



Ministry  
of Justice

Human Resources  
Directorate

TUS Office – Pay Team only

(By email)

5<sup>th</sup> July 2018

## **PAY OFFER – MODERNISING THE EMPLOYMENT PROPOSITION (MEP)**

Dear TUS Colleagues,

The Department is writing to outline details of the MEP offer for the core Ministry of Justice pay bargaining unit which we wish to be in a position to implement with effect from 1 August 2018 but this is clearly subject to consent. This offer is being made following extended engagement with TUS and against a continuously challenging financial environment with respect to both public sector pay and departmental budgets. As we have discussed with you, we believe that this offer will provide a more modern employment package and a higher value pay award for the majority of employees and will alleviate a number of concerns that you have raised in earlier pay rounds which were made within the 1% pay cap. It also looks to build on our constructive negotiations around the initial offer and I have set out our response to these below.

### **Scope**

MEP introduces changes to pay, grading and employment terms for employees working for the Ministry of Justice. The proposals relate to delegated grades working in MoJ Corporate Centre and all Agencies (except for HMPPS) and ALBs on MoJ terms excluding staff on loan to in scope bodies and on parent department terms and including Departmental Fast Stream (within their current pay ranges).

The MEP changes will apply to both staff on Deal and legacy terms and conditions as at 1 August 2018 under collective agreement terms and new employees to the Ministry of Justice in the above areas will be employed on MEP terms no later than 1 October 2018 (excluding where TUPE/COSOP terms apply).

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### Background

The Deal is over 10 years old and reflects working arrangements as they stood when MoJ was forming. Legacy pay structures and terms and conditions date back even earlier including pay arrangements from Magistrates Courts Committees which were established prior to 2005.

In the context of changes that have been driven across the Civil Service through initiatives such as the Brilliant Civil Service and the CS Workforce Plan, current pay, terms and conditions and grading arrangements in MoJ have become increasingly outdated, both in terms of the ability to attract and retain and to support business transformation.

In 2015 MoJ received agreement in principle to pay flexibility subject to the submission and agreement of a full business case. This business case was approved by Ex Co and Invest Co last year and Treasury approved pay flexibility above the 1% pay cap to deliver a 3% increase for staff in 2018/19, 2019/20 and 2020/21. This was based on a cost neutral business case and no new money. To deliver this increase MoJ needs to reform existing working arrangements in respect of removing legacy allowances and reviewing a range of terms and conditions including working hours, overtime, out of hours arrangements, occupational sick pay, mobility arrangements and the combined Band A grade in the context of reverting to standard Civil Service grading.

MEP looks to introduce a new, simpler and more transparent contract which delivers a higher value pay award for most employees and a more modern employment package that values the contribution that staff make to the Ministry of Justice of the future. In doing so MEP proposals are designed to bring employment terms into closer alignment with Civil Service best practice terms.

MEP proposals are designed to bring employment terms for all existing staff in bands A-F and staff on legacy terms and conditions into closer alignment with Civil Service best practice terms. The MEP programme is designed to ensure that the MOJ employment offer will be fit for purpose for the five year duration of the MEP pay deal as well as ensuring that the majority of staff receive an above 1% pay award for the first three years of the deal.

### Some of the key benefits of MEP are:

- 5 year pay deal for staff (3 years of which is a consolidated award above 1% for staff who are below the MEP maximum in all locations);
- Introduction of spot rates for bands E and F (AA and AO) by year 5;
- Enhanced and more competitive maxima over the 5 years;
- Use of targeted non consolidated recruitment and retention allowances;
- Improved mobility and flexibility;
- Support for a reduction in a reliance on overtime, agency staff and contractors;
- Adoption of standard Civil Service grading including re-establishing Grade 6 and Grade 7 to make MoJ more competitive with OGDs in pay terms.

This revised offer builds on the MEP principles in our initial offer including reducing the number of pay ranges and introducing more competitive pay ranges over the 5 years, the

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introduction of spot rates for AAs and AOs, a 38 hour flexible working week to facilitate business change, a reduction in the number of allowances and a reduction in overtime rates.

It however looks to build on constructive negotiations around the initial offer to reduce leapfrogging whilst continuing to meet MEP principles. The revised offer therefore provides for any staff below the relevant MEP minima to be uplifted at the start of year 1 and onwards. This has been achieved through the staggering of pay range minima over the 5 years as we have discussed to achieve a more equitable outcome for all staff.

