

Supplementary written evidence from Unison (TRH0102)

Thank you for your letter of 5 February regarding the above.

In answer to the further questions in your letter, I can respond as follows:

1. Probation Workforce Strategy

It is very difficult to see how a probation workforce strategy could be developed under the current circumstances, which could possibly cover both the CRC and NPS workforces.

The TR process was predicated on a complete split in the probation workforce between the public and private sectors. Many stakeholders, including UNISON, warned the government about the risks of putting the two workforces into their own silos, but Ministers decided to ignore our pleas.

TR has erected insurmountable barriers to communication and information sharing between CRC and NPS colleagues and created, as we pointed out in our formal evidence to your Inquiry, a 'them and us' divide which has become a major obstacle to joined up thinking and working in probation. TR has also created a divide on pay, terms and conditions which could only be bridged by bringing both parts of the service back together again.

UNISON therefore believes very strongly that a coherent probation workforce strategy could only work in the context of a re-unified probation service, which is UNISON's aim and objective. The current structure would prevent any such strategy working in the interim.

Here are some of the employment relations problems which a probation workforce strategy would have to address:

1.1 Three and a half years on from the split in the probation service and the creation of the NPS, we still have no formal negotiating body for NPS staff.

Despite the best endeavours of UNISON, the NPS has shown little interest in moving quickly to replace the Probation Service National Negotiating Council (NNC) which was the negotiating body for probation staff pre-TR. There is agreement that we need a new negotiating body for NPS, but to date we have not been able to reach agreement on its constitution or terms of reference. This means that the NPS has tried to get the unions to make collective agreements on important pay and conditions matters without there being a formal negotiating body to do this. This is clearly not an acceptable way to conduct industrial relations, but is symptomatic of the informal way in which the NPS likes to do business. Some of the CRCs are in the same position, and have yet to agree their own owner level negotiating bodies to replace the NNC.

1.2 The NPS unilaterally withdrew the facility for trade union members to pay their union subscriptions by deduction from salary. This was in line with the Cabinet Office policy to withdraw all check off facilities from unions in the civil service. The withdrawal of the check off facility resulted in a predictable fall in trade union

membership and is symptomatic of a generally hostile environment within probation to the work of the trade unions. Pre-TR there was a well developed social partnership approach to industrial relations between the probation unions and the probation employers. Since the creation of the NPS we have witnessed the collapse of any social partnership approach to industrial relations in favour of a more confrontational approach which appears to have its roots in the way HMPPS does business with the prison unions.

1.3 As well as creating a professional divide, where previously none existed, TR has set up the CRCs and NPS as rivals for scarce professional skills in a very small labour market. The two sides of the service now compete for these scarce staff in a way which threatens to destabilise the once cohesive labour market.

1.4 Whereas the NPS offers the final salary Local Government Pension Scheme to its staff, the CRCs offer only inferior defined contribution pension schemes to their staff. Job applicants will naturally ask themselves why they should work for a CRC with an inferior pension scheme, when they could work for the NPS with a much better pension offer. UNISON campaigned to persuade the MOJ to fund the private contractors so that they could offer a decent pension scheme, but the government refused. Putting this right when the service is re-united will be a priority, and one which a future government will have to fund.

1.5 The MOJ also refused to allow the CRCs to remain part of the Redundancy Payments (Modification) Order which means that local government, police or education staff are unable to carry over their continuous service into the CRCs if they are successful in applying for a job with a CRC. This is another powerful disincentive for experienced public sector staff to join a CRC.

1.6 The NPS pay and reward structure has been badly mismanaged by NOMS/HMPPS. The following are examples of pay mismanagement:

1.6.1 NPS has introduced a range of market supplements to attract new starters which has caused HMPPS to overspend its staffing budget. When the market forces supplements were first introduced in 2016, the NPS ensured that existing staff in the locations where the supplements were to be paid were given the same supplements to ensure that they were not leapfrogged in salary by new starters. This practice was discontinued in 2017, because the NPS overspent its pay budget, amongst other things on the market forces supplements, so existing staff are now being leapfrogged in salary by new starters. This has been very bad for morale as you can imagine.

