

# **Prison Service Pay Review Body**

**Report on Local Pay  
in  
England and Wales  
2012**

*Chair: Dr Peter Knight CBE*



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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  
December 2012**

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The current membership of the  
**Prison Service Pay Review Body**

is

Dr Peter Knight CBE (*Chair*)

Professor John Beath

Bronwen Curtis CBE

John Davies OBE

Ann Jarvis

Vilma Patterson MBE

Trevor Spires CBE

The secretariat is provided by the  
Office of Manpower Economics

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## Contents

	Page
<i>Glossary of terms and abbreviations</i>	<i>v</i>
<i>Summary</i>	<i>vi</i>
<b>Chapter 1: Introduction</b>	<b>1</b>
Our remit	1
Our remit group	1
This report	1
Background	1
Our evidence base	2
<b>Chapter 2: Fair and Sustainable</b>	<b>3</b>
<b>Chapter 3: Evidence</b>	<b>7</b>
Evidence gathering process	7
The economic and labour market background	7
Responses to the call for evidence	8
PSPRB stakeholders	11
<b>Chapter 4: Conclusions and recommendation</b>	<b>15</b>
Introduction	15
Recommendation	15
Conclusion	19
<b>Appendix A: Standing terms of reference</b>	<b>21</b>
<b>Appendix B: Chancellor of the Exchequer letter to PSPRB</b>	<b>22</b>
<b>Appendix C: Prisons Minister letter to PSPRB</b>	<b>24</b>

## Glossary of terms and abbreviations

CBI	Confederation of British Industry
IDS	Incomes Data Services
IFS	Institute for Fiscal Studies
IoD	Institute of Directors
LGA	Local Government Association
LPA	Locality Pay Allowance
MoJ	Ministry of Justice
NOMS	National Offender Management Service
ONS	Office for National Statistics
Operation Tornado	Trained teams to deal with serious incidents in prisons
OSG	Operational support grade
PCS	Public and Commercial Services Union
PGA	Prison Governors Association
POA	The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers
PSPRB	Prison Service Pay Review Body
TUC	Trades Union Congress

# Prison Service Pay Review Body

## Report on Local Pay in England and Wales 2012

### Summary

#### Introduction

This report, covering the prison service in England and Wales, is in response to the request to us from the Chancellor of the Exchequer and the Prisons Minister to consider how to make pay more market-facing in local areas for staff within our remit.

#### Fair and Sustainable

As part of the evidence for our main 2012 report the National Offender Management Service (NOMS) submitted a document entitled *Fair and Sustainable* which it described as a new working structure for the organisation, developed jointly with the trades unions during 2011. It described the new structure as striking a balance between maintaining the long-term quality, effectiveness and competitiveness of the Service and responsibilities to current staff.

Officer support grades (OSGs) and prison officers have been recruited to the new structure from April 2012. Existing officers and OSGs may choose to keep their existing terms and conditions or opt into the new terms and conditions from 1 April 2012 or from some other point in the future. Staff in other grades will be able to choose to opt into the new terms and conditions from 1 April 2013.

Before April 2012 staff at some establishments qualified for one of six rates of Locality Pay Allowance (LPA) ranging from £250 to £4,250 a year. LPA was paid to all staff at a particular location, irrespective of the extent of recruitment and retention difficulties for their particular grade. For many years we had said that the scheme was unsatisfactory and we had pressed the Service to develop a replacement, in consultation with the trades unions.

In *Fair and Sustainable* NOMS proposed replacing the existing LPA with a basic national pay range and enhanced ranges for those working in inner London and outer London establishments. For staff on the pay range maxima included in *Fair and Sustainable*, working 37 hours per week and without an unsocial hours payment, the inner and outer London scales are respectively £3,800 and £2,500 a year higher than the national scale.

#### Evidence

Our recommendation takes account, as usual, of written and oral evidence from NOMS, the POA<sup>1</sup>, the Prison Governors Association (PGA) and the Public and Commercial Services Union (PCS). We also received evidence from a number of external organisations responding to an open call for evidence from the Office of Manpower Economics (OME), and research commissioned by OME looking at how other large national organisations determine pay at local level.

The Government evidence highlighted studies by the Institute for Fiscal Studies (IFS) and the Office for National Statistics (ONS) showing a positive differential of around 8 per cent between average pay in the public and private sectors. However, responses to the open call for evidence highlighted some of the difficulties of producing estimates in this area.

<sup>1</sup> The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers

A report commissioned by the OME from Incomes Data Services (IDS) found that large national companies in the private sector have national pay structures, with a maximum of four or five pay zones and with only limited pay variation outside of London and the South East. Locally-determined pay is all but non-existent.

NOMS and each of the trades unions all asked that the changes in *Fair and Sustainable* be given time to 'bed in'. NOMS said the reformed system 're-baselined' pay, introduced market-facing rates and ensured national pay is set at levels that are no more than necessary to recruit and retain employees in many parts of the country.

NOMS told us it had looked at practice elsewhere and found that its approach to local pay was not out of line with the approach taken by other organisations. Its approach did not match exactly that of HM Courts Service, also, like NOMS, an agency of the Ministry of Justice, which had been cited by the Government as an example of the successful introduction of locality pay, but reflected differences in the geographical spread of the two organisations. However, the new system allows NOMS to introduce payments to address any future recruitment or retention difficulties in specific establishments or areas.

The trades unions were opposed in principle to greater geographical pay differentiation beyond that in *Fair and Sustainable* and argued that it would impede mobility between establishments, potentially contravene equal pay legislation and damage the economy of poorer regions.

## Conclusions and recommendation

NOMS and each of the trades unions proposed that the reforms set out in *Fair and Sustainable* be given an opportunity to bed in before they consider whether any additional local pay flexibilities are needed. We support this view and recommend that the *Fair and Sustainable* reforms be implemented in full before considering the introduction of additional flexibilities.

In reaching our conclusions we took account of the points raised in both the Chancellor of the Exchequer's letter and that from the Prisons Minister. These included issues covered by our standing terms of reference but also others specifically relating to the issue of local, market-facing pay.

The Government has expanded the scope of market testing of prisons, highlighting the importance of competition with private sector providers. The lower pay maximum for new prison officers contained in *Fair and Sustainable* should help NOMS to be more competitive in future.

The trades unions were concerned that local pay would lead to equal pay problems. We recognise that if it were proposed to devolve pay setting to local level, NOMS would need rigorous processes in place to ensure any pay differences were objectively justified. However, *Fair and Sustainable* sets pay nationally with only three geographical levels, justified by the needs of recruitment and retention. We see no objection on equal pay grounds to this arrangement.

We found no evidence that current pay levels in the Prison Service were adversely affecting the private sector. Nevertheless, in the longer-term *Fair and Sustainable* will bring pay for many Prison Service staff across England and Wales more closely in line with pay in prisons run by private sector organisations.



The national, outer and inner London pay ranges in *Fair and Sustainable* accord with practice among other large employers operating at many sites throughout the country. *Fair and Sustainable* allows further flexibility to deal with specific local problems, but we believe it should be fully implemented before any changes are made. Then any further local pay additions must be fully justified because such additions are invariably difficult to reverse. If we are required to make recommendations on local pay in the future we shall need detailed data broken down to local levels. NOMS has said it is also taking steps to collect local information on vacancies and recruiting campaigns which we look forward to receiving to enable us to consider fully any proposals for adjustments to staff pay and allowances in the future.

