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Regional Heads of Local Government  
Regional Schools Leads

UNISON NJC Committee members  
National Schools Committee members

7 June 2018

## **DELIVERING LOCAL IMPLEMENTATION OF THE NJC PAY AWARD 2018-20 IN COUNCILS, SCHOOLS, ACADEMIES AND OTHER NJC EMPLOYERS**

### **UNISON STRATEGY AND ACTION PLANS**

**The NJC Committee has agreed UNISON's strategy for local implementation of the NJC pay award 2018-20. This circular contains separate branch action plans for implementation in councils and academies, to reflect the different contexts in which the award is being implemented**

The NJC Committee has agreed UNISON's strategy for local implementation of the NJC pay award 2018-20.

This circular contains separate action plans for implementation in councils and in academies.

These cover:

- The assimilation process to the new NJC pay spine
- Dealing with employers who might seek to undermine the award, to cut conditions or jobs to pay for it or to walk away from the NJC

Delivering the pay award is vital to achieving key areas of UNISON policy in term of:

- Moving the bottom rate of NJC pay away from the National Living Wage towards the Foundation Living Wage
- Actively pursuing equal pay and reducing the gender pay gap
- Strengthening the NJC, its relevance to employers and sector-wide collective bargaining by reducing compression at the bottom end of the pay spine, updating it and checking pay and grading structures

Councils moving to the new pay spine will need to reach a new collective agreement with UNISON and the other trade unions, once the pay award and the new pay spine has been implemented. This is because each council's pay and grading structure formed part of their local Single Status Agreement.

UNISON is likely to take the lead role in the assimilation exercise but GMB and Unite should be involved as joint union agreement on implementation of the pay award will be necessary to achieve a new agreement.

Branches should explain to members what's changing and consult them on the local implementation arrangements. We should make sure that non-members are kept aware of progress and are encouraged to join UNISON. It will also be important to have active stewards who can report to members in workplaces, so it will be important to recruit stewards in as many workplaces as possible at the start of the exercise.

If you have any queries about the action plans please consult your Regional Organiser or Region in the first instance.

Best Wishes,



Heather Wakefield  
National Secretary  
Local Government



Jon Richards  
National Secretary  
Education & Children's Services

# **DELIVERING LOCAL IMPLEMENTATION OF THE NJC PAY AWARD 2018-20**

## **ACTION PLAN FOR COUNCILS AND OTHER LOCAL NJC EMPLOYERS - OTHER THAN ACADEMIES**

### **1. Delivering Local Implementation – Our Aims**

Our aims are to:

- Ensure full implementation of the pay award
- Persuade NJC councils with 'bespoke' pay spines to adopt the new NJC one
- Persuade 'opted out' councils to become part of the NJC
- Ensure that implementation is achieved without cuts to jobs or conditions of employment
- Actively oppose any attempts by NJC employers not to implement the award fully
- Increase UNISON's membership and organisation through engagement in the assimilation process and dialogue with members and staff

### **2. Background to Local Implementation**

#### **a. Employer Responses**

The 2018-20 NJC pay award should be welcomed by councils and other NJC employers, most of whom have been seeking restructuring of the NJC pay spine and steps to 'future proof' it by keeping the bottom rate above the National Living Wage and moving it towards the Foundation Living Wage (outside of London).

While there have been few signs so far of current NJC councils resisting the offer, we do know that the Tories on the Employers Side and within the Local Government Association (LGA) were unhappy with it and that a small number of employers have suggested that they cannot afford to implement it or don't want to. This includes some private companies contracted to councils.

Interestingly though, the LGA has heard very few concerns. In addition, we know that there are councils which are continuing to attack conditions, irrespective of the pay award. These attacks should be actively resisted, alongside any attempts to cut jobs or conditions to fund the pay award.

