more appropriate than a link to the pay award. However, in view of the exceptional volatility in the housing market, including the rental sector, which is reflected in the indices, we concluded that we should recommend no change to notional rents for 1 April 2009. For our 2010 Report, we will review the trends in the indices over the two years from October 2007 to October 2009 to inform our recommendation for 1 April 2010.

Recommendation 6: We recommend no change to notional rents with effect from 1 April 2009.

The resulting rents are set out at Appendix E.

Pay bill cost of recommendations 2.69 Our recommendations will result in average earnings growth for those in post of 3.6 per cent and paybill growth of £40.5m.

Chapter 3: Forward look

3.1 Since this review body was established, it has been consistently critical of the Service's outdated pay arrangements. As early as our 2005 Report¹¹ we stated that:

'existing shortcomings of the pay system have reached a scale where it becomes increasingly difficult for us to make fair and appropriate pay level recommendations – we lack a modern pay system for all remit staff, relating to clear and consistent levels of responsibility, which we can use with the confidence we would wish.'

In 2005-06 and again in 2008, it appeared to us that the parties were close to agreeing a modernisation package but, in the event, the attempts foundered. In the interim, we have recommended changes to the length of pay scales and ranges that have sought to improve the Service's position in relation to age and sex discrimination legislation. In our view, this has benefited both the Service and staff; for example, an officer entering the Prison Service in 2006 would have waited 16 years to reach his or her pay maximum; now, the maximum wait is under seven years (depending on entry and date of completing probation).

3.2 Our recommendations for managers this year represent the first step in the Service's five-year programme to rationalise Phase 1 pay arrangements. The Service intends to introduce a new pay and grading structure for new entrants to uniformed grades from 1 September 2009. We do not underestimate the difficulties associated with such a change for staff, for the POA which represents them and for the Service. In the interests of all the parties, we hope that the details will be worked out in consultation. From 2010 our remit group may be split between two pay and grading structures but will remain one workforce contributing to the achievement of the Service's objectives. We will consider the evidence relating to our remit group, in whichever structure, on its merits so that we can make recommendations that meet our terms of reference.

3.3 Looking to the next round, in order to enable us to properly discharge our statutory duty we expect NOMS, having consulted the unions and staff associations, specifically to address the following issues so that we may consider them fully in our 2010 Report:

- A clear statement of how pay progression will operate for uniformed staff in the new structure, the rate for the job and where it sits in the pay scale or range and how we should take these factors into account in considering annual uprating;
- Transparent principles for the treatment of probationers which we can apply even-handedly to probationers who entered the Service prior to 1 September 2009 and have yet to receive their first increment. We would be willing to consider these principles in advance of the round;
- An agreed proposal for a Deputy Governor's Allowance to replace substitution pay. Again, we would be willing to consider the Allowance in advance of the round;
- The outcome of the review of pay for governors A and B; and
- Proposals for a properly-targeted scheme to replace LP together with a firm timetable for implementation and transitional arrangements.

¹¹ Fourth Report on England and Wales 2005, Cm 6478

3.4 We continue to hold the view that, at some stage, the parties will need to agree a way forward on the modernisation of the pay and grading structures in order to engage the workforce and enable NOMS to continue to achieve its financial and operational objectives. In our judgement, this will require the investment of some or all of the £50 million pump-priming funding that was available under WFM.

Jerry Cope (Chair)

John Davies

Henrietta Campbell

David Lebrecht

Richard Childs

Joe Magee

Bronwen Curtis

Peter Riach

Appendix A: Activation letter from the Minister of State on behalf of the Lord Chancellor and Secretary of State for Justice



**Ministry of
JUSTICE**

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16th March 2009

ACTIVATION OF THE PAY REVIEW BODY PROCESS

In my letter of 28th August 2008 I asked the Pay Review Body to delay commencing any action on the forthcoming pay round until Workforce Modernisation negotiations had concluded.

Following these negotiations, the POA and PGA put our three year pay and reform proposals to their members and these were rejected at ballot. It is therefore necessary to activate the pay review process. Accordingly, I write to request the Pay Review Body to make recommendations on pay for its remit group for 2009-10.