1.6.2 The NPS used TR as an opportunity to drive down the pay of key groups of operational staff, including: approved premises residential workers, victim liaison officers, business managers and enforcement officers. The probation

unions appealed these down-gradings, but we were unsuccessful. The down-gradings have created bad feeling and staffing shortages, particularly in approved premises. The NPS is now struggling to recruit approved premises residential workers in London and the South East on the new lower salary rate which it forced through in 2016.

1.6.3 The NPS has recently confirmed that NPS staff will get no pay rise for 2017 and will receive only the contractual increment to which they are entitled.

The value of the contractual increment on the NPS pay bill is well below the government's 1% public sector pay policy, because 25% of NPS staff are at the top of their pay band and get no increment. Staff at the top of their pay band, who are some of the most experienced staff in the NPS, have therefore received absolutely nothing on their pay for 2017. By contrast, HMPPS paid the 2017 Prison Service Pay Review Body recommendation to prison staff in full, namely an average pay increase of 1.7%. It is hard for NPS staff to not suspect that some of the money, which was put aside for their pay rise, has been given to prison staff instead. Our members also believe, with some justification, that the CRC bail out in July 2017, the cost of which had to be met from existing MOJ budgets, was another pressure on internal costs which led to NPS not offering them any pay rise in 2017. NPS staff are literally paying the cost of the failure of TR.

1.6.4 The NPS failed to deduct correct pension contributions for key elements of NPS pay for 8 months during 2017.

This has led the NPS being reported to the Pension Regulator, as required by law, by the Greater Manchester Pension Fund. The blaim for the pension deduction failure, we were told by NPS, lay with the MOJ's privatised payroll provider SSCL and one of its sub-contractors. The NPS is now deducting the pension contributions, which SSCL failed to collect, from staff without their agreement.

1.6.5 The NPS has failed to pass on the value of three years pay increments for staff who are entitled to unsocial hours payments, overtime payments and standby payments.

The NPS has known about this for 12 months, but has been unable to calculate the back pay.

1.6.6 The NPS has perpetuated acting up arrangements for staff which have effectively denied these staff, including groups of NPS managers, any incremental pay progression, in some cases for up to 4 years.

1.6.7 The NPS Shared Services Payroll Provider, SSCL, has in key respects provided poor quality transactional services to NPS staff

and this has led to considerable frustration and a drain on productive time for NPS staff and managers. UNISON suspects that this is in part caused by the likely failure of the MOJ to include the a requirement to understand probation pay and pensions in its contract specification with SSCL, and the fact that probation pay and conditions

are so different from the prison service, or core civil service. Time spent sorting out interminable payroll problems is time spent away from NPS core business. I have attached comments from UNISON members about the service which they have received from SSCL at Appendix A of this letter. They make for very sorry reading, and UNISON hopes that they provide the Committee with some flavour of just how distressing and distracting the experiences described have been for NPS staff.

There is no light at the end of this tunnel yet, despite the fact that the NPS acknowledged the problems as follows in December 2017: *'It has come to our attention that there are some issues with HR processes within the NPS that are causing significant delays and difficulties to our staff. As a result, we are going to review the HR processes concerning starters, movers and leavers. Through collaborating with SSCL and NPS colleagues, we hope to establish which transactions cause the most problems, where faults are taking place and finally what solutions we can design in order to reduce the number of issues arising.'*

1.7 The pay and grading system operated by both NPS and the CRCs was created in 2006 and is in need of review and refresh.

All parties accept that the pay system has suffered as a consequence of the government's public sector pay policy, which over the last 8 years has damaged the pay progression arrangements within the 2006 model. Whereas previously, staff progressed at a reasonable rate up to the top of their pay band, since 2010 this progression has slowed to a snail's pace, as the MOJ restricted progression to the bare contractual minimum of one pay increment a year. The unions were expecting pay reform at NPS no later than the coming financial year, but talks on this essential work are now on hold pending a resolution of the stand-off between the MOJ and the Treasury over the Department's budget going forward.