#### **b. Funding**

The pay award has not been funded by additional money from central government. Some employers may struggle to implement it without cutting costs elsewhere, while others might try to cut jobs and conditions in order to fund it for political reasons. However, unallocated local authority and local authority school reserves are healthy in some authorities and could

legitimately be used to fund at least the second year of the award. Non-local authority employers might use lack of funding to try and avoid implementation.

### **c. Equal Pay**

The need to maintain pay and grading structures which comply with the equal pay provisions in the Equality Act and European law remains tantamount. Assimilation to the new pay spine will provide a sound basis for pay and grading exercises in the future. But it will also enable branches to spot and rectify equal pay hotspots or anomalies, provide an opportunity to deal with incomplete Single Status exercises or rectify newer problems with the pay and grading structure. However, it is not anticipated that full-blown job evaluation or pay and grading exercises will need to be undertaken as part of the assimilation process.

## **2. Implementation Strategy – what branches should do**

A checklist is attached to assist branches through local implementation steps.

Branches should:

### **a. Establish Joint Arrangements**

#### **Assimilation to the new pay spine must take place by 1 April 2019.**

Regional Organisers and branches should approach employers now to establish joint arrangements for carrying out and agreeing the assimilation exercise. In councils and other employers which use the NJC spine, this should be a relatively straightforward exercise.

All members conditioned to NJC pay and conditions should receive the award in full – although Greater London has a variant of it because of its unique pay spine and London Weighting arrangements. For most local authority members, entitlement to NJC pay and conditions will be determined by their contracts of employment.

For others – **non-local authority members** - the test might be whether their employer has paid recent pay awards and/or adheres to NJC conditions. This will need to be established on an individual member basis and be subject to legal advice where necessary.

Our NJC conditioned test for inclusion in consultation of final pay offers/industrial action gives general guidance.

An NJC conditioned employer is one in which we have evidence that **one or more of the following** apply to at least **some** of that employer's employees:

1. A term in an individual's contract of employment that entitles her or him to NJC pay awards in their current employment and that entitlement does not arise/continue through the operation of TUPE

2. A collective agreement entered into post-TUPE transfer, setting out an entitlement to NJC pay awards
3. Following a TUPE transfer, an employer has habitually observed NJC pay awards. The definition of habitual is either:
  - Observance of NJC pay awards in 2013 - 2017 inclusive
  - Observance of 2016 and 2017 NJC pay awards, plus another positive indicator in writing that the employer regards itself as consistently observing NJC pay awards such as a letter or minute of a meeting

The pay spine restructuring and the two-year award provides an opportunity for councils which have their own pay spines to adopt the revised NJC one and for 'opted-out' councils to return to the NJC. There is no acceptable rationale for use of non-NJC pay spines in individual NJC councils.

**Wherever possible, employers should be urged to adopt the new NJC spine if a variant or bespoke pay spine is currently in use.** This will strengthen the impact of future collective bargaining over pay across NJC employers and make pay systems more transparent for comparison purposes.

The Local Government section and Regional organising staff will advise and support branches with employers who do **not** use the NJC pay spine.

#### **b. Use Our Implementation Guidance**

We are sending each branch and Regional organising staff the following publications as important reference and background reading for the assimilation exercise:

- The new joint union guide to pay and grading reviews - 'Keeping Pay Equal'
- The NJC JE Technical Working Group's Technical Notes
- UNISON's Post Single Status Changes Legal Protocol

The following materials are being prepared:

- A guide on how to move to the new NJC pay spine in those employers operating hybrid or non NJC pay spines currently – this will include a spreadsheet for calculating the total cost of the deal
- A recruitment leaflet for organisers to use in councils setting out what moving to a new pay spine will mean.

**c. Attend Job Evaluation and Pay and Grading Training**

Job evaluation and pay and grading training is being rolled out in each Region. Special sessions are being held for branches and organisers in councils not using the NJC pay spine.

The training will provide a great opportunity to 'upskill' new activists and organising staff and put UNISON in the driving seat on pay and grading and equal pay issues into the future. It will also help branches and organisers to identify any existing equal pay problems arising from earlier incomplete or unsatisfactory Single Status pay and grading exercises.

