

## **National Negotiating Council for the Probation Service**

**To: The Chair of the Probation Trust  
The Chief Executive of the Probation Trust  
(Copy enclosed for the Head of Human Resources)  
The Secretary of the Probation Trust  
The Treasurer of the Probation Trust  
Members of the NNC**

23<sup>rd</sup> April 2010

### **NNC CIRCULAR NO. 2/2010**

Dear Madam/ Sir

#### **Impact of the 2008/9 Pay Award – Pension entitlement for retirees**

As you will know, the above pay agreement included the provision that moved the pay progression date for employees from 1 April to 1 October 2008. In recognition of this, an agreed lump sum was paid to employees, proportionate to the amount of service that they had completed during this period.

Thus an employee who was in post for the period 1st April 2008 until 30<sup>th</sup> September 2008, would have received a lump sum payment for the full six months, whereas an employee who left or retired would have received an amount proportionate to their completed service within that period. It was also agreed that the lump sum payment would not be consolidated or pensionable.

Since this agreement was implemented there have been a number of discussions between the Probation Association and the Trade Unions concerning this matter. For its part, the Probation Association, on behalf of the Probation Employers, has recognised that some employees, who retired in the extended period 1 April 2008 – 30<sup>th</sup> September 2008, may have received slightly less pension than they expected. In recognition of this potential difficulty, the Probation Association originally asked Probation Employers to exercise their permitted discretion within LGPS rules to enhance the pensionable pay of former staff who were claiming a detriment to their pension entitlement.

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Further discussions with the trade unions have nevertheless highlighted the fact that some Probation Employers may have either not been aware of this, despite regular reminders, or have chosen not to take remedial action on the grounds of cost.

The NNC has agreed that this does not appear to be a tenable position for Probation Employers to adopt, as the 2008-2009 pay award was not actually agreed and implemented until after 30 September 2008. Therefore, employees who retired in the period 1 April 2008 to 30 September 2008 may not have been aware of the planned change to the progression date to 1 October 2008 from 1 April 2008 and the potential effect that this may have had on their pension.

The NNC has also recognised that there may potentially be other former Probation employees , (eg. those retiring after 30 September 2008) where the change in progression date, may also have impacted on their pension entitlement, but it was acknowledged that these staff would, in general, have been in a position to take this into account in their decision making.

### **Remedial Action**

As each Probation Employer will belong to a different LGPS provider there will be a need for the Probation Employer to liaise with their LGPS provider to establish how their discretion can be exercised.

Therefore, the Joint Secretaries have agreed the following:-

1. In order to offer an opportunity to all former employees who may feel that they may have a claim for retrospective calculation of their pension entitlement, Probation Employers should write to all former employees who retired in the period 1 April 2008 until 30 September 2008.
2. The letter will invite the former employee to request that the Probation Employer reviews their situation to establish whether the circumstances described above have made a difference to the former employee's pension entitlement. (Appendix A).
3. Where such a review indicates that no change will result to the former employee's pension entitlement the former employee should be advised accordingly together with an explanation of their right to appeal (Appendix B).
4. Where it is believed that the use of the Probation Employer's discretion, as permitted by the LGPS provider, will benefit the former employee, the Probation Employer is requested to pay any retrospective entitlements to that individual with an explanation of the entitlement, together with any additional costs arising to the LGPS provider.

It would be appreciated if you could indicate by return by 31<sup>st</sup> November 2010 whether this matter has been closed or alternatively how many 'live cases' may be outstanding at that time.

Yours faithfully

**Christine Lawrie**  
**Jonathan Ledger**

**Joint Secretaries**

**APPENDIX A**

*Model letter to former Probation Employees*

Dear

IMPACT OF THE 2008/9 PAY AWARD – PENSION ENTITLEMENT FOR RETIREES.

Further discussions have taken place between the Probation Association and the Trade Unions on the possible implications of the above pay settlement for retirees who left the service within the period 1 April 2008 – 30<sup>th</sup> September 2008 and who may have received slightly less pension than they expected.

The National Negotiating Council has therefore asked all Employers to contact all former employees who retired over this period, and to invite you to indicate if you require a recalculation of your pension entitlement by your LGPS provider.

The pro-forma below should be completed and returned to me at the earliest opportunity so that the necessary procedures can be authorised. It would be helpful if you would reply evn in the event that you do not require such a recalculation to be made.

I look forward to hearing from you at the earliest opportunity.

Yours sincerely

To:

IMPACT OF THE 2008/9 PAY AWARD - PENSION ENTITLEMENT FOR RETIREES

Name.....

Address:

Telephone contact details:

e- Mail address:

Last date of service and office location:

I require a calculation of my LGPS Pension entitlements.

I do not require a recalculation of my Pension entitlements.

Please keep a record of this request

## APPENDIX B

*Model letter explaining retrospective entitlement or no entitlement delete as appropriate*

Dear

IMPACT OF THE 2008/9 PAY AWARD – PENSION ENTITLEMENT FOR RETIREES.

I write further to my letter dated        April 2010 and your request for a recalculation of LGPS entitlement as a result of the implementation of the above pay settlement.

The .....LGPS provider has now issued the attached statement which indicates that you are due a retrospective payment of:

Or:

The .....LGPS provider has now issued the attached statement which indicates that you do not have any retrospective entitlement.

If you are dissatisfied with this decision you should indicate the reasons why within 14 working days of the date of this letter and contact your local Trade Union Representative, whereupon I will review the decision and reply within 28 working days.

Yours sincerely