Overall we believe the new pay arrangements in *Fair and Sustainable* will prove sufficiently market-facing.

**Recommendation:** The reforms set out in *Fair and Sustainable* should be implemented in full before consideration of any additional local pay flexibilities.

## Chapter 1: Introduction

**Our remit** 1.1 The Prison Service Pay Review Body (PSPRB) is a statutory pay review body set up to examine and report on matters relating to the rates of pay and allowances to be applied to operational staff in the public sector prison services in England and Wales, and in Northern Ireland. The Regulations under which we were set up 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 Appendix A) which complement our statutory remit. They emphasise that we should provide independent advice based on the range of evidence available to us. This report covers the prison service in England and Wales only.

**Our remit group** 1.2 At the end of 2011 there were 32,400 staff in our remit, working in over 120<sup>2</sup> establishments across England and Wales and with pay bill costs in 2010-11 of £1¼ billion. Of those almost 24,000 were officer grades (prison officers, senior officers, principal officers), over 7,000 were operational support grades and there were over 1,000 operational managers and senior operational managers. In addition NOMS employed a further 13,800 staff not covered by our remit.

**This report** 1.3 Our work cycle usually begins with a remit letter received in the autumn asking us to report by the following February and make recommendations on pay and allowances to be implemented from April. This report, covering the prison service in England and Wales only, is in response to the Chancellor of the Exchequer and the Prisons Minister asking that we consider how to make pay more market-facing in local areas for staff within our remit. We have been asked to submit our initial findings by 17 July 2012 which will then feed into the evidence provided by the parties for the 2013-14 pay round.

1.4 In this report we describe (in Chapter 2) the agreement, known as *Fair and Sustainable*, reached in 2011 between the National Offender Management Service (NOMS) and the trades unions. *Fair and Sustainable* sets out a comprehensive new pay structure for the prison service, including new arrangements for locally-differentiated pay. In Chapter 3 we summarise the evidence we have received during this review and in Chapter 4 we set out our conclusions and recommendation on the issues the Government has asked us to address.

**Background** 1.5 In his November 2011 Autumn Statement the Chancellor of the Exchequer announced that the Government would ask the pay review bodies to consider how public sector pay could be made more responsive to local labour markets. The Chancellor then wrote to the Chair of the PSPRB (see Appendix B) on 7 December 2011 to say that there was evidence that the differential between public and private sector wages varied between local labour markets and that this had the potential to hurt private sector businesses competing with the public sector, lead to unfair variations in public sector service quality and reduce the number of jobs the public sector can support for any given level of expenditure. The Government therefore asked us to consider how pay could be made more market-facing in local areas for those within our remit. Specifically the Chancellor said we should take account of:

- The need to recruit, retain and motivate suitably able and qualified staff across England and Wales;
- The difference in total reward between remit staff and those of similar skills working in the private sector by location, and the impact of these differences;

<sup>2</sup> At the end of 2011 there were also 12 prison establishments managed in the private sector whose staff are not covered by our remit.

- How private sector employers determine wages for staff in different areas of the country;
- What the most appropriate areas or zones by which to differentiate pay levels should be;
- The affordability of any proposals, which should not lead to an increase in the paybill in the short or long-term;
- The need to ensure proposals are consistent with equal pay law;
- Whether and how any new approach could be delivered within national frameworks; and
- Whether proposals should apply to existing staff or just new entrants.

1.6 The Prisons Minister, Crispin Blunt, wrote to the Chair of the Review Body on 19 December 2011 (see Appendix C), formally asking us to consider the issues outlined in the Chancellor's letter, taking into account:

- The extent to which reforms in *Fair and Sustainable* already recognise local market factors;
- The need to recognise the different implications of market-facing pay for different staff groups, including implications for equal pay and the read-across to the non-remit group<sup>3</sup>;
- The impact that any changes to local pay arrangements may have on neighbouring establishments and the movement of staff across the country;
- What information PSPRB might need in the future to make recommendations on local labour markets.

1.7 Both the Chancellor and the Prisons Minister asked that we submit our initial findings by 17 July 2012.

### **Our evidence base**

1.8 Our recommendation is, as usual, based on written and oral evidence from the National Offender Management Service (NOMS), the POA, the Prison Governors Association (PGA) and the Public and Commercial Services Union (PCS). We also received evidence from a number of external organisations responding to an open call for evidence from the Office of Manpower Economics (OME) and research commissioned by OME looking at how other large national organisations determine pay at local level.

<sup>3</sup> Our remit covers operational managers, officer grades and operational support grades. Other groups working in prisons, such as administrative staff, are not part of our remit group.

## Chapter 2: Fair and Sustainable

2.1 As part of the evidence for our main 2012 report NOMS submitted a document entitled *Fair and Sustainable* which it described as a new working structure for the organisation, developed over 2011 with the trades unions. In our report we welcomed the collaboration that had taken place over the development of *Fair and Sustainable*. The document included:

- A new operating structure for all grades, based on 11 separate bands, underpinned by a Job Evaluation Scheme;
- New, clear and defined job descriptions for all roles;
- A core 37 hour working week, compared with 39 hours for most existing staff;
- A single core prison officer level;
- A new supervisory role, above prison officer;
- Fewer levels of management, with open pay ranges;
- A new way of paying for location pay, moving to three area-based pay ranges rather than through the Locality Pay Allowance.

2.2 NOMS said that the Government had increased both the use and pace of competition and now saw it as a means of harnessing innovation to deliver better outcomes for reducing reoffending and ensuring better value for money for the taxpayer, rather than as a tool for managing poor performance. It described the new structure as striking a balance between maintaining the long-term quality, effectiveness and competitiveness of the Service and responsibilities to current staff.

2.3 Officer support grades (OSGs) and prison officers have been recruited to the new structure from April 2012. Staff in both grades will be contracted to work a core 37 hour week and may qualify for an unsocial hours payment worth a further 17 per cent on basic pay. In addition new officers may contract for up to 41 hours per week. For those officers choosing to work 39 hours a week, as most longer serving officers are contracted to do, the pay scale maximum is £23,499. This compares with the pre April 2012 officer scale maximum of £28,930, a difference of nearly 19 per cent. Other changes include pay progression based on receiving at least an 'achieved' performance marking rather than time served and a change to the overtime rates for OSGs.

2.4 Existing officers and OSGs have been given the choice of keeping their existing terms and conditions or opting into the new terms and conditions from 1 April 2012 or from some other point in the future. Staff in other grades will be able to choose to opt into the new terms and conditions from 1 April 2013. NOMS expects that many existing staff will choose to stay on their current terms and conditions and that savings from this new structure will be achieved over the course of 15 years, the life of a standard contract award to run a prison.

*Location-based pay*

2.5 Prior to April 2012 staff in 31 public sector locations qualified for one of six rates of Locality Pay Allowance (LPA) ranging from £250 to £4,250 a year. Details of the establishments covered and the rates paid are in Table 1 below.

2.6 LPA is paid to over a quarter of those in our remit at a cost of over £23 million a year. For many years we had said that the allowance was unsatisfactory and pressed the Service to develop a replacement, in consultation with the trades unions. LPA is paid at the same cash rate to all staff at an establishment irrespective of whether there is any difficulty in recruiting or retaining particular groups. Once it has been awarded it is difficult if not impossible to remove. The criteria for including an establishment in the scheme and for setting the level of the allowance are also unclear.

