# PAY 2019 – 2021: MOD TU Q&A BRIEFING

Question: The 2018 Pay Offer included a commitment to jointly work with the TUs on the business case going to the Treasury, how then did we end up in a potential dispute situation?

Answer: Unfortunately, the Department did not honour that commitment. The TUs were restricted to participating in two pay workshops at the start of the year. During those they made clear their views on what they hoped to see from a reformed pay system. The TUs also clearly and unequivocally explained what they would be opposed to and, at the forefront of that, was any proposal for staff to be expected to fund their own pay increases. This obviously didn't fit with the direction of travel envisaged by the Permanent Secretary and his ExCo and those workshops were the last input the TUs had on shaping pay for 2019. Despite frequently asking for that commitment to be honoured the TUs and their views have been simply ignored leaving our only course of action to be challenging the periodic updates published by the PS, which TU members will have seen. The TUs have still never seen the business case. You will see in the published offer letter that no mention is made of the 2018 commitment, with the inference being that pay reform was initiated by the ExCo in January, or of any engagement with the TUs. Interestingly, the first draft of the letter did mention the TU workshops, but the Department obviously believe it would be more politic to erase all reference to previous engagement rather than admit they had ignored and deliberately side lined the TUs.

Question: If the Department is set on undermining the TUs in the eyes of members and non-members why would they wait until the beginning of November to formalise this?

Answer: Perhaps the Department wanted to present a position that they had genuinely tried to negotiate a good deal for members or perhaps they didn't want to risk damaging the scoring of the Staff Survey. It may be pure coincidence that the Staff Survey closed on 4th November and the TUs informed of the intention to publish the offer on 5th November. The Perm Sec knows full well about the damage bad faith pay negotiations can have on staffs' attitude to the Department as was the outcome recently in DE&S.

Question: This looks like a great deal why haven't the TUs just agreed to it?

Answer: There are multiple issues, but the major issues are to do with funding and structure. This deal is only base funded to 6% over the 3 years. The extra money to make up the 11.5% quoted comes from money already paid to someone in one form or another. If it was all fresh money then the story might be different but this is robbing 'Peter' to pay 'Paul' and the TUs are mandated to look after the interests of all members, not just the 70% or so who might benefit. Another major concern is the restructuring of the London pay/weighting arrangements, which affects 11% of all staff covered by this offer. Many of those will fall behind the 'National' pay grades, so boldly published in the offer letter – for some London grades the maxima only increase by 0.06% or 0.79% which is nowhere near the 10 - 11% boasted for some national grades. True most of these staff would receive a ~£1000 increase in London Weighting , but for staff earning more than around £25K this is still a net 'loss' against the current 4% lead in London pay. A third issue affects ~1700 staff who receive CPA, a supposed protection allowance for the lowest paid in 2012 – mainly D grade and below. This is currently ~£500 pensionable on top of their salary (other departments raised their scale maxima!). This offer wants to consolidate this after year one award has been applied. This will leave the majority of these staff on marked time for years 2 and 3 and lose the protection this was supposed to give.

Question: Have the TUs rejected the offer?

Answer: Not formally, but they have expressed real concerns over the structure and funding that is being proposed because it impacts on existing staff T&Cs. Most of the TUs are mandated not to sell T&Cs to fund basic pay which is exactly how this deal works. The department knew this well before the business case to treasury was constructed so they have somewhat knowingly engineered a conflict with the TUs. The TUs are in a difficult spot because of that, and find themselves unable, against the positions they have been set by their conferences, to agree to these proposals as they stand.

Question: How do I have a say if I'm not in the union?

Answer: The department is covered by a recognition agreement with 5 trade unions. The department negotiates and settles through two bargaining tables; the Skill Zones represented by Unite and GMB and the Broad bands and related Grades represented by Prospect, PCS and FDA. Only through these organisations can you have a formal voice on this offer or any other departmental changes to policy and process. The department encourages all staff to join & take an active part in TU activities.