It is important that all branches participate in the training.

**3. Employers avoiding implementation of the award**

Branches should:

**a. Challenge the Employer**

Any NJC employer who proposes to vary the pay award or assimilation process should be challenged as this could amount to a breach of members' contracts and mean that the employer would no longer be considered party to the NJC.

Branches should notify their Regional Organiser if their employer signals a move away from the award – either in reducing the basic pay award or changing the assimilation arrangements.

**b. Use Equality Impact Assessments (EIA)**

Equality impact assessments can provide strong grounds for questioning employers' cuts proposals. NJC guidance in Part 4, section 4.11 of the Green Book sets out how to carry out an EIA to assess the impact of proposed changes to employment and pay and conditions.

The Local Government section can give support to branches and organisers in carrying out equality impact assessments.

**c. Prepare for industrial action**

We should be ready to challenge **any** NJC employer who does not properly implement the award or who seeks to cut jobs or conditions to pay for it through local industrial action.

It will be important for branches where this occurs to discuss this possibility with members and to prepare membership and employer information for consultation and a possible industrial action ballot, in consultation with your Regional Organiser.

#### 4. **Consulting Members**

Our legal advice is that local implementation to the new pay spine requires a new collective agreement to be reached, between the employer and the unions

Branches should:

- Explain the changes to members and consult them on local implementation arrangements
- Decide whether to hold a consultative ballot once the proposals are signed off (see below). If the branch does decide to ballot, the ballot question must be on acceptance of the local translation of the pay award and not the pay offer - which has already been accepted.

#### 5. **Getting your collective agreement 'signed off'**

**All** branches **must** comply with the procedures below as we all need to ensure that no new equal pay problems arise as a result of the assimilation process.

##### **a. Councils using the current NJC/GLPC pay spines**

For these councils, moving to the new pay spine should only mean minor adjustment to their pay and grading structures. Regional Heads of Local Government will be responsible for signing off these final proposals. This is subject to the employer providing an equality impact assessment which demonstrates the local assimilation has not widened the gender pay gap in each grade. The template to be completed is Template 3 in NJC Part 4.11 Guidance on EIAs **(attached)**

A copy of the new pay and grading structure and the employer's equality impact assessment should then be forwarded to the Local Government Service Group.

##### **b. Councils not currently using the NJC pay spine or where implementation is complex and/or or challenging**

Where councils do **not** use the NJC pay spine or implementation is complex and challenging (e.g. involving restructuring and/or cuts to terms and conditions) these proposals must be signed off by the Service Group and Legal Services.

This is in accordance with the Post Single Status Changes Legal Protocol, which operates to ensure proposals do not unpick equal pay proofed pay structures and agreements

The Regional Organiser should send full details of the employer's proposals to Adam Crème, Head of UNISON's Legal Section, and Kathie Dickson in the Local Government section at the UNISON Centre – except for branches in Greater London and West Midlands, which should send their proposals to Gill Archer. The proposals will be scrutinised to enable UNISON Centre staff to support branches and Regions in their response.

## **6. Further Information**

If you have any questions, please speak to your Regional Organiser in the first instance.



## **IMPLEMENTING THE 2018-2020 PAY AWARD**

### **BRANCH CHECKLIST FOR COUNCILS AND OTHER LOCAL NJC EMPLOYERS – OTHER THAN ACADEMIES**

#### **First steps**

1. Identify all members/employers entitled to NJC pay and conditions
2. Make sure that you have an up to date version of your council's pay and grading structure and headcount and 'full time equivalent' staffing figures by gender for each scale point. (You will need the equivalent for other NJC employers covered by your branch).
3. Liaise with your Regional organising staff to establish an approach to your employer
4. Write to your employer to seek an initial meeting to discuss a timetable and arrangements for the assimilation process
5. Identify your branch team to carry out the assimilation process
6. Make sure you know when your Regional training sessions on job evaluation and pay and grading will be held and nominate those activists to attend
7. Talk to GMB and Unite locally to get them involved
8. Hold workplace meetings to tell members – and non-members – what will be happening
9. Make sure you have recruitment materials at each one!
10. Ensure that your branch has received the background materials listed in this document from the Local Government section and share out the reading! Order further copies if necessary
11. Ensure that your membership records are up-to-date
12. Consult your Regional Organiser about your sign off arrangements
13. Agree consultation arrangements with members on the final proposals