**Table 1: Public sector establishments covered by LPA**

Rate	£ a year	Establishments/sites covered
Rate 1	4,250	Brixton, Holloway, Pentonville, Wandsworth, Wormwood Scrubs
Rate 2	4,000	Feltham, Huntercombe, The Mount, Westminster Headquarters
Rate 3	3,100	Belmarsh, Coldingley, Downview, High Down, Isis, Send, South East Area Office (Woking)
Rate 4	2,600	Aylesbury, Bedford, Bullingdon, Bullwood Hall, Chelmsford, Grendon, Croydon Headquarters, Reading, Woodhill
Rate 5	1,100	Lewes, Winchester
Rate 6	250	Bristol, Littlehey, Long Lartin, Onley

2.7 In *Fair and Sustainable* NOMS proposed replacing the LPA with a basic national pay range and enhanced ranges for those working in inner London and outer London establishments. The coverage of inner London corresponds with the Office for National Statistics (ONS) defined inner London boroughs and outer London is classed as the rest of the London boroughs and other areas bounded by the M25. There are six establishments covered by inner London and six covered by outer London. The other establishments currently covered by LPA are part of the national pay range (see Table 2). In our 2012 report we recommended the introduction of these pay ranges, which are more flexible than the LPA and make it possible to target specific groups with particular recruitment and retention difficulties, with effect from 1 April 2012.

**Table 2: Establishments covered by national, inner London and outer London pay ranges**

Area	Covering	LPA Establishments/sites covered
Inner London	Inner London boroughs	LPA Band 1 – Brixton, Holloway, Pentonville, Wandsworth, Wormwood Scrubs LPA Band 2 – Westminster HQ
Outer London	Outer London boroughs and other areas bounded by the M25	LPA Band 2 – Feltham LPA Band 3 – Belmarsh, Downview, High Down, Isis LPA Band 4 – Croydon HQ
National	All other establishments covered by LPA	LPA Band 2 – Huntercombe, The Mount LPA Band 3 – Coldingley, Send, South East Area Office (Woking) LPA Band 4 – Aylesbury, Bedford, Bullingdon, Bullwood Hall, Chelmsford, Grendon, Reading, Woodhill LPA Band 5 – Lewes, Winchester LPA Band 6 – Bristol, Littlehey, Long Lartin, Onley

2.8 Staff at each of the establishments receiving the top rate of LPA, £4,250 a year, are covered by the inner London pay ranges. For staff on the pay range maxima included in *Fair and Sustainable*, working 37 hours per week and without an unsocial hours payment, the difference between the national scale and the inner London scale is £3,800 a year. This applies to staff at all grades. NOMS proposed these rates after looking at the inner London payments made by a range of other public sector organisations which were between £2,900 and £4,300 a year.

2.9 Staff at the establishments placed on the outer London scale are receiving LPA worth between £2,600 and £4,000 a year. For staff on the pay range maxima included in *Fair and Sustainable* working 37 hours per week and without an unsocial hours payment, the difference between the national scale and the outer London scale is £2,500 a year. This applies to staff at all grades. Again NOMS had proposed these rates after looking at the outer London payments made by other public sector organisations which were between £1,700 and £2,500 per year.

2.10 New staff joining the Service from 1 April 2012 will not receive LPA but will be paid on the national, outer London or inner London scale appropriate to the establishment at which they work. Existing staff at OSG and officer grade can either retain their existing terms and conditions, including LPA, or move on to the new terms and conditions and stop receiving LPA. Existing staff at other grades will be given the option to move onto the new terms and conditions from April 2013.

2.11 In addition NOMS said the new system has been designed with flexibility built in, so that, for example, recruitment and/or retention payments and skills based market supplements could be paid if necessary to respond to local market conditions. It said it needed the flexibility to react quickly to situations as they developed. It remains unclear what form these payments or supplements may take, but NOMS's experience with the LPA shows that, once introduced, payments or allowances can be difficult to remove. However, it said it did not expect to have to use any recruitment or retention payments in the next 12 to 18 months, other than perhaps for groups of non-operational, specialist staff, who fall outside our remit.

## Chapter 3: Evidence

### Evidence gathering process

3.1 The Government first announced that it would ask pay review bodies to consider how to make public sector pay more market-facing in the Autumn Statement<sup>4</sup> on 29 November 2011. This applied to most pay review body remit groups, but excluded doctors and dentists, the armed forces and the judiciary. In December we received letters from the Chancellor of the Exchequer and the Prisons Minister (Appendices B and C respectively) which expanded on this remit, listing the issues the Government wished us to take into account (see paragraphs 1.5 and 1.6 above).

#### *Call for evidence and research*

3.2 In order to assist the four review bodies with remits to consider how to make pay more market-facing, the Office of Manpower Economics (OME) which provides the secretariat to all the pay review bodies put out a general call for evidence.<sup>5</sup> This was intended to alert bodies which do not normally engage with the review bodies but which might have evidence and views on whether public sector pay should be made more market-facing at local level. The OME drew the call for evidence to the attention of a number of organisations<sup>6</sup> and received responses from the Scottish and Welsh Governments and six other sources. Those responses are also available on the OME website and are summarised below, beginning at paragraph 3.10.<sup>7</sup>

3.3 The OME also commissioned external research including case studies to illustrate current approaches to market-facing pay in a selection of large companies operating at multiple locations in the United Kingdom. The report is summarised below, beginning at paragraph 3.25.

#### *Main stakeholders*

3.4 Our secretariat asked NOMS to provide written evidence which was shared with the POA, PGA and PCS who were also asked to provide written evidence. The secretariat also invited private sector operators of prisons to provide evidence but only one sent a substantive response.

### The economic and labour market background

#### *Public-private pay differentials*

3.5 In his Autumn Statement the Chancellor of the Exchequer referred to the Institute for Fiscal Studies (IFS) Green Budget 2011<sup>8</sup>, saying that the IFS had found that while public sector workers are paid similar wages to private sector workers in some parts of the country, there was a premium of more than 10 per cent in other locations.

3.6 In February 2012, the IFS published its 2012 Green Budget<sup>9</sup> which suggested a public sector positive differential of 8 per cent for the United Kingdom as a whole, after adjusting for differences between the two sectors in individual employee characteristics, such as age, education and qualifications.

<sup>4</sup> HM Treasury. Autumn Statement 2011. Cm 8231. TSO, 2011. Available at: [http://www.hm-treasury.gov.uk/as2011\\_documents.htm](http://www.hm-treasury.gov.uk/as2011_documents.htm)

<sup>5</sup> Available at <http://www.ome.uk.com/Article/Detail.aspx?ArticleUid=43ac3584-4142-4883-aa81-7485c1a29970>

<sup>6</sup> These included: Confederation of British Industry, Trades Union Congress, Engineering Employers' Federation, British Chambers of Commerce, British Retail Consortium, Federation of Small Businesses, Institute of Directors, Chartered Institute of Personnel and Development, and the Institute for Fiscal Studies.