Question: Why, if there are two bargaining tables, is there only one offer letter?

Answer: Well spotted. This is the first year that the Department has sought to target a pay rise at a single TU table; you will have noticed the 2018 pay offers went separately to the TUs representing both distinct staff groups, the Broader Bands and related grades and the Skill Zones. This year the Department has sought to shuffle money between the pay pots of the two groups to the detriment of Skill Zone staff. Presenting the two offers separately would show the disparity in the application of the award but also allow those actually adversely affected to have their say without being over-ruled by the larger grouping.

Question: The proposed changes to allowances would only affect new recruits and existing staff who move into a post attracting an allowance. Why are the TUs opposed to these changes?

Answer: After 10 years of pay restraint due to the government's austerity programme and take home pay cut by the imposition of a pensions' tax, the TUs are opposed to surrendering any T&Cs to fund a pay rise. Current serving staff should retain the entitlement to existing allowance characteristics as these are in their current contracts of employment. Our concerns about applying these changes to new starters is that new recruits who discover that their T&Cs differ from long standing employees will be told that this was agreed by the TUs. We never agreed to the TACOS changes in 2014 and we won't agree to these. You should ask why the Department have included these in the formal offer for agreement as they could implement those changes for new starters without TU agreement.

Question: If the offer was fully funded by the Department would it be acceptable to the TUs?

Answer: Unfortunately, it is not as simple as that. Because the proposals were funded significantly by attacks on current T&Cs, the focus of the discussions which did take place was about that funding rather than on actual negotiations around the proposals. The TUs have no objection in principle to merging the two existing pay scales but the current proposals would be detrimental to members currently receiving the London pay lead. They would be losing significant amounts from their salary which the proposed increase in London weighting simply would not compensate. By the end of the three years, they would be at the new scale max and only receiving non-consolidated pay and would struggle to meet the additional cost of living the pay addition was meant to cover. This proposed change would also cut across the Government and the Department's social mobility policy as it would greatly restrict the opportunity for staff to move to London to develop their careers with those at the lower end of the socio-economic spectrum the worst hit. There is also an issue around removing the pay protection for staff at Band D and below.

Question: Will the TUs ballot on this offer?

Answer: Most TUs are mandated through their conferences not to agree to a deal built on a T&Cs change based business case, so there is no requirement to ballot. All five unions are opposed to the changes built on these principles. We have pragmatically offered to work through the policy areas via the proper processes through the TU Strategic Engagement Forum, the Major Policy Committee. This would need to be an evidence based review, where the TUs have the opportunity to engage with the specific business areas impacted by proposed changes, heads of professions across the department and most importantly with their members specifically impacted by any change. The TUs are concerned that the overtime change has been viewed through the lens of the accountant advised only by a single business unit with ‘skin in the game’ in that it has a cost saving challenge to meet. The MOD’s claim that these changes are not about making savings is nonsense as that is precisely why the MGS, in particular, was involved in the pay discussions. Changes to issues such as overtime need to be carefully considered by major users of OT, and not just the Guard Service, DIO, ISS, Cyber, Nuclear school etc. We don’t believe the MOD understands the actual application of overtime let alone the 2nd and 3rd order effects of change on MOD output, recruitment and retention etc. The risks need to be properly evaluated.

Question: The offer says the extra money comes from changes to ‘voluntary overtime’, as most staff don’t do this, 80% will be better off so democratically this is OK isn’t it?

Answer: Simply no. 80% of staff cannot take money off 20% of their colleagues who are currently ‘earning’ this and who will likely be expected to carry on undertaking the same level of extra duties but at a lower rate of take home pay. Try carrying that logic forward to other policy areas. Take leave for example; suppose only 15% of staff on average took more than 25 days annual leave per year. That logic would mean the other 85% could agree to cap annual leave at 25 days to fund a bigger pay increase. Similarly, on sick leave; suppose on average, only 10% of staff were off sick for more than 3 months, the other 90% could agree to cap sick pay at 3 months on the expectation that it wouldn’t affect them. Back to the overtime issue again, members need to also consider the implications of the introduction of compulsory overtime as a distinct policy and what that would mean for them. You may not be working it now but if your 2* needs something completed by a target date you may in the future. Members need to be fully aware that, if the Department manages to push through these changes we will be firing the starting gun on the race to the bottom across Whitehall on staff terms and conditions.

