

## Assembly Section

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Mr Shane McAteer  
Clerk  
Committee for Finance and Personnel  
Room 419  
Parliament Buildings  
Stormont

Our Ref: CFP117/11-15

29 May 2012

**Dear Shane**

### **NICS Equal Pay Settlement**

Your letter of the 23 May refers. The information requested is outlined in the following paragraphs.

#### **Retirees/Leavers**

<b>Category</b>	<b>Numbers</b>	<b>Cost</b>
Retirees	905	£4.4m
Other Leavers	2945	£12.9m
<b>Grand Total</b>	<b>3850</b>	<b>£17.3m</b>

Cost estimates have been produced by officials and include tax and National Insurance liabilities in line with arrangements in place with HMRC for the equal pay settlement. The estimates exclude any potential pension

liabilities/costs. It should also be noted that many of those included in the 'Other Leavers' category may have deferred pension entitlements as they typically had over two years' service at the point of leaving. There is in addition to the figures in the above table an 'Unknown' category representing a group of about 800 staff who appear from records to have left the NICS but no leaving reason has been recorded against them. It is not possible to determine whether individuals in this category should be regarded as leavers or if there are other reasons for the change in their record (for example, staff on career break or who were transferred out of the NICS to another body such as NI Water) without examining each individual record.

The figures provided must be regarded with a high degree of caution since they are unvalidated for accuracy – the implementation of the settlement required a large scale validation process to ensure service history records were correct. It should also be noted that service history records of former staff as far back as 2003 may be difficult to obtain and verify due to the passage of time.

### **PSNI Finance**

The £26m set aside for Department of Justice equal pay claims is available this financial year should a liability be established and payments made to staff. It is ring-fenced and can only be used for this purpose. If a liability is established after 2012/13 then there is a possibility that this ring-fenced £26 million may no longer be made available by HMT for this specific purpose.

### **Eligibility for the Settlement**

The equal pay settlement was by definition a negotiation between the Trade Union Side, which had lodged the equal pay claims, and Management Side, which was seeking to resolve them. One of the purposes of the negotiated settlement was to avoid litigation and to reach an agreement which would cost less than the potential outcome from contesting the equal pay cases, thus minimising as far as possible the impact on the public purse. Eligibility criteria were therefore matters for negotiation. From the outset of the equal pay negotiations with NIPSA, Management Side was very clear that it was

negotiating only on behalf of staff in the affected grades for whom DFP had responsibility for pay determination. Eligibility for the equal pay settlement terms has always been based on whether the Department negotiated an individual's pay, not whether an individual was a civil servant. One of the frequently asked questions on the Departmental pay website since early 2010 concerning eligibility states: "If you are or were on secondment / loan to another employer and they were responsible for your pay negotiation, you will not be included in the settlement for that period".

In terms of the use of 1 August 2008 as a cut off point for eligibility for former staff, the eligibility criterion relating to former NICS staff was agreed as part of the settlement with NIPSA. It was determined using the date on which the NIPSA claims were lodged and, as a frame of reference, the statutory requirement that equal pay claims are lodged with the Industrial Tribunal by former staff within six months of the date of leaving employment. Since the effective date of the settlement was 1 February 2009, which was also the date on which the NIPSA claims were lodged, anyone leaving the NICS more than six months before that date would have been outside the six month time limit and therefore unable to lodge a valid claim as at the effective date. This was a valid frame of reference upon which to base eligibility and which both sides agreed as part of the equal pay settlement. This approach was validated last year when two equal pay cases were struck out from the Industrial Tribunal as the claimants had left employment more than six months before submitting their claim.

### **Current Secondment Policy**

The arrangements previously in place, whereby DFP employed staff and concurrently seconded them to the NIO pay group under a technical arrangement to preserve their status as Northern Ireland Civil Servants, no longer exist. It was a unique arrangement put in place to address the creation of and the need to staff the NIO in the 1970s and thereafter. It was formally discontinued upon the devolution of justice and policing in 2010.

The NICS policy on all other secondments is set out in the NICS HR Handbook which is accessible by all staff. The policy stipulates that staff seconded outwardly remain on NICS terms and conditions of service. On secondment a letter is issued to the secondee which sets out the terms of the secondment and which clarifies the position with regards to the status of NICS terms and conditions. In addition, a secondment agreement setting out those arrangements is agreed between the secondee, the host organisation and the relevant NICS employing department.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Norman", followed by a long, sweeping horizontal line underneath.

**NORMAN IRWIN**