



Prison Service
Pay Review Body

Prison Service Pay Review Body

Twentieth Report on
England and Wales 2021

Executive Summary

Chair: Tim Flesher CB

Prison Service Pay Review Body

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.

The members of the Review Body are:

Tim Flesher CB (*Chair*)
Mary Carter
Luke Corkill
Judith Gillespie CBE
Leslie Manasseh MBE
Paul West QPM DL

The secretariat is provided by the Office of Manpower Economics.

The International Labour Organization 336th Report of the Committee on Freedom of Association

The POAⁱ took a complaint to the International Labour Organization (ILO) in August 2004, alleging that legislation deprived Prison Officers of the right to take industrial action and that they did not enjoy adequate compensation guarantees to protect their interests in the absence of the right to strike. In its 336th Report of the Committee on Freedom of Association (March 2005) the ILO noted that the POA saw the Prison Service Pay Review Body (PSPRB) as an inadequate compensatory mechanism because it had no powers to make binding recommendations, only to report and recommend, and there was no duty on the Minister to implement the award promptly or at all.

The Government stated that the establishment of the PSPRB in England and Wales, and Northern Ireland was inextricably linked to the introduction of voluntary agreements in that the Prison Service gave up the right to set pay increases in exchange for the POA's agreement not to organise industrial action. The Government stated that recommendations of the PSPRB are not binding in law, but in practice they would only be departed from in exceptional circumstances and are complied with in practice.

The Committee recommended that the Government continued to ensure that the awards of the PSPRB are binding on the parties and may be departed from only in exceptional circumstances.

ⁱ The professional trades union for prison, correctional and secure psychiatric workers.

Her Majesty's Prison and Probation Service in England and Wales and our remit group

Her Majesty's Prison and Probation Service (HMPPS) is responsible for adult and young offender management services for England and Wales within the framework set by the Government. It is an Executive Agency of the Ministry of Justice. The agency currently manages Her Majesty's Prison Service and the Probation Service. In addition, it oversees privately run prisons and services such as the prisoner escort service and electronic tagging. Its role is to commission and provide offender management services in the community and in custody, ensuring best value for money from public resources. It works to protect the public and reduce reoffending by delivering the punishments and orders of the courts and supporting rehabilitation by helping offenders to reform their lives.

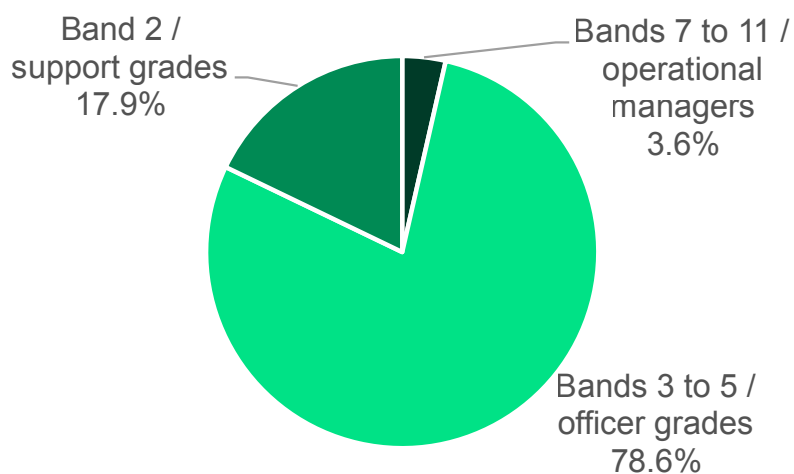
On 30 April 2021, the prisoner population across both the public and private sector estates was 77,859 (3.7% lower than a year earlier)ⁱⁱ.

HMPPS's paybill costs relating to the remit group were approximately £1.2 billion in 2019-20 (including employer National Insurance and other pension costs).

At the end of December 2020 there were 27,443 full-time equivalent staff (FTE) in our remit, down from 27,762 a year earlier (a decrease of 1.1%). The composition is below.

ⁱⁱ Her Majesty's Prison and Probation Service, (2021). *Prison population figures: 2021*. (online) Available at: <https://www.gov.uk/government/statistics/prison-population-figures-2021> [accessed on 19 July 2021].