Question: The overtime change has been highlighted by the TUs as unacceptable, why is this (as most staff don't work overtime)?

Answer: The department does not seem to understand the full detail and nuances of current overtime usage. This is underlined by the indication to remove TOIL as a mixed payment and the belief that this is used where staff claim the premium payments for Sat, Sunday and Bank Holiday payments but choose toil for the plain time elements. For staff on rostered overtime, these elements are already accounted for through the shift mechanism, so staff are paid their conditioned hours at plain time but are entitled to and automatically receive the premium elements. Details like this seem to have been not well understood and lead the TUs to have little confidence that this is a well evidenced or properly understood strategic change. The changes also fall disproportionally on lower paid grades who are earning that money currently and under these changes would see the same work attract typically half of its current value once the protection is removed in Jan 2021 (immediately half average value for D bands and above) - the distribution and its proposed change if all OT became Voluntary, which is the assumption is listed below.

| Grade | Savings made if all OT taken as VOT | % of current spend (£27.6M) by grade | % of new spend (£14.0M) by grade | Savings whilst the protections are applied |
|---|---|---|---|---|
| B1 | 12.3% | 1.2% | 2.1% | 2.1% |
| B2 | 10.0% | 2.4% | 4.2% | 4.2% |
| C1 | 16.7% | 5.2% | 8.6% | 8.6% |
| C2 | 22.7% | 6.6% | 10.1% | 10.1% |
| D | 35.9% | 11.8% | 15.0% | |
| E1 | 61.0% | 12.4% | 9.5% | |
| E2 | 68.3% | 39.5% | 24.8% | |
| SZ4 | 27.4% | 3.6% | 5.2% | |
| SZ3 | 45.5% | 10.9% | 11.7% | |
| SZ2 | 30.0% | 6.1% | 8.4% | |
| SZ1 | 33.5% | 0.4% | 0.5% | |

Significant loss to D band down to SZ1 levels, savings significantly less detrimental for B grades.

Question: Do the TUs have any issue with the TOIL proposal, i.e. to remove the ability to claim a mixture of both TOIL and payment for any worked overtime? ). I can't remember the last time I received paid overtime instead of TOIL, which, according to the offer letter, will still be claimable at the current rate (Sun x2).

Answer: The TUs are opposed to the TOIL proposal because it is a poorly disguised attempt to remove another contractual right – your right to be paid for overtime worked rather than take TOIL. Hopefully, you have been taking TOIL as opposed to payment by choice. If your management have introduced a policy preventing you from claiming payment for overtime, or travelling time, that goes against your existing contractual rights. I know Prospect has put guidance out on that over the years and am sure most of the unions will have. Also, the assertion that it will still be claimable at the current rate is wrong. The differentiation between voluntary and compulsory overtime is being introduced to halve the reward paid for OT attendance and remove any pensionable element. You will note that the offer letter states "two hours TOIL for an hour for compulsory Sunday Overtime". They expect the vast majority of overtime to be voluntary so in future, if implemented, you would only receive single time TOIL. Members need to be aware that this particular proposal stems from the lack of understanding of how overtime payments work across the Department discussed above under overtime.

Question: We have heard that the TUs had made a counter proposal, what was that?