#### **Working with your employer**

1. Agree arrangements and a timetable for carrying out the joint assimilation process and reaching a collective agreement
2. Ensure that the branch has adequate facility time arrangements to participate in the process

3. Identify local training and admin support needs and means of meeting them
4. Encourage your employer to adopt the new NJC pay spine if they use a hybrid or local spine
5. Make it clear to your employer/s that UNISON will not accept partial implementation of the pay award or cuts to jobs and conditions to pay for it and will take all necessary steps, including industrial action, to ensure members receive the full award

**If things go wrong ....**

1. Make sure that your Regional Organiser is involved from the start and is aware of any difficulties
2. Make sure the branch or your Regional Organiser contacts the Local Government section immediately if it appears that your employer does not want to implement the full award, use the new NJC pay spine or carry out the assimilation exercise
3. Keep members informed
4. Discuss options for opposing employer plans to avoid full implementation or cut jobs and conditions to pay for it with members
5. Prepare employer and membership records for further consultation and a possible industrial action ballot

## **DELIVERING LOCAL IMPLEMENTATION OF THE NJC PAY AWARD 2018-20**

### **ACADEMIES ACTION PLAN**

#### **1. Campaign Aims**

Our aims are to:

- Ensure full implementation in NJC conditioned academies – the initial priority
- Convince those academies operating two tier or local bargaining arrangements to adopt the NJC pay award and new pay spine
- Ensure that implementation is achieved without cuts to jobs or conditions of employment
- Increase UNISON's membership and organisation through engagement in the assimilation process and dialogue with members and staff

#### **2. Background to the Campaign**

Multi academy trusts (MATs) and stand alone academies (SAAs) are not formally part of the NJC and have freedom to determine their own pay and conditions. The majority of MATs and SAAs are however 'NJC conditioned' by either a commitment in their recognition agreement, custom and practice or a separate collective agreement incorporated into contracts.

Broadly speaking academies fall into one of the following groupings:

1. NJC conditioned – implement NJC pay and conditions for all support staff
2. Two tiered – implement NJC for TUPE'd staff but have separate pay bargaining for new starters and staff moved on to new contracts post transfer
3. Local bargaining – don't implement NJC for any of their support staff

Some academies may protest that they cannot pay the award and will threaten to drop out of the NJC. Others might propose to implement it by cutting costs elsewhere, or cutting jobs and conditions. We need to be clear with academies that the actual costs of the deal will vary depending on the make-up of their staff: e.g. proportion of support staff in schools, number of part time workers, grades, term time workers etc. so costs may not be as much as they think. A small number of schools have decent levels of reserves, although the number of such schools is shrinking.

### 3. Implementation Strategy – what branches should do

A branch checklist is attached to assist branches but essentially, a two pronged approach is being adopted:

- identifying and support those academies agreeing to implement the deal
- identifying and target those refusing to implement

Branch, Regional and UNISON centre responsibility for implementation will be divided up as follows:

- Where MATs have schools across three regions or more, **UNISON centre** takes responsibility for communicating and negotiating with the employer– these are the national MATs
- Where MATs have schools across two regions, **the region** with the biggest number of schools within the MAT takes responsibility.
- Where a MAT has schools within one region, but across multiple branches, **the region** agrees with branches who takes the lead
- Where a MAT or standalone falls within one branches boundary then we would ask **the branch** to lead

### 4. Joint union work

It will be important to coordinate our implementation campaign with GMB and UNITE and agree common action against academies refusing to implement.