1.8 The NPS has acknowledged that the CRCs have an interest in the outcome of the NPS pay reforms and that they will naturally want to reflect on the outcomes, otherwise they could easily find themselves unable to compete with the NPS on new starter salaries.

The NPS has agreed that the CRCs can shadow the NPS pay reform talks, although they make the point repeatedly that they cannot influence the outcome of pay reform in the CRCs, as they are independent of government. Despite this stated position, any reasonably informed observer of the government's apparent willingness to bail out the CRCs financially, would assume that the cash for any CRC pay reform is as likely to come from the public purse, as opposed to the cash strapped CRCs.

1.9 The Prison Service Pay Review Body has recommended that the NPS pay system and the Prison pay systems are merged.

This would be a complete disaster and would confirm our members' worse fears that the MOJ wishes to subsume the

probation service in the prison service and destroy its unique values and independence. In the 2017 Prison Service Pay Review Body report, it was stated: *“The creation of the new organisation [HMPPS] has integrated a large, relatively new group of staff, those in the National Probation Service (NPS). This would seem a good time to develop a new, longer-term workforce strategy for the Prison and Probation Service and then review the various remuneration structures to ensure they are best placed to support that strategy. We therefore recommend that HMPPS, in its evidence to us for our 2019 report, presents plans for revised pay arrangements that properly integrate the various different pay structures, allowances and supplements currently in operation across the country. We would expect to be consulted and to contribute to such a review.”*

1.10 Working Links and Interserve, who between them own 8 of the 21 CRCs, have, like NPS, not made any pay offer to their probation staff for 2017, apart from paying staff their contractual increment.

In light of the above on-going problems, UNISON believes strongly that only a re-unified probation service could provide the basis for a coherent probation workforce strategy going forward. Such a strategy would need to include the following elements:

- A return to sector level ‘national’ bargaining in a re-unified probation service, as was previously provided by the Probation Service National Negotiating Council pre-TR.
- The reintroduction of the facility for all probation staff to pay their union subscriptions by deduction from salary
- A properly funded, modernised and equality proofed pay and grading system
- An end to government pay austerity for probation staff
- Local Government Pension Scheme membership for all probation employees
- Re-admission of the probation service to the Redundancy Payments (Modification) Order
- Locally provided and accountable transactional HR services, i.e. an end to the privatised service provided by SSCL.

2. NPS Undertaking Unpaid Work Orders for CRCs

UNISON is aware that the NPS has set up specialist unit in London Division, apparently to help the CRC concerned to deal with the big backlogs in unpaid work orders for which the CRC is responsible. We also believe that the NPS is providing a separate funding stream,

over and above what was provided in the original contract, to other CRCs to assist them in discharging their unpaid work orders, whilst not actually setting up specialist units in these other Divisions. The Committee may wish to pursue this question separately with the NPS, and also may like to ask the CRCs what changes they have made to their unpaid work teams which may have impacted negatively on their ability to discharge their contractual duties. Some CRCs have cut their unpaid work teams in order to achieve savings.

The NPS specialist unit in London, recruited from and staffed exclusively by NPS staff, apparently review each unpaid work order which has gone over its 12 month expiry date, contact the CRCs' offenders and then apply to the relevant courts for an extension to the order so that the unpaid work order can be enforced. On the face of it, this looks like the NPS managing a large amount of the work connected to the CRCs' unpaid work order caseload. It is not clear what impact this assistance has on the payments which the CRC receives for discharging unpaid work orders?

In response to an inquiry from UNISON, NPS confirmed the following on 28 February 2018:

'The purpose of this project is to help address a backlog of orders in London that are more than 12 months old and which have hours outstanding. These cases are returned to court, which can result in an extension being given or another sentenced being substituted. The NPS's role is to assist with the preparation of paperwork for court, to ensure it is in good order. The special project applies only to London cases. It has not been necessary for the Authority to step in or to amend the contract. As you know, the financial arrangements between the Authority and the CRC parent companies are commercially confidential. The work undertaken as part of the special project will not impact on the workloads of NPS Enforcement Officers.'