Answer; Yes, the TUs have tried to keep any extra funding (not based on fundamental Terms and Conditions changes) available from the business case for the full 3 years. We have been assured by the pay team this is a valid process. The negotiations up to 5th November had identified and agreed 2.34% consolidated pay p.a. was available & 0.684% Non-consolidated. This would fund a rise of 3.025% (mixed consolidated and non-con) per annum for 3 years. We also agreed to workshop the remaining areas of the business case to explore if any other money can be generated to be added into years 2 and 3 following proper evidenced, researched and considered negotiation. The TU counter proposal was being refined and we had scheduled pay meetings to finalise this with hope of elements being paid before Xmas. The intervention by the Permanent Secretary was unexpected and undermines the agreed protocols as it removes the TU dispute resolution process which would be to go to the Permanent Secretary! Why such a turn was taken, is unknown – the department knows it cannot impose this deal because it requires contractual changes to T&C, it knows the TUs cannot agree the offer, because of the mandates on T&C changes, it has said that if the TUs don't agree it will only then offer 2% for 1 year, yet we have identified 2.34% through negotiation – hardly 'doing the best it can for its staff'. It is almost as if MOD is seeking, if not engineering, a dispute with the TUs.

Question: So how would the TUs counter proposal of 3.025% pa work?

Answer: The TUs would seek to raise the maximum and minimums of each grade by set percentages. Then everyone is given a set percentage rise but bound by not having less than the minimum or more than the maximum. Whatever consolidated increase is generated is then topped up to 3.025% with Non-Con money. The percentages are slightly different for D grade and above and E grades and below to address the different distributions within these grades and ensure that they each get their share of the award (and not end up with E grades funding B grade rises or Industrial grades funding Non-Industrial rises etc.)

| | | |
|---|---|---|
| D and above | Max | 1.85% |
| | Min | 2.47% |
| | Mid points /single pay points | 2.22% |
| | Topped with Non-Con to | 3.025% |
| E and below | Max | 1.92% |
| | Min | 2.60% |
| | Mid points/single pay points | 2.30% |
| | Topped with Non-Con to | 3.025% |

This is a far simpler award (look at the complexity of the 30 pages from the department!), is consistent across all staff, focuses money at the minimum in each grade, gives staff at the maximums a consolidated award. It does not require to remove/reform T&C on a 'whim', but instead offers through workshop/negotiations to explore what funding might be feasible through evidenced and proper negotiation over the coming months and to feed that, under the 3 year business case, into years 2 and 3 to improve the figures given above. Significant loss to D band down to SZ1 levels, savings significantly less detrimental for B grades.

Question: The TU deal doesn't look as good as the headline offer from the department. Why is the TU's one considered better?

Answer: Just like the Brexit bus headlines can be deceptive! The TU deal is worth between 8.0% and 5.6% consolidated over the 3 years (between the minimums and maximums in grade) an average consolidated value of 7.2%. It is then topped up to 3.025% of base salary each year making it worth 9.35% total over the 3 years (so non-con lump values of between 1.3% and 3.75% total value over the 3 years). It doesn't require T&C changes agreed 'upfront' without the proper evidenced based negotiation, and allows for years 2 and 3 to be improved if/when these changes yield savings to recycle. It doesn't require convoluted changes to the London Pay/London weighting arrangements; it doesn't require the loss of the CPA pay protection payments introduced for the lowest paid in 2012. The departmental deal is built on an assumption that it can move existing pay from you or your colleagues to fund the rises quoted for all, it assumes you have no ethical objection to robbing the 'Peters' around you to pay all the 'Pauls', and believes if you work regular overtime you could be un-informed/un-thinking enough to wish to remove your own existing OT pay to fund a smaller baseline increase for yourself.

Question: So if the TUs don't agree to this deal it drops to only 2%?

Answer: That is disingenuous; we have through a prolonged series of negotiation since early August, identified 2.34% consolidated per annum for three years and 0.684% per annum non-con (dependent on any new PAGB allowances in years 2 and 3). To say they would choose to drop back to 2% is perplexing, but to state that choice demonstrates they are not "seeking to do the best for MOD staff" as the Permanent Secretary has stated on the record. They can do much better simply through applying the TU counter proposal, which has been confirmed in negotiation by the pay team as viable/tenable under the Treasury business case.