The need for reform remains pressing; as the Pay Review Body has already noted, NOMS needs to introduce modernised and affordable pay and grading structures which comply with all aspects of our statutory obligations under employment law. The Pay Review Body should ensure that it takes these factors fully into account in its deliberations and recommendations, alongside its standing terms of reference.

I recognise the need for the Pay Review Body to consider evidence fully and consult all relevant parties, but it would be extremely helpful if the process could commence immediately to enable the parties to begin preparing their evidence and for you to provide a report as soon as possible.

I would be grateful for an indication of the earliest time that you could report to enable planning for a pay award for remit group staff to be made.

I am copying this letter to the POA, PGA and PCS.

DAVID HANSON MP
MINISTER OF STATE



Appendix B: Prison Service establishments visited

The 2008 visit programme covered the following establishments and offices:

HMP Albany

HMP Birmingham

HMP Brixton

HMP&YOI Foston Hall

HMP Hindley

HMP Hollesley Bay

HMP Long Lartin

HMP Kennet

HMP&YOI Reading

HMP&YOI Warren Hill

HMP Wellingborough

HMP Whitemoor*

Newbold Revel Training Centre

Prison Service College in Kidlington

South Central Area Office

* A member of the review body spent a day shadowing staff members at HMP Whitemoor



Appendix C: Current and recommended pay levels

Current and recommended ranges for operational managers

Grade/pay range	<i>Current</i>	<i>Recommended</i>
	<i>pay range</i>	<i>pay range from</i> <i>1 April 2009</i>
	<i>£ per annum</i>	<i>£ per annum</i>
Senior manager A	80,858	82,071
	76,793	79,665
	73,422	74,210
	69,157	70,350
	66,122	67,480
	63,535	64,990
	60,442	62,515
Senior manager B	78,483	79,661
	73,422	74,210
	69,157	70,350
	66,122	67,480
	63,535	64,990
	60,442	62,515
	55,528	58,165
Senior manager C	70,679	71,740
	66,122	66,830
	63,535	64,350
	60,442	61,485
	55,528	57,170
	53,357	55,060
Senior manager D*	64,933	65,907
	60,442	61,184
	55,528	56,909
	53,357	54,839
	48,776	50,854
	44,589	47,189
Manager E	44,894	45,568
	39,559	40,495
	37,262	38,400
	32,730	34,525
	30,676	32,635
	29,184	31,210

Grade/pay range	<i>Current pay range</i>	<i>Recommended pay range from 1 April 2009</i>
	<i>£ per annum</i>	<i>£ per annum</i>
Manager F	38,082	38,654
	32,730	33,690
	30,676	31,825
	29,184	30,420
	27,627	28,970
	26,280	27,690
 Manager G	 31,351	 31,822
	29,184	29,525
	27,627	28,100
	26,280	26,850
	24,879	25,555
	23,434	24,235
 Required Hours Addition (E-G)	 5,474	 5,474

* Following publication of this report, for new entrants and promotees to Senior manager D the Required Hours Addition, currently £5,474, will be separately identified.

Current and recommended pay levels for prison officer grades and support grades

Grade	<i>Current</i>	<i>Recommended</i>
	<i>pay scale</i>	<i>pay scale from 1 April 2009</i>
	<i>£ per annum</i>	<i>£ per annum</i>
Principal officer	32,616	33,204
	31,762	31,762
Senior officer	30,165	30,708
Prison officer	28,136	28,643
	25,915	25,915
	23,872	23,872
	22,671	22,671
	21,561	21,561
	20,254	20,254
	18,135	18,135
Operational support grade	17,754	18,074
	17,188	17,188
	16,638	16,638
	16,106	16,106
	15,591	15,591
	15,092	15,092
Night patrol	14,394	14,654
	13,601	13,601
	13,384	13,384
	13,177	13,177
	12,992	12,992
	12,726	12,726
Storeman	15,271	15,546
	14,191	14,191
	13,698	13,698
Assistant storeman	14,152	14,407
	13,199	13,199
	12,796	12,796
Prison auxiliary	13,611	13,856
	12,849	12,849
	12,677	12,677
	12,470	12,470
	12,285	12,285
	12,008	12,008