It seems likely from this response that NPS is undertaking work which was originally meant to be the responsibility of the CRC concerned. The NPS response hides behind the usual commercial confidentiality clause in order to frustrate proper accountability over the spending of public money, but the response raises a really serious question over whether the contract is still compliant with EU procurement rules.

UNISON believes that it is possible that the MOJ has amended the original contract with the London CRC owner in relation to unpaid work, to a degree which could leave the MOJ open to legal challenge. The Committee may wish to explore this further with the MOJ procurement team.

I hope that these answers are of assistance to the Committee in its TR Inquiry. Please let me know if there are any other matters on which UNISON can provide assistance. We stand ready, as offered to the Committee at the hearing on 30 January, to conduct a survey of our members in relation to any questions which the Committee might want to pose directly to the workforce in relation to your Inquiry.

APPENDIX A

COMMENTS FROM UNISON NPS MEMBERS ON SSCL PERFORMANCE

"My first experience was I asked for a copy of a pay slip that was not on SOP as I needed it for a mortgage application. I was on the phone for over an hour twice and they never sent me it. In fact they sent me a notification saying it was complete when it wasn't! I lost the mortgage and had to apply for another, meaning my credit rating was checked again. The second issue is regarding my pay and too complicated to explain in detail on here. I have been paid incorrectly since April and am now in debt by no fault of my own. The person on the phone was not helpful and kept saying I was wrong when I explained the situation. In the end I had to get my manager to speak to the person. It has been so stressful and I have had to tell my pregnant wife that I don't know what I will be getting paid (Every month my pay is different!). I intend to put a complaint about SSCL."

"Are happy to try to help but once it is outside their own skills base are only too quick to pass it to someone else to try and deal with - namely myself. Like to also get behind the bit of "a manager is looking at this" but is unwilling to pass on to the person who might be looking at it. Service does not instil a lot of confidence."

"Feel like you are just speaking to a call centre rep who has no idea or understanding of individual."

"I was advised that my problem would be escalated to a senior colleague and that someone would get back to me. That was on 8 June. It is now 5 July."

"They don't seem to have details of past documentation prior to the Probation split in 2014 - this is of great concern."

"To date I have not encountered any problems with SSCL?"

"Since its inception, start dates for staff in my office have been incorrect and yet despite repeated requests, this has not been amended. There is no direct point of responsibility. The call centre merely refer staff back to SOP. Emails are unanswered. It is failing staff and there is no support forthcoming."

"As soon as you tell them you are probation service they tell you to raise a service request. Totally ignorant unhelpful staff."

"Unclear who to contact. SSCL have poor knowledge of Probation policies."

"Not very good in terms of annual leave calculations - I'm part time and every year it is left to me to calculate my leave allowance - surely this should be done by shared services and we should have an electronic form to record leave not a paper form."

"We need someone else. They appear to be a filter through which you cannot get satisfaction. Not had an issue - yet!"

"Information seems to be vague."

"It took time for them to respond to my email."

“Had to chase up a response as matter was urgent and resulted in a huge deficit in salary being paid on pay day.”

“I had a query about my pay. It took a long time for SSCL to respond and then I was told the yearly backlog increment was £20 which had been paid in December in my salary. However the amount that is normally paid is a lot more than £20. According to SSCL that is what they have on their records and the case has been closed off. I have no contact number to call to speak to the person who handled the query and might not be able to get hold of them, if I called. I once spent an hour and a half being passed from one department to another in SSCL on another query.”

“My tax code was incorrect due to the split (CRC/NPS) In the end I called HMRC to get it sorted myself.”

“Spend too long on hold and they often have to pass you onto someone else.”

“A colleague has had problems which have taken weeks to resolve, for some reason they took a larger pension contribution, leaving her down in her wages and she is a single parent, Fortunately I haven't had issues myself.”