<sup>7</sup> These responses can be found at: <http://www.ome.uk.com/Article/Detail.aspx?ArticleUid=43ac3584-4142-4883-aa81-7485c1a29970>

<sup>8</sup> The Institute for Fiscal Studies. The IFS Green Budget: February 2011. Available at: <http://www.ifs.org.uk/publications/5460>

<sup>9</sup> The Institute for Fiscal Studies. The IFS Green Budget: February 2012. Available at: <http://www.ifs.org.uk/publications/6003>

3.7 The IFS estimated that public sector pay differentials varied considerably across England and Wales, from 18 per cent in Wales and 13 per cent in Yorkshire and the Humber to less than 1 per cent in the South East of England. These differentials were higher for women than for men and in some cases – for example, in the North East of England – appreciably so.

3.8 The IFS also stated that, despite the public sector pay freeze, the public-private differential was likely to increase in 2011-12 but then, as a consequence of the Government's continuing pay policy for the public sector, to decrease from 2012-13, reaching pre-recession levels by 2014-15.

3.9 The Office for National Statistics (ONS) published an analysis in March 2012<sup>10</sup> and also found that in the UK public sector pay was on average 8 per cent higher than private sector pay for comparable jobs.

### Responses to the call for evidence

3.10 Of the responses to the general call for evidence, six were relevant to us. These were from the Trades Union Congress (TUC), the Institute of Directors (IoD), the Local Government Association (LGA), the Confederation of British Industry (CBI), the Welsh Government and HR consultants Mercer. The remaining responses to the call for evidence were a paper on the effect of labour markets on hospital performance (relevant for the NHS Pay Review Body) and a response relating to Scotland, which is outside our remit, from the Scottish Government.

#### *The Confederation of British Industry (CBI)*

3.11 The CBI said that in order to be fair and efficient the public sector should be responsive to local labour market conditions and that organisations should be able to pay differently in different areas according to need. It said local market-facing public sector pay was needed for long-term economic rebalancing and to provide value for the taxpayer, rather than to generate immediate cost savings. It also asserted that crowding out was taking place and that high wages in the public sector were impacting on hiring in the private sector.

3.12 The CBI supported pay bargaining devolved to a local level, rather than local pay controlled at a national level, as it believed the costs associated with local pay negotiations were more than offset by the benefits of allowing local managers to decide what was most efficient and effective.

3.13 It said that unemployment did not rise as much as expected during the downturn because private sector businesses and employees cooperated on issues such as pay restraint, reduced overtime and flexible working which helped to reduce costs and retain jobs. It argued that such flexibility required pay and conditions to be managed at local level.

#### *The Trades Union Congress (TUC)*

3.14 The TUC accepted that median pay in the public sector was higher than in the private sector but argued this was driven by a number of important differences between the sectors. It said that a greater proportion of public sector workers had higher levels of qualifications than those in the private sector and that lower paid roles such as cleaning and catering had been outsourced to the private sector. It also said that public sector workers were likely to be older, have more experience and were more likely to work in London than those in the private sector.

<sup>10</sup>Office for National Statistics. Estimating differences in public and private sector pay – 2012. 27 March 2012. Available from [http://www.ons.gov.uk/ons/dcp171776\\_261716.pdf](http://www.ons.gov.uk/ons/dcp171776_261716.pdf)



3.15 The TUC said it was unfair for a public sector worker in one area, performing the same duties and with the same skills and qualifications, to be paid less than a public sector colleague doing an equivalent job elsewhere in the country. It highlighted the economies of scale in national bargaining and said that when looking at large, multi-site private sector firms these tended to be dominated by national pay structures, with limited higher rates in London and the South East. This is consistent with the data which show outside London and the South East a difference of only £48 per week between average pay in the highest and lowest paying regions.

3.16 The TUC argued that pushing down public sector pay would take money out of the economy and would dampen economic growth. It said that such an approach would also increase regional disparities.

3.17 The TUC also rejected the Government's concerns about crowding out, commenting that, at a time of high unemployment, a healthy private sector would be able to recruit irrespective of public sector wages. It pointed out that the North East region has the lowest wages but the highest rate of unemployment, a fact hardly consistent with the crowding out argument.

#### *The Institute of Directors (IoD)*

3.18 In November 2011 the IoD conducted an online survey of its members which found that 27 per cent of respondents said they had found it difficult to recruit skilled staff at least once because of competition with public sector wages. Those based in Wales, Scotland, the South West, West Midlands, North East and Northern Ireland were most likely to have reported having difficulties recruiting. Overall the IoD said it was in favour of making public sector pay more market-facing and that this would be likely to lead to increased private sector employment.

#### *The Local Government Association (LGA)*

3.19 The LGA works with a system of predominantly national pay bargaining (pay spines and rates of increase set nationally) but where grading structures and the positioning of jobs within grades are determined locally. It said this allows for more local flexibility than exists in some other parts of the public sector. The LGA said the system of national pay bargaining offered economies of scale. The LGA noted that Incomes Data Services had found that national companies tended not to use local pay bargaining because of the cost of duplication of effort and the risk of loss of control.

#### *Mercer*

3.20 Mercer said there was a strong argument in favour of regional pay, and that pay decisions should be made locally enabling local public services to adapt jobs, pay systems and the underlying talent and human resources processes to local needs.

3.21 It believed that whether there is a national or a local pay market for a particular job depends on the number of positions and the size of the job (the skills and competence needed). The fewer the number of positions and the greater the size of the job, the more likely it is to have a national market.

### *Government of Wales*

3.22 The Welsh Government did not support the suggestion that there was an imbalance between private and public sector pay. It considered that the pay relativities between the two sectors were complex and reflected a range of factors such as qualifications, age and experience.

3.23 It argued there was compelling evidence that public-private pay differentials varied markedly across the economic cycle, and that the 'snapshot' provided in the Treasury evidence was misleading, as the gap was likely to close significantly as the economy recovered.

3.24 It also said that the pay gap, to the extent that there is one, is concentrated amongst lower paid workers and in particular lower paid women. Any action to reverse that gap would therefore impact disproportionately on lower paid and female workers.

### *OME commissioned research*

3.25 Incomes Data Services (IDS) interviewed nine private companies in the spring of 2012. It included the results in its report *Case Studies on Geographically-Differentiated Pay*<sup>11</sup>, along with an analysis of geographical pay differentiation.

3.26 The IDS analysis of geographical pay differentiation considers current and past private sector practice. Key points include:

- Large private sector companies tend to operate with national pay structures. They also tend to operate with a maximum of four to five pay zones.
- There is little regional variation in pay in the private sector outside of London and the South East.
- Large private sector companies control pay centrally as it provides simplicity, avoids the costs of duplication, allows for better paybill control, creates consistency and avoids poaching and leapfrogging.
- Industrial sector and industrial skills are more important than geography when determining pay levels in the private sector.

3.27 IDS produced nine case studies, covering a range of national organisations. These organisations had a limited number of geographical pay bands/zones. There was one exception, a professional services firm, which benchmarked pay for its posts against that for similar businesses, with the result that pay within the organisation varied from region to region. For the other eight organisations, the typical number of geographical pay bands was four, and the range was from two to five. The organisations made no attempts to recognise small differences between labour markets.

3.28 The report showed that the national organisations interviewed controlled pay from the centre and the majority used zonal pay. The companies also said they were cautious about implementing too much variation too frequently because they found locality pay difficult to reverse once implemented.