Question: I am in line to receive a new allowance or continue to receive and existing allowance approved through the PAGB approvals process and included in the offer letter. What will happen with those?

Answer: To be included in the pay offer all new allowances need to be consulted with the TUs at TLB level before passing through the PAGB. Where that happens, their acceptance as part of the pay offer is non-controversial. The TLB TU Sides will have been consulted over the business cases included in the offer letter so whatever pay award is implemented, and we hope it will be the TUs alternative offer, those allowances will be part of that. The only exception being the HOCS proposal for a MINDO allowance because the TLB implemented a change to the way they rewarded MINDOs in year so the business case no longer applies.

Question: What can I do to find out more and engage with the department?

Answer: First and foremost, as the department encourages all staff to join the appropriate departmentally recognised trade union and become vocal/active within that. The Permanent Secretary and CDP have both advised MOD staff to study the details carefully, the TUs ask you to do the same. At 30 pages it is far from simple, consistent or transparent so you need to ask for some clarification.

We would ask that you review the offer not just with yourself in mind, but with your colleagues; those who are required to work overtime and are expected under the treasury business case to reduce this to a voluntary payment (that's what the funding requires! - irrespective of the protections and underpins promised); with a view to colleagues in London who's changes are complex and often at a total detriment; and with those lowest paid colleagues who currently are in receipt of a supposed 'protection payment' which is eroded to 'no value' over the 3 year deal.

QUESTIONS YOU MAY WISH TO ASK THE PERMANENT SECRETARY AND CDP

As well as the aspects listed above why not ask:

- Why the TU counter proposal is not the fall-back position rather than 2% baseline Treasury remit stated in their video?
- If the first year of the TU proposal can be implemented whilst we workshop the other areas of the business case through proper and normal policy negotiation as proposed by the TUs?
- What the business case assumptions are on the percentage of current overtime that has to change to voluntary OT to fully fund his model and what happens to years 2 and 3 if this funding fails to arise?
- If they would wish to impose their deal & if so why they cannot?
- If they knew ahead of submitting the business case to treasury the TUs principled and mandated position on T&C sales to fund baseline pay, if they did then ask why was the case constructed like – a move consciously towards a foreseeable dispute?
- If the TUs have engaged in good faith negotiation, have produced positive and workable counter proposals, worked with the pay team to confirm these are tenable and raised genuine concerns that have had to be addressed regarding funds moving between two bargaining units and help ensure a fairer distribution by grade?
- Why it is thought fair to consolidate what was a CPA protection payment in 2012 for the lowest paid & lose its value totally over their 3 year deal?

QUESTIONS YOU MAY WISH TO ASK THE PERMANENT SECRETARY AND CDP (continued)

- Why they think it is a desirable ‘simplification’ to remove the percentage pay lead for London staff and seek to argue that a fixed rise in London weighting, worth a different % to each grade, which for most London staff leaves them at relative detriment to national staff at the same grade?
- If any heads of profession have been consulted on the functional allowance changes proposed?
- If the specific business areas (and not just finance teams) have been consulted on proposed functional allowance changes?
- If the overtime changes impact have been consulted on with the specific business areas concerned. If not why not?
- If they understand the TUs principled position on selling T&Cs to fund a baseline pay increase after 10 years of austerity as being an un-ethical course of action.
- Why it is the department can find the funding to give the military staff a 2.9% increase in base pay plus increments plus increases to allowances (they represent ~35% of departmental spend), but for civil service staff can only find 2% (with no increments!) when civil servants represent only 5% of departmental spend – and the only realistic funding they can find is from selling valuable T&C?
- Why the efficiencies we find day in day out through; reorganisation, rationalisation, CI, modernisation, replacing manpower substitutions, etc. cannot be fed in to fund our baseline pay year by year?

Ask your questions on the 2 deals that should be on offer – (not  just the 2% fall-back threatened)