“Any contact with staff at SSCL has been frustrating. Contact with a number of different members of staff, most were unhelpful/couldn't give me a definitive date when the problem would be resolved (& always blamed another department for things not getting done).”

“I'm not sure they could have ever sorted the TR pay declaration issue out. I had to get Inland Revenue Inspections Team to do it for me. SSCL appears to be more aimed at fudging issues until they get forgotten.”

“I have seen colleagues go without the right amount of pay for months and ringing up, having to wait a long time on the phone to have a conversation with someone and still not having the issue resolved in the following months.”

“Very slow in getting a response from them if you have query and need to contact them via email or phone. Can take days?”

“I have not had to contact SSCL about pay/pension/ but I understand other people have had problems. My situation has not varied in any way and I do not claim expenses so very limited contact.”

“It doesn't work. Staff on the phones generally don't seem to know what they are talking about. On hold/busy time waiting is unacceptable.”

“The staff are friendly when you speak to them, but I think they are up against it as the rest of us are. I liken the experience to getting blood out of a stone - tiny bits of information were extracted each contact, so it took a long time and lot of effort to get the full picture. Very, very frustrating.”

“No response to concerns for weeks. Little advice given and when advice given, an inconsistent approach.”

"We need named contacts in named areas to resolve common queries. Too many cooks syndrome!"

"Some departments do not have phone numbers so you can't contact them direct, this is not helpful when they do not respond to emails."

"On hold for very long time then given wrong info. Expensive rates - a single call cost over £20 when I called from home due to being off sick."

"They can never get it right and always blaming others a very poor service."

"They do not respond to emails at all!"

"It took over a year to resolve my pay issues. The final person (Tier 2) who I dealt with was extremely helpful and got it sorted, but this took numerous phone calls, emails, and an entire spreadsheet showing that I was owed money from the NPS, rather than owing NPS money. I then received a letter a few months later again stating I owed money, which was incorrect."

"I had to constantly chase them and when a manager eventually contacted me - they passed the buck. As a result I was late replying to the Inland Revenue. I said I wanted to make a formal complaint - I'm still waiting for a response. Really, really poor service."

"It is very difficult to get calls answered, which means that a lot of time is spent attempting contact. Emails are also not answered promptly and when they are they are of little to no help. I have difficulty understanding the new payslips and have also had errors in my pay which meant I did not receive my correct salary for more than one month. I have not received adequate assistance from SSCL to date. I am very dissatisfied with the service."

"Each time my temporary role is extended I have problems with my pay reverting back to the substantive pay band which then takes several months to sort out. My manager submitted forms pre SOP to extend my role which was due to end on 01/04/2017 and was told post SOP that she had completed the wrong form. She was told to complete a different form, and when this had been submitted told it was the wrong form she needed to complete another. To date my manager has completed 4 separate forms because of misinformation from SSCL and I am still waiting to receive the correct pay and back pay from April 2017."

"I received an email saying the matter had been resolved many months after I had raised the issue.....it had not been resolved but I had completely lost track of where the issue was and how much of a shortfall I'd received in my wage."

"It's slow & difficult to navigate through."

"It is very difficult to get hold of anyone and even then you don't get a straight answer. Processes are complicated, bureaucratic and time consuming. Poor communication."

"SSCL are in persistent breach of contract and statutory duty by not taking pension contributions on unsocial hours payments to literally hundreds of staff - they show no sign of urgency in trying to resolve the problem - additionally staff are not being paid for extra work undertaken in the correct manner and many staff not at all - they are a disgrace and their contract should be cancelled."

“Three months of no pay, formal complaints made by myself and my director, no responses from SSCL whatsoever.”

“The service is appalling. They do not seem to care about problems and are very quick to make you think that you have caused the problem. I wonder how they would react in the same situation?”

“We do not know which 'Instruction' regarding mileage expenses we should be using, resulting in claims being rejected. When asked for copies of whichever guidance is being applied, we have not received the guidance. Also, the way that sick pay is worked out and paid has also, apparently, changed. This has also not been communicated and so staff are in the dark about what levels of sick pay they should expect to be paid.”

March 2018