<sup>11</sup>IDS. Case studies on Geographically-Differentiated Pay: A research report for the OME. May 2012. Available at: [http://www.ome.uk.com/Cross\\_cutting\\_Research.aspx](http://www.ome.uk.com/Cross_cutting_Research.aspx)

3.29 The studies give an overall picture of a private sector where national companies have national pay structures with only limited pay variation outside of London and the South East. Locally-determined pay is all but non-existent.

#### *Economic evidence from the Government*

3.30 The Government's economic evidence examined in detail the public-private pay differentials reported by the ONS and in the IFS Green Budget. Using a similar methodology to the IFS, the Government estimated public sector pay premia for *sub*-regional areas. These varied widely within regions. For example, in the West Midlands (Metropolitan County) the premium was about 6½ per cent while in the rest of the West Midlands the premium was about 14 per cent.

3.31 The Government presented evidence on national pay structures. It referred to earlier case study work by IDS, noting that employers with multiple sites across the UK tend to retain national bargaining structures to avoid duplication of effort and to reduce payroll management costs. The Government's economic evidence also described the local pay model for HM Courts Service staff as an example where locality pay had been successfully introduced into the public sector. For grades up to Higher Executive Officer the Courts Service staff pay structure originally had five regional pay ranges: inner London, outer London and South East hotspots (typically to the south west of London), other hotspots (e.g. Manchester, Edinburgh, Brighton), national plus (e.g. Norwich, Exeter, Newcastle), and national. However, it now has four ranges as the national plus and national ranges were merged. For Senior Executive Officer to Grade 6 the Courts Service has three geographical rates.

#### **PSPRB** NOMS stakeholders

3.32 In April 2012 NOMS started implementing *Fair and Sustainable*, a new pay system which it said 're-baselines' pay, introduces market-facing rates and ensures national pay is set at levels that are no more than necessary to recruit and retain employees in many parts of the country. It said that it wanted to embed the new system before applying any additional flexibilities.

3.33 PSPRB had asked NOMS for many years to reform the Locality Pay Allowance (LPA) which was paid to all groups of staff at a qualifying establishment, irrespective of whether recruitment and retention difficulties affected all groups. In its evidence for the last round (see our 2012 report<sup>12</sup>) NOMS had submitted proposals which it had drawn up after discussions with the trades unions for the introduction of inner and outer London pay ranges in addition to a national pay range from April 2012. These have replaced LPA for new employees.

3.34 NOMS intended the new pay arrangements to address the relatively tight labour markets in London and parts of the South East but in a way that applied consistently to locations within those areas. NOMS said its new scheme was more closely aligned with the regional pay model of the Ministry of Justice (MoJ) Courts Service, outlined above. NOMS recognised that its system was not the same as that used by the Courts Service but argued that prisons differed from the Courts Service. For example, most of the Courts Service sites were in large towns and cities while many prisons were in more remote locations.

3.35 For NOMS a key aim of the overall *Fair and Sustainable* reforms was to set pay at a level that enhanced their ability to compete in market testing against potential private contractors, especially for the prison officer grade.<sup>13</sup> At national level, officer starting salaries are little

<sup>12</sup>Prison Service Pay Review Body, *Eleventh Report on England and Wales 2012*, Cm 8300

<sup>13</sup>More than half of all staff in the PSPRB remit are prison officers

changed from those under the previous system but the new scale maximum is 19 per cent below the previous scale maximum. NOMS believes the changes will bring the overall package in line with that offered by the private sector and avoid distorting a market where the public service provider is the market leader.

3.36 NOMS believed that the previous base pay rate for prison officers was too high and above regional average earnings in some parts of the country. In most regions the previous prison officer scale maximum of £28,930 was between the 60<sup>th</sup> and 70<sup>th</sup> percentiles of the earnings distribution while the new maximum is just above the median of the earnings distribution in most regions.

3.37 In recent years NOMS has recruited at a much lower level than previously and the last significant national recruiting campaign was conducted in 2008. At that time NOMS found that the most popular establishments for applicants were those in cities and larger population centres, especially London, Manchester and Liverpool. Establishments away from population centres and in areas with low rates of local unemployment found it more difficult to attract applicants, as did juvenile, female and young offender institutions.

3.38 NOMS evidence looked at outflow rates for prison officers over the last five years. These showed some geographical differences with the lowest outflow rates in Wales, the North East and Yorkshire & Humberside and the highest in London, the South, South East and East Midlands.

3.39 As part of its evidence NOMS also looked at the approaches taken by other large employers to local pay. It found that most large, multi-site, private sector organisations have national pay structures with additions paid in London and the South East. It identified three specific approaches: national pay scales with additions in London and the surrounding area, similar to the NOMS LPA arrangements; the use of zonal pay systems, with areas covered by between three and five concentric circles covering the whole of the country, of which the pay ranges in *Fair and Sustainable* are a variation; and regional pay ranges, reflecting genuine labour market differences. NOMS believed that the approach taken in *Fair and Sustainable* was not out of line with that taken by other organisations.

### POA

3.40 In its written evidence the POA said it had worked with NOMS and the Treasury to secure changes to working practices through *Fair and Sustainable*, reforming structures and pay, and underpinning long-term stability in a competitive market place. It said that the Locality Pay scheme had been reviewed as part of the development of *Fair and Sustainable*. Replacing it with inner and outer London pay ranges coupled with the ability for NOMS to address isolated recruitment and retention issues through additional specific payments removed the need for local pay to be introduced in the Service.

3.41 The new structures in *Fair and Sustainable* are to be underpinned by a job evaluation scheme, which the POA said should reduce the risk of equal pay claims, if applied appropriately. However, it argued that any geographical differentials in pay, especially if responsibility for pay was devolved to local level, might increase the risk of legal challenge.

3.42 The POA said that at the moment staff were mobile, moving to deal with situations such as the opening of new accommodation, a change in the role of an establishment, a prison closure, Operation Tornado and suspension from duty. It argued that if local pay were introduced the mobility clause in contracts would need to be removed but this could cause

operational difficulties for the Service as it would find it harder to post staff to where they were most needed.

3.43 It described the idea of an 8 per cent pay premium in the public sector as a myth, drawing on the TUC evidence which questioned the validity of this estimate (see paragraph 3.14), in support.

3.44 The POA also commented on practice in the private sector. It said that all private sector employers paid additional allowances to staff working in London and that it felt the formula agreed with NOMS, with national, inner London and outer London pay ranges, was fair, sustainable and competitive.

#### PGA

3.45 In its evidence the PGA said it was content with the three-tier structure of inner London, outer London and national pay ranges introduced as part of *Fair and Sustainable* and that this should be given time to bed in before any further changes to the system were considered.

3.46 The PGA believed that the concept of local pay was unsuited to its members. It said that its members were recruited and promoted through a national process. It stressed the importance of mobility for managerial grades, for reasons including career development, the needs of the Service, promotion, discipline and as an emergency response to industrial action. In 2011-12 over 100 operational managers had moved, many outside their immediate area. It believed mobility, through detached duty, was an important factor in managing the estate on a day to day basis and that local pay would mean the mobility clause was unenforceable. It also felt that locally differentiated pay would make moving less attractive to operational managers.

3.47 The PGA argued that in any one location operational managers were so few in number and filled such specialised roles that their pay had no impact on local labour markets. It also said that the packages available for managers in the privately managed prisons were better than in the public sector. It pointed out that the private sector recruited its managers from public sector prisons rather than the other way round.