Appendix D: Current and recommended rates of Locality Pay

<i>Rating structure</i>	<i>Allowance from 1 April 2008</i>	<i>Recommended allowance from 1 April 2009</i>
	£ per annum	£ per annum
Rate 1	4,250	4,250
Rate 2	4,000	4,000
Rate 3	3,100	3,100
Rate 4	2,600	2,600
Rate 5	1,100	1,100
Rate 6	250	250

Establishments/sites covered from 1 April 2009

Rate 1	Brixton, Holloway, Pentonville, Wandsworth, Wormwood Scrubs
Rate 2	Feltham, Huntercombe, Latchmere House, The Mount, Westminster Headquarters
Rate 3	Belmarsh, Bronzefield, Coldingley, Downview, High Down, Send, South Central Area Office (Woking)
Rate 4	Aylesbury, Bedford, Bullingdon, Bullwood Hall, Chelmsford, Grendon, Croydon Headquarters, Reading, Woodhill, South Central Area Office (Aylesbury)
Rate 5	Lewes and Winchester
Rate 6	Birmingham, Bristol, Littlehey, Long Lartin, Onley



Appendix E: Current and recommended allowances, payments and notional rent

<i>Allowances</i>	<i>Current level from 1 April 2008</i>	<i>Recommended level from 1 April 2009</i>
Care and maintenance of dogs	£1,526 per annum	£1,526 per annum
Specialist allowance		
Healthcare officers	£1,296 per annum	£1,296 per annum
Caterers, dog handlers, librarians, physical education instructors, trade instructors and works officers	£1,200 per annum	£1,200 per annum
<i>Payments</i>		
Operation Tornado payment	£18.40 per hour	£18.40 per hour
Payment Plus payment*	£17.00 per hour	£17.00 per hour
<i>Allowances</i>		
Dirty protest allowance		
four hours or less per day	£5.75 per day	£5.75 per day
over four hours per day	£11.50 per day	£11.50 per day
On-call (radio pager)		
weekdays	£5.67 per period of more than 12 hours	£5.67 per period of more than 12 hours
weekends and privilege holidays	£16.13 per 24 hour period or proportionately for periods of less than 24 hours	£16.13 per 24 hour period or proportionately for periods of less than 24 hours
public and bank holidays	£20.41 per 24 hour period or proportionately for periods of less than 24 hours	£20.41 per 24 hour period or proportionately for periods of less than 24 hours
On-call (home)		
weekdays	£7.09 per period of more than 12 hours	£7.09 per period of more than 12 hours
weekends and privilege holidays	£20.17 per 24 hour period or proportionately for periods of less than 24 hours	£20.17 per 24 hour period or proportionately for periods of less than 24 hours

<i>Allowances</i>	<i>Current level from 1 April 2008</i>	<i>Recommended level from 1 April 2009</i>
public and bank holidays	£25.47 per 24 hour period or proportionately for periods of less than 24 hours	£25.47 per 24 hour period or proportionately for periods of less than 24 hours
<i>Stand by (office)</i>		
weekdays	£13.43 per period of more than 12 hours	£13.43 per period of more than 12 hours
weekends and privilege holidays	£38.46 per 24 hour period or proportionately for periods of less than 24 hours	£38.46 per 24 hour period or proportionately for periods of less than 24 hours
public and bank holidays	£48.26 per 24 hour period or proportionately for periods of less than 24 hours	£48.26 per 24 hour period or proportionately for periods of less than 24 hours
<i>Rent</i>		
<i>Notional rent for quarters</i>		
former governor I	£3,759 per annum	£3,759 per annum
former governor II	£3,717 per annum	£3,717 per annum
former governor III	£3,572 per annum	£3,572 per annum
former governors IV/V	£2,486 per annum	£2,486 per annum
prison officers / support grades	£1,655 per annum	£1,655 per annum

*Payment Plus replaced contracted supplementary hours, Bedwatch and Constant watch payments with effect from July 2008



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