Our remit group (FTE staff) in England and Wales, at 31 December 2020ⁱⁱⁱ



Grade	FTE staff
Bands 7 to 11 / operational managers	979
Bands 3 to 5 / officer grades	21,564
Band 2 / support grades	4,900

ⁱⁱⁱ Office of Manpower Economics analysis of HMPPS workforce data. Her Majesty's Prison and Probation Service, (2020). *Her Majesty's Prison and Probation Service workforce quarterly: December 2019*. (online) Available at: <https://www.gov.uk/government/statistics/her-majestys-prison-and-probation-service-workforce-quarterly-december-2019> [accessed on 19 July 2021].

Prison Service Pay Review Body 2021 report on England and Wales

Summary

Our recommendations for 2021 are:

Recommendation 1: We recommend that Her Majesty's Prison and Probation Service provide to us its comprehensive pay strategy, including short-, medium- and long-term objectives, for the next pay round to address the structural issues in the pay system. This should incorporate Recommendation 3 from our 2020 report, modified as necessary by the developing evidence.

Recommendation 2: All those identified by Her Majesty's Prison and Probation Service as being eligible should receive the Government's £250 pay uplift, or an award to remain compliant with the National Living Wage from 1 April 2021.

Recommendation 3: We recommend that all staff (except those subject to formal poor performance procedures) on *Fair and Sustainable* Bands 3 to 5 who are in post on 31 March 2021 progress by one pay point, effective from 1 April 2021.

Recommendation 4: We recommend that all staff (except those subject to formal poor performance procedures) on *Fair and Sustainable* Bands 7 to 11 who are in post on 31 March 2021 receive a consolidated and pensionable progression increase of 4%, capped at the 2021 band maximum.

Recommendation 5: We recommend that all the allowances in Appendix F (except closed grade specialism allowances) are increased in future years by the headline percentage pay award. We also recommend that in future years all allowances are considered as part of a fixed rolling review with individual allowances considered every five years (as per Appendix G).

Introduction

i. This report sets out our recommendations on pay and allowances for operational prison staff from 1 April 2021. We again find ourselves writing our report during a significantly challenging and difficult period for the Prison Service. It is still providing a vital but largely unseen public service, whilst dealing with the effects of the coronavirus pandemic (Covid-19) and maintaining the stability in prisons. We continue to remain impressed by the dedication and professionalism of staff in their response to Covid-19 and how they have kept the prisoners in their care safe whilst maintaining the effective running of the Prison Service.

Our role and remit for this year

ii. The Prison Service Pay Review Body (PSPRB) was established under statute in 2001 to examine and report on matters relating to the rates of pay and allowances to be applied in the public sector prison services in England and Wales, and in Northern

Ireland. The PSPRB was set up by the Government as a compensatory mechanism for the remit group's loss of the right to take industrial action of any form. This was reinforced in the 336th report of the International Labour Organization in 2005, in which the Government gave a clear and unequivocal commitment to depart from the PSPRB's recommendations only in "exceptional circumstances" and agreed that such recommendations would be complied with in practice. In oral evidence this year, the Prisons Minister, Alex Chalk MP, confirmed that the Government stood by this commitment.

iii. On 16 December 2020, the then Minister of State for Prisons and Probation, Lucy Frazer QC MP, wrote to us asking us to commence our work for the 2021-22 pay round. The letter restricted our remit and did not ask for a recommendation on a headline pay award, citing the Government's pay policy. Instead, the Government only sought our advice on the implementation of its headline £250 pay uplift for those earning a full-time equivalent base salary of under £24,000, along with other issues such as pay progression and performance awards, and allowance rates.

iv. The Secretary of State has the power to restrict our remit under the PSPRB Regulations 2001 and the legal advice received by our secretariat indicated that we were thereby legally precluded from making a recommendation on a headline pay award this year. We consider this restriction to be incompatible with the role of an independent Pay Review Body and a compensatory mechanism, which is to make evidence-based recommendations, and as such prevents us from performing that role.