#### PCS

3.48 The PCS was also opposed to the introduction of local pay. It said that it wholeheartedly endorsed the evidence submitted to the OME by the TUC. It had no difficulty with the three-tier structure of inner London, outer London and national pay ranges introduced as part of *Fair and Sustainable* and said that these should be given time to bed in.

3.49 It argued that it was unfair and unreasonable to pay those in poorer areas less than those in other areas for doing the same job. It argued that there were growing differences in income between regions and that public sector pay supported economic activity which helped to reduce those differences rather than exacerbate them. This lengthy period of public sector pay restraint, coupled with an increase in pension contributions and relatively high inflation, could result in a decline in living standards of up to 20 per cent over a five year period.

3.50 PCS looked at the practice of other national organisations and said that many of them operate national pay structures with London and South East additions rather than operating regional or local systems.

### *Private sector operators of prisons*

3.51 Our secretariat contacted the three private sector operators of prisons in England and Wales to draw the OME's call for evidence to their attention and invite them to provide evidence, but only one provided a substantive, albeit brief, response. The organisation in question said that, in the main, pay rates at private sector prisons were not affected by the rates of nearby public sector prisons. In the case of management and some specialist roles, e.g. treatment workers, the organisation had needed to pay a skills shortage allowance in addition to the normal pay rate to enable it to recruit staff, usually from the Prison Service, with the correct skills, knowledge and experience. This was rare, however, and therefore the organisation did not believe that it competed for workers.

3.52 The organisation also said it had benefitted from the voluntary early departure scheme in the Prison Service which had enabled it to employ some experienced former Prison Service employees.

## Chapter 4: Conclusions and recommendation

- Introduction** 4.1 When the Chancellor wrote to the pay review bodies in December 2011 asking us to consider how to make pay more market-facing in local areas for staff in our remit groups, he asked us to take account of the following:
- The need to recruit, retain and motivate suitably able and qualified staff across England and Wales;
  - The difference in total reward between remit staff and those of similar skills working in the private sector by location, and the impact of these differences;
  - How private sector employers determine wages for staff in different areas of the country;
  - What the most appropriate areas or zones by which to differentiate pay levels should be;
  - The affordability of any proposals, which should not lead to an increase in the paybill in the short or long-term;
  - The need to ensure proposals are consistent with equal pay law;
  - Whether and how any new approach could be delivered within national frameworks; and
  - Whether proposals should apply to existing staff or just new entrants.
- 4.2 This was followed shortly after by a letter from the Prisons Minister asking us additionally to consider:
- The extent to which reforms in *Fair and Sustainable* already recognise local market factors;
  - The need to recognise the different implications of market-facing pay for different staff groups, including implications for equal pay and the read across to the non-remit group;
  - The impact that any changes to local pay arrangements may have on neighbouring establishments and the movement of staff across the country;
  - What information PSPRB might need in the future to make recommendations on local labour markets.
- Recommendation** 4.3 In Chapter 2 we summarised the new pay system, known as *Fair and Sustainable*, intended to put pay in the public sector Prison Service in England and Wales on a sustainable basis for the long-term in a competitive environment. These reforms include the introduction of national, outer London and inner London pay ranges for new staff, replacing the current Locality Pay Allowance (LPA). NOMS has agreed with the trades unions that LPA will remain for those existing staff who choose to keep their current terms and conditions. NOMS and each of the trades unions have proposed that the reforms as set out in *Fair and Sustainable* be given an opportunity to bed in before consideration of any additional local pay flexibilities. We are sympathetic to this view and recommend that the *Fair and Sustainable* reforms be

implemented in full before deciding whether any further flexibilities are needed. We set out below our reasons and responses to the specific points the Government asked us to address.

**Recommendation:** The reforms set out in *Fair and Sustainable* should be implemented in full before consideration of any additional local pay flexibilities.

*The need to recruit, retain and motivate suitably able and qualified staff across England and Wales*

4.4 Both the Chancellor of the Exchequer's letter and our standing terms of reference refer to the need to recruit, retain and motivate suitably able and qualified staff. Starting pay for officers and OSGs in *Fair and Sustainable* is broadly in line with pre-*Fair and Sustainable* levels and we therefore have little reason, at this time, to expect NOMS to struggle to recruit the staff they need.

4.5 Outflow rates have also been relatively low over the past two years. The external labour market is currently weak and NOMS needs to reduce staffing by up to 10,000 posts over the period of the Spending Review, so it is unlikely in the short-term that NOMS will experience widespread difficulty retaining staff. There was some concern from the trades unions that the new scale maximum for prison officers was too low in comparison with the previous scale maximum. However, retention is unlikely to be affected in the short-term as it is likely to take some years for a significant number of officers to reach the top of the new scale.

4.6 Some establishments which were covered by the Locality Pay Allowance (LPA) do not qualify for additional location-based pay in either the inner or outer London zones. There are also others in the outer London zone where the value of the payment is less than that available under LPA. As NOMS is unlikely to be recruiting large numbers in the short-term and those currently in receipt of LPA can opt to retain it, it may be some time before it becomes clear whether there are problems at individual establishments. However, NOMS did say it had recently undertaken a recruitment exercise for HMP Bullingdon, in the second highest band for LPA, but outside both the inner and outer London zones, and the exercise had been successful.

4.7 NOMS said it was taking additional steps to monitor recruitment and retention difficulties, especially at those establishments where LPA is being removed. The steps include collecting monthly information on the number of vacancies and when those vacancies need filling; monitoring regional prison officer recruiting campaigns and investigating why campaigns fail to attract sufficient recruits. This is something we welcome and we look forward to NOMS sharing this information with us and the other parties in future rounds.

*Difference in total reward between remit staff and those of similar skills working in the private sector*

4.8 The private sector providers of prison services are direct competitors to NOMS. In 2011 the public sector won a competition to run HMP Buckley Hall but lost one to run HMP Birmingham. There are currently 14 prisons in England and Wales managed by private sector organisations with a further six competitions this year. NOMS believed that previous base pay rates for officers were uncompetitive against private sector comparators. However, as noted in Chapter 3, no private sector operators of prisons provided any evidence of difficulty in recruitment or retention because of higher pay levels in public sector prisons.



4.9 The new prison officer pay range introduced in April 2012 reduces the pay for prison officers at the top of that range by 19 per cent compared with that for established officers. This will improve the relative competitiveness of the public sector in all areas of England and Wales, including the areas covered by the inner and outer London ranges. We await the results of the latest set of market tests to see whether, following the reforms, the public sector bids have been able to compete successfully against those from the private sector.

4.10 NOMS addressed the issue of total reward and the comparison with the private sector in its written evidence, providing figures which showed that the lead over the private sector would be substantially reduced following the implementation of *Fair and Sustainable*. NOMS gave the example of the closed Prison Officer grade, which had a lead in the value of total reward over an equivalent private sector comparator of between 34 and 48 per cent. The lead for the replacement grade of Core Officer National Band 3 under *Fair and Sustainable* was between 8 per cent and 19 per cent. Following the pay adjustments in *Fair and Sustainable*, the remaining difference between the public and private sector total reward is very largely caused by the substantially higher public sector employer pension contribution. However, the increase in public sector employee pension contributions being phased in over three years from April 2012 will reduce total reward.

