

**From the Office of the
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I refer to your letters dated 20 January and 28 March concerning the NICS equal pay settlement. You have reiterated your previous request for an estimate of the cost of including PSNI staff, former NIO secondees and retired staff in the settlement. You also sought clarification of whether the department intends to defend any court cases brought by retired staff in light of the 'Abdulla' ruling by the Court of Appeal in England, questioning how we can assess a 'business case' for defending the civil cases if the costs of addressing the 'anomalies' are not established.

In my response to you on 23rd March I advised that I was considering the request and whether any estimates produced could be sufficiently robust. Officials have produced cost estimates based on information gathered from a number of sources, not all of which have been provided by NISRA. The sources available add to a number of complicating factors which affect the ability to produce accurate figures.

Retirees/Leavers

Cost estimates produced in relation to former NICS staff should be regarded with a high degree of caution. In terms of retirees and leavers, there is a large number of former staff whose service records as far back as 2003 may prove difficult to obtain given the passage of time. In addition, there is the difficulty of not having any firm frame of reference on which to calculate a potential settlement for retirees before August 2008. The Abdulla ruling has only established the right to bring equal pay claims to be taken in the County Court as a "breach of contract" with a 6 year time limit rather than the 6 months allowed in an employment tribunal. There is no case law indicating the potential level of award a County Court might make, or the time period that might be used to calculate an award, if such a claim was to succeed, to inform our calculations.

We have therefore produced an estimate of the potential cost of extending the current settlement terms to retirees and leavers who left the NICS in the period covered by the settlement (i.e. 1 February 2003 – 31 July 2008). It is estimated that making lump sum payments to this group would cost in the

region of **£17million**, including tax and National Insurance liabilities. It should be noted that these costs exclude any potential pension costs.

The potential cost of an award made by a Court, which extends beyond the terms of the equal pay settlement, is entirely unknown. That would depend on the decision of the Court and we have no precedent for establishing what remedy a Court might offer in an equal pay case.

Former NIO/PSNI Secondees and PSNI Support Staff

In terms of former NIO secondees and staff now transferred to the Policing Board/PSNI, we do not have access to full service history details to calculate costs. We have also not been able to take account of the potential impact of the pending civil bills and any potential award that might be made by the County Court if our defence of those cases was unsuccessful. Estimates for PSNI support staff who transferred to the NI Policing Board are based on information provided in PSNI's 2010 budget setting out proposed expenditure in 2011 – 2012. Their estimate was **£22 million**. This excludes NICS staff with periods on secondment to PSNI who have since have been offered a lump sum based on partial service. The increased cost of those staff is around **£1million**, while it is estimated that the cost of extending the settlement to former NIO and Prison Service secondees would be in the region of **£4 million**. Again, it should be noted that all these costs exclude any potential pension costs.


It is important to note that the NIO cost estimate excludes former NIO staff at Grade C, since the equivalent grades in the NICS are at EO2 and EO1 level but the NICS settlement included EO2 staff only. It also does not take account of the fact that NICS pay scales were used as a basis for the lump sum settlement while secondees to the NIO, because of the pay delegation to the NIO, enjoyed different and in some cases more generous pay scales from 1996 onwards.

Civil Cases

Finally, I can confirm that the department intends to defend both the PSNI/NIO civil bills and any cases lodged by retired NICS staff, on the basis that they have no legal entitlement to the settlement. Whilst the 'Abdulla' ruling you refer to may indicate a greater likelihood of equal pay cases from former staff getting to hearing, it has no bearing whatsoever on the validity of the individual equal pay case.

The sums of money involved are potentially very significant. Going beyond established legal entitlement to make payments to people outside the terms of the settlement could have affordability implications for other spending programmes, which must be set against the background of the current public expenditure pressures.

Yours sincerely



SAMMY WILSON MP MLA