### 5. Preparing for industrial action

We should be ready to challenge any academy that does not implement the award or which seeks to cut jobs or conditions to pay for it through local industrial action. Again the volume and geography of non-implementers will dictate whether we drive this nationally or locally.

It will be important for branches where a potential dispute could happen to discuss this possibility with members and to prepare membership and employer information for consultation/industrial action ballot.

### 6. Job and pay audit

We will ask MATs and standalones to do a job and pay audit once all support staff have been moved on to the new pay spine. This will create an opportunity for future discussions around pay and grading structures, particularly in larger MATs which cross local authority boundaries.

## **7. Consulting Members**

Branches should explain the changes to members and consult them on local implementation arrangements.

It is for each branch to decide whether to hold a consultative ballot once the proposals are signed off (see below). If the branch does, the ballot question must be on acceptance of the local translation of the pay award and not the pay offer - which has already been accepted.

## **8. Getting your proposals 'signed off'**

UNISON Centre will take responsibility for signing off the agreement on year two of the pay deal (i.e. the new pay spine) for the national MATs and any complex local agreements. Regions will be asked to sign off agreements for straightforward local MATs and standalones.

## **9. Legal Options**

We continue to take advice on the legal options for challenging any NJC conditioned MATs or standalones who refuse to implement the NJC deal. However unless we have a clear contractual commitment from the employer to implement the NJC deal then our focus must be on an industrial, lobbying and campaign strategy to persuade employers.

## **10. Further Information**

If you have any questions on this action plan, please speak to your Region.

## IMPLEMENTING THE 2018-2020 PAY AWARD

### ACADEMIES BRANCH CHECKLIST

#### Step 1 – Some branches may have already done this

- Send model letter to NJC conditioned employers asking them to confirm in writing what month they paid the 2018 increases and requesting a meeting to discuss arrangements for implementation of new pay spine **(Model letter is attached with this circular)**
- Please note: Branches do not have to write to the national MATs. The UNISON centre will do this. To avoid complication, the list of national MATs is attached.

#### Step 2 – If academy trust confirms agreement to implement the award in full

- Inform your Region of the positive response from the employer
- Arrange an initial meeting with the employer to discuss a timetable and arrangements for the assimilation process for year two. We are producing a presentation on how to implement year two of the deal including a spreadsheet for calculating the cost for employers with hybrid pay structures
- Make sure that you have an up to date version of the pay and grading structure(s) operated by the trust, headcount and 'full time equivalent' staffing figures for each scale point
- Make it clear to your employer/s that UNISON will not accept partial implementation of the pay award or cuts to jobs and conditions to pay for it and will take all necessary steps, including industrial action, to ensure members receive the full award
- Ensure that the branch has adequate facility time arrangements in place with the employer to participate in the process
- Identify local training and admin support needs and means of meeting them
- Talk to GMB and Unite locally to get them involved
- Hold workplace meetings to tell members – and non-members – what will be happening
- Make sure you have recruitment materials at each one!
- Ensure that your membership records are up-to-date
- Consult your Regional Organiser about your sign off arrangements

- Agree consultation arrangements with members on the final proposals

### **Step 3 – If an academy trust responds that it won't honour the NJC pay deal in full**

- Inform your Region of the response from the employer
- Get hold of copies of contracts, collective agreements and all written statements from the trust highlighting their commitment to NJC – speak to your Region about seeking legal advice on whether we have grounds for a claim
- Send second model letter to employer urging them to reconsider and seeking a meeting – **(Second model letter attached with this circular, which can be amended to reflect local circumstances.)**
- If you do not receive a positive response to the letter send out members' leaflet and arrange members meeting to discuss campaign strategy – leaflet for use in academies refusing to honour the NJC pay deal will be available shortly
- Submit Freedom of Information request to trust on senior post holders pay, spend on external consultants, third party related transactions and agency staff – template FOI will be available shortly
- Speak to your Region about issuing local press release and other campaign ideas
- Prepare employer and membership records for further consultation and a possible industrial action ballot