4.11 We were grateful for the evidence provided by NOMS on total reward although we are not sure whether this takes account of all differences between the public and private sectors. The information does not appear to cover sickness pay, for example. Our standing terms of reference require us to take into account "the competitiveness of the Prison Service... with the private sector, and any differences in terms and conditions of employment... taking account of the broad employment package including relative job security". We therefore hope to obtain more comprehensive evidence on comparative total reward for future rounds.

*How private sector employers determine wages for staff in different areas of the country*

4.12 It is clear from the IDS research described in Chapter 3 that most large private sector employers set pay nationally with a limited number of geographical variations – at most five zones and often fewer. Moreover, most large employers do not bargain locally, despite the CBI's assertion that this is the best model.

*What the most appropriate areas or zones by which to differentiate pay levels should be*

4.13 NOMS was confident that the pay zones in *Fair and Sustainable* were the correct ones. NOMS had looked at practice elsewhere and said the zones it had used were consistent with those used by other organisations. Given that NOMS and the Courts Service are both agencies of the Ministry of Justice (MoJ), we asked why NOMS did not adopt a similar scheme to that of the Courts Service. It argued that the two organisations often operated in different locations. Many of the Courts Service staff were based in urban areas while many NOMS establishments, especially those built more recently, are in more rural areas. The Courts Service paid more in some urban 'hot spots' while NOMS found that recruitment was easiest in establishments in larger urban areas. NOMS said it did not need a facility to pay more in 'hot spots' at the moment but the new system did allow for the introduction of payments to address any future recruitment or retention difficulties or skills shortages.

*The affordability of any proposals, which should not lead to an increase in the paybill in the short or long-term*

4.14 We are not recommending any changes which will add to the paybill. *Fair and Sustainable* is expected to reduce the paybill in the medium to long-term.

### *The need to ensure proposals are consistent with equal pay law*

4.15 The trades unions were concerned that introducing local pay could bring equal pay issues. However, as differences in pay justified by objective factors, such as recruitment and retention difficulties in particular locations, would be consistent with the law on equal pay, we do not consider this to be a problem. It is important to draw a distinction between local pay set centrally and devolving responsibility for pay to a local level. Although there are Prison Service staff at over 120 locations in England and Wales, they are all employees of a single organisation, NOMS. This is unlike the situation in some other parts of the public sector, such as the different Government departments which may have staff working together at a particular location but paid differently because they have different employers. If NOMS continues to set pay centrally, it can ensure that any differences in pay are justified objectively. If responsibility for pay were to be devolved to local level, NOMS would need to have rigorous processes in place to ensure that any pay differences resulting from local bargaining were objectively justified and could not lead to equal pay claims.

### *Whether and how any new approach could be delivered within national frameworks*

4.16 The new system set out in *Fair and Sustainable* has already been developed in a national framework.

### *Whether proposals should apply to existing staff or just new entrants*

4.17 One outcome of the discussions between NOMS and the trades unions on *Fair and Sustainable* was that staff already in the Service were given the choice to retain their existing terms and conditions or to move across to the new system. NOMS is aware that any savings will come in the medium and longer-term as staff on the old terms and conditions are replaced by new staff recruited under *Fair and Sustainable*. NOMS and the trades unions have worked closely on the development of *Fair and Sustainable* and all are clear that it should apply only to new staff and those who choose to transfer across. It would be legally very difficult and would cause the most severe industrial relations problems to try to impose the new, reduced terms and conditions on existing staff.

### *The extent to which reforms in 'Fair and Sustainable' already recognise local market factors*

4.18 The *Fair and Sustainable* reforms do recognise local market factors. The new system replaces the Locality Pay Allowance (LPA) with inner and outer London zones in addition to a basic national zone. Under the new arrangements fewer establishments will benefit from higher rates – only those within the inner London boroughs and the area bounded by the M25.

### *The need to recognise the different implications of market-facing pay for different staff groups, including implications for equal pay and the read-across to the non-remit group*

4.19 We recognise that our recommendations sometimes read across to staff not covered by our remit. We have said we regard this position as not wholly logical but there did not appear to be any support for a change to our terms of reference to deal with the problem. We do not make any recommendations in this review which would need to be read across to staff outside our remit group.

4.20 The trades unions stressed in their evidence that currently staff were mobile and that the effectiveness of the Service depended on staff continuing to be mobile, for short and long periods. They argued that if local pay were introduced, the requirement for staff to be

mobile would need to be revised and that the Service would suffer as a consequence. The PGA said, and NOMS accepted, that its members were particularly mobile. It said that operational managers needed to move frequently if they were to gain the experience required for them to progress. More than 100 of their members had moved in 2011-12, often to a different area.

4.21 It is clear from our visits that some staff choose to move between establishments during their career while others spend many years at one establishment. It is also clear that there is a need for staff to be transferred for short periods at times when new establishments are opening, for example. Prior to the development of *Fair and Sustainable* staff moved between establishments and areas despite the availability of LPA meaning the value of the package varied by establishment.

*The impact that any changes to local pay arrangements may have on neighbouring establishments and the movement of staff across the country*

4.22 We have taken care to explore with all the parties the issue of mobility of Prison Service staff and the potential effect of introducing local pay on mobility. NOMS told us that although staff at Prison Officer grade and above have a mobility clause in their contracts, in practice mobility is enforced for non-managerial grades only where establishments close or change function – and the alternative is redundancy. Recruitment is now carried out for specific establishments. Movement by officers between establishments (other than those close together) is almost entirely at the request of the officers themselves rather than management.

4.23 For management grades, mobility is part of career development and progression. These are national jobs and the introduction of more locally differentiated pay for governor grades could seriously inhibit the necessary mobility.

*What information PSPRB might need in the future to make recommendations on local labour markets*

4.24 Some of the data that NOMS shares with us and the other parties is already based on individual establishments or areas and it is important that disaggregated data continue to be made available. NOMS has said it is already taking steps to collect local information on the number of vacancies and when they need filling, monitoring regional prison officer recruiting campaigns and evaluating their success or failure. We look forward to receiving that information in the future. It is also important that when NOMS is looking to use recruitment/retention allowances or market supplements it makes available a set of robust data showing why the use of such allowances or supplements is required.

## Conclusion

4.25 This review was prompted by the Government's concerns that public sector pay, being set nationally with, it was claimed, little local variation, was not sufficiently market-facing. Consequently it could be failing to achieve value for money, as well as "crowding out" private sector employers. We have found no evidence that the Prison Service in England and Wales is "crowding out" private sector employers. Whilst it is true that pay scale maxima in public sector prisons for some grades were significantly higher than in private sector prisons, the operators of the latter did not report any problems. Indeed, the one private sector operator that provided a substantive response to our request for evidence said that on the whole it was not in competition with the public sector for prison staff. The new, lower maximum for prison officers in *Fair and Sustainable* will over time bring public sector Prison Service pay levels for this grade more in line with those in the private sector.

4.26 We also note that the labour market for the most senior managers in prisons is national rather than local. They accept the need to move throughout England and Wales for both

operational and career development reasons. The private sector reportedly gives better remuneration packages to its most senior managers, whom it recruits largely from the public sector.

4.27 One of the arguments put to us by the trades unions was that it would be economically damaging to the poorer regions of the country to cut public sector pay there. We understand the argument but believe it is a matter of broader public policy for the Government to consider. We have taken no view on it because it is outside our terms of reference which are focused on ensuring that the Prison Service can recruit, retain and motivate suitably able and qualified staff.