Analysis and pay strategy

v. We maintain that the evidence continues to point strongly to the conclusion that we reached in our report last year, that additional investment needs to be targeted at the *Fair and Sustainable* Band 3 Prison Officer scale which ranks poorly against comparator occupations and to improve recruitment and retention.

vi. In analysing the Annual Survey of Hours and Earnings data this year, we note that Band 3 pay has continued to deteriorate when compared to economy-wide earnings. The 2019-20 Band 3 Prison Officer pay range again fell below median earnings in all regions, even when the market supplements were factored in. The 2019-20 Band 2 spot rate fell below the 25th percentile of earnings in all regions.

vii. We again examined leaving rates for Bands 2 and 3 this year. Leaving rates are still too high, although they have improved slightly. In our view, this is likely to be only a temporary improvement caused by the impact of Covid-19 on the labour market. The Government's plans to increase the prison estate by 18,000 places could place further recruitment and retention pressures on the Service. In addition, both the Border Force and Police, which evidence shows compete for Prison Service staff, are continuing with large scale recruitment campaigns.

viii. This reconsideration of the evidence still leads us to the conclusion that, had we not been precluded by the Secretary of State from doing so, we would once again be making Recommendation 3 from our 2020 report. We have recommended implementation of the £250 uplift for those earning under £24,000 base pay but we recognise that this does not begin to address the structural issues which led us to last year's Recommendation 3.

ix. As we have noted in previous reports, we believe that Her Majesty's Prison and Probation Service (HMPPS) needs to present to us a pay strategy to deal with the structural issues across all grades and pay structures. HMPPS has expressed its desire to create a pay system that has a coherent structure and takes account of the labour market. We agree.

x. We therefore recommend that HMPPS bring forward for the next pay round a pay strategy that reflects its desire to move to a modernised and coherent pay structure, and which is underpinned by Recommendation 3 we made last year, in order to improve its retention rates, attract a larger pool of suitable candidates and reduce the significant costs associated with high turnover rates.

xi. This year we have also made recommendations on pay progression for Bands 3 to 5 and Bands 7 to 11 as requested. We have recommended that staff in Bands 3 to 5 progress by one pay point, except those on formal poor performance procedures, and Bands 7 to 11 by 4%, except those on formal poor performance procedures. This will ensure that all staff continue to progress from the minima to maxima of pay scales and ranges within HMPPS's preferred five-to-six-year timeframe for all grades. We have also made a recommendation on allowances this year to ensure a proper evidence-based approach to this issue. In the future, we recommend that cash allowances should be increased by the percentage headline award and all allowances should be considered fully as part of a fixed rolling review over a five year period. These reviews will need to consider both the purpose and effectiveness of the allowance on the basis of the evidence.

Looking ahead

xii. The rejection of our main recommendation last year and the restriction of our remit this year has raised questions about the purpose of the Review Body. While we welcome the Government's reiterated commitment to the Review Body process and to our role as a compensatory mechanism, we expect that, for future rounds there should be no further constraints placed on what we can and cannot recommend.

xiii. There are a number of issues on which we have specifically requested data and evidence for our next report. We have repeatedly commented in our recent reports that we believe there were issues with the current performance management system and how it was working. This led us not to support pay-related performance progression and performance awards being linked to the performance management system for all grades in our remit group. HMPPS has temporarily suspended its current system whilst it develops a new system based on that used in the Ministry of Justice. We have some serious concerns about the applicability of this to an operational service. We look forward to receiving data and evidence from the parties on the new system and how it has addressed the biases and issues that we, and others, have identified in relation to the previous system.

xiv. We also make a number of other requests for information, some of which were first made as far back as 2018. As an evidence-based body we need this information so that we may consider all the evidence and discharge our duty as a statutory body.

Conclusion

xv. This has been a very unusual and difficult pay round set against the background of Covid-19 and its economic impact, along with the rejection of our main recommendation last year and the restrictions on our remit for this year. Nevertheless, we continue to believe strongly in the value of an unfettered, independent, evidence-based Review Body and important compensatory mechanism. We need to be able to move forward next year on a much firmer foundation than has been possible this year.

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