4.28 We conclude that the arrangements for geographically-differentiated pay in *Fair and Sustainable* are in line with those of the majority of large public and private sector employers. Given the particular nature and locations of Prison Service establishments, three pay zones are likely to be sufficient. It is too early to judge whether the higher rates for inner and outer London will be sufficient for recruitment and retention purposes but those rates are in line with other large employers and NOMS told us that the first recruitment exercise held under the new rates had been successful.

4.29 *Fair and Sustainable* contains the possibility of flexibilities, in the form of recruitment and retention premia, to deal with specific local problems. We believe that no use should be made of such premia until *Fair and Sustainable* has been fully implemented and then only when there is clear and compelling evidence of the need to depart from the normal pay ranges. The IDS research and NOMS's own experience both show that local pay additions, once granted, are very difficult to remove even when no longer justified.

4.30 Overall, on the basis of all the evidence we have seen, we believe *Fair and Sustainable* provides a pay system for the Prison Service which is sufficiently market-facing at local level and we look forward to receiving evidence of how it operates over the next few years. We hope NOMS, the trades unions and Prison Service staff will continue the spirit of cooperation which enabled *Fair and Sustainable* to be developed and approved in a ballot of POA members.

Peter Knight (Chair)

John Beath

Bronwen Curtis

John Davies

Ann Jarvis

Vilma Patterson

Trevor Spires

## ***Appendix A: 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 and support grades 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 Minister of Justice, Northern Ireland.

**Appendix B: Chancellor of the Exchequer letter to PSPRB**



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

7 December 2011

Dr Peter Knight  
Chair  
Pay Review Body – Prisons  
Office of Manpower Economics  
6th Floor  
Victoria House  
Southampton Row  
London  
WC1B 4AD

A handwritten signature in cursive script, appearing to read 'Sir Dr Knight'.

Following my recent announcements at the Autumn Statement, I am writing to set out the Government's view on the critical role of the Prison Officers Pay Review Body in the years ahead.

The Government continues to value the independent and expert view that the Review Bodies provide – and the particular role played by the PSPRB as part of the compensatory mechanisms relating to the statutory restrictions on industrial action by prison staff. I also appreciate that you are currently engaged in taking evidence in relation to pay awards for 2012-13.

You will be aware that, at the Autumn Statement, I announced that the public sector pay freeze will end after 2012-13 – but that in order to support fiscal consolidation, for each of the following two years the Government will seek public sector pay awards that average at 1 per cent. The Secretary of State will write to you in advance of the 2013-14 pay round, in line with normal process.

However, when it comes to setting pay policy after the freeze, the Government is concerned not only with the appropriate annual uplift, but also ensuring that overall public sector pay systems are the most appropriate for the modern labour market.

In particular, as Review Bodies have noted in the past, there is substantial evidence that the differential between public and private sector wages varies considerably between local labour markets. This has the potential to hurt private sector businesses that need to compete with higher public sector wages; lead to unfair variations in public sector service quality; and reduce the number of jobs that the public sector can support for any given level of expenditure.

The Government believes that there is clear case for seeking to correct these problems, ensuring that public sector pay does not distort local markets. Therefore – following my

announcement in the Autumn Statement, I am now writing to ask that you consider how to make pay more market-facing in local areas for staff within your remit group.

In taking forward this analysis, you should take into account:

- the need to recruit, retain and motivate suitably able and qualified staff across the UK;
- the difference in total reward between staff in your remit group and those of similar skills working in the private sector, by location – and the impact of these differences on local labour markets;
- how private sector employers determine wages for staff in different areas of the country;
- what the most appropriate areas or zones, by which to differentiate pay levels should be;
- the affordability of any proposals in light of the fiscal position – these should not lead to any increase in paybill in the short or long-term;
- the need to ensure that proposals are consistent with law on equal pay;
- whether and how the new approach could be delivered within national frameworks; and
- whether proposals should apply to existing staff, or just to new entrants.

I recognise that you have already received evidence in relation to pay reforms for 2012-13; however, as part of this second process you will want to consider how these reforms can be built on in subsequent years. The Secretary of State will follow this letter with further details in relation to staff in your remit group.

I would be grateful if you could submit initial findings by 17 July 2012. It will then be possible to feed these findings into the evidence provided by Government and other parties, to the 2013-14 pay round.

I am copying this letter to the Chief Secretary to the Treasury, the Secretary of State for Justice and the Minister for the Cabinet Office.

A handwritten signature in blue ink, appearing to read "George Osborne".

GEORGE OSBORNE

**Appendix C: Prisons Minister letter to PSPRB**



**Ministry of  
JUSTICE**

**Crispin Blunt MP**  
Parliamentary Under-Secretary of  
State for Justice  
102 Petty France  
London SW1H 9AJ

T 020 3334 3555  
F 020 3334 3669  
E [general.queries@justice.gsi.gov.uk](mailto:general.queries@justice.gsi.gov.uk)  
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Dr. Peter Knight CBE  
Chair  
Prison Service Pay Review Body  
Office of Manpower Economics  
6th Floor, Victoria House  
Southampton Row  
London  
WC1B 4AD

19 December 2011

Dear Peter,

**LOCAL PAY**

Following the Chancellor's Autumn Statement announcement on 29 November, he wrote on 7 December to set out the Government's view on the important role of the Prison Service Pay Review Body (PSPRB), for the years following the pay freeze.

In particular, he outlined the Government's wishes to ensure the development of reward strategies which are more appropriate to the modern labour market. In this respect, Pay Review Bodies are being asked to consider how to make pay more market facing in local areas for staff within their remit group. The Chancellor's letter outlined the more detailed issues we would wish the PSPRB to consider.

The Government evidence recently submitted for the PSPRB's consideration for 2012/13 contains proposals for a complete overhaul of the NOMS pay and grading structure, underpinned by job evaluation. The proposed change to three area-based pay ranges covers all NOMS staff and was baselined and informed by an analysis of existing market rates both in private prisons and in the broader economy.

Although this does not affect your consideration of the current pay round, the purpose of this letter is to formally commission the PSPRB to consider the issues outlined in the Chancellor's letter, and to make recommendations which could be implemented from 2013/14 onwards. In considering this, you may want to take into account:



- the extent to which the 'Fair and sustainable' reform proposals already recognise local market factors, and how or whether they may be built upon, including any implications for equal pay;
- the need to recognise the different implications of market-facing pay for the different staff groups within the remit group at a local level, including any implications for equal pay and the read-across to non-remit group staff within NOMS, given the integrated nature of our future-facing reward arrangements.
- the impact that any changes to local pay arrangements may create in pay between neighbouring establishments and the impact this could have on movement of staff across the country, particularly at senior levels;
- what additional information might be needed in the future to enable the PSPRB to make recommendations on local labour markets.

I would be grateful if the initial findings of your examination could be forwarded to the Prime Minister, Chancellor of the Exchequer and to the Lord Chancellor and Secretary of State for Justice by 17 July 2012.

I am copying this letter to Michael Spurr and to representatives of the POA, PGA and PCS.

Finally, I want to reaffirm the value that I and the Government place on the independent and expert view of the PSPRB in regard to the pay of Prison Service remit group staff.

Your sincere  
Crispin

**CRISPIN BLUNT**



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