The revised offer also provides for staff in Inner and Outer London to receive a consolidated and pensionable 3%,3%,3% award in years 1-3 in line with all other staff. An additional non consolidated London allowance will also be paid to staff in Inner and Outer London from year 3 (£500 in year 3 and £1000 in year 4 and 5). This will cease when staff move out of a London post. This is a significant departure from the original offer. As this is pensionable we are notifying Treasury.

Thirdly the initial offer indicated we were prepared to discuss pay protection. This revised offer confirms three years non consolidated pay protection will be available to staff who are in scope. Two years mark time protection for those whose salary is above the MEP maximum has also been set out in this letter.

Finally this revised offer also looks to further address equal pay risks not only by introducing a single national pay range for grades above AO and by addressing potential leapfrogging concerns but also by improving governance in respect of the approval processes for TRA, RRA and higher starting salaries. TUS will be consulted on these processes as these are developed. I hope this illustrates the extent to which we have listened and acted on the views of TUS colleagues in these negotiations in formulating this revised offer, within the available MEP business case budget.

### **Elements of the MEP Offer**

The revised MEP offer is set out in the headlines below. Full details will be reflected in relevant MoJ HR Policies and Pay and Allowances Handbooks.

#### **MEP Grading Structure**

Pay band naming will revert to typical cross government naming convention (AA-G6) with effect from 1 August 2018. Posts in the organisations covered by MEP will be allocated to one of the seven grades.

All staff below Band A will move to the new MEP pay and grading structure with effect from 1<sup>st</sup> August 2018. There will be no opt out from the new grading structure. New recruits to grade AA – SEO will be recruited to these grades with effect from no later than 1 October 2018.

#### **MEP G6 and 7 and links to the Band A Split Exercise**

MoJ currently operates a composite Band A (G7/G6) and Band A posts are to be split into G6/G7. The grading exercise to action the band A split has been decoupled from MEP pay

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negotiations, however the new G6 and G7 pay ranges have been discussed as part of MEP negotiations. These new pay ranges will take effect from when the Band A split has been completed for a given post/posts.

The completion date for the Band A split grading exercise cannot be guaranteed, however TUS will continue to be fully consulted on this exercise as it progresses.

Once this is completed Band A staff will be transferred from the interim MEP Band A pay range onto the appropriate Grade 7 or Grade 6 MEP range based on the job weight of their role. New recruits to G6 and G7 will be recruited once the split has been completed in the relevant business area. Until that point Band A posts will be advertised as MEP Band A and new staff will be placed on the MEP transitional Band A pay range.

We are conscious that Band As will be required to manage the uncertainty generated by MEP within their teams whilst being affected personally. Accordingly, we have ensured that the MEP G7 pay range is as competitive as possible. We have also confirmed that there will be no reduction in pay for any Band A in the first two years of MEP (18/19 and 19/20), subject to any business as usual changes such as voluntary moves etc. MEP mark time protection will apply (if appropriate) once the grade split takes place even if this goes beyond the 3 years pay protection period that applies to other staff from 18/19. Finally it is confirmed that irrespective of the timing of the completion of the Band A split, Band A staff will receive the MEP pay award with effect from 1 August 2018 and 1 August 2019. All appropriate support will be given to Band As affected by this regrading exercise.

### **MEP Pay Ranges – Increase in minima and maxima**

#### **Overview**

Under MEP MoJ will reduce its pay ranges and move to a single national pay range for grades above AO. For G6 - EO there will be flexibility in starting salary for London and a new non consolidated London Allowance to reflect market rates from year 3. Higher starting salaries in London will be managed through guidance and a business case approvals process. AA and AOs (including those currently on Deal closed ranges) will move over the course of the deal to spot rates which will apply from year 5 for National, SE Pay Zone and London. Higher starting salaries and removable RRAs may also be used to target market pressures in other areas. Overlaps in delegated ranges have been reduced where possible.

#### **Maxima**

MEP Maxima are generally being increased, subject to affordability to enhance pay competitiveness with other Departments and to support retention. The new Grade 7 maxima will however be lower than the current combined Band A pay range maxima. These maxima will remain constant for the 5 year period.

#### **Minima**

Minima have been set at a level which reduces potential leapfrogging whilst ensuring staff are able to progress up their pay range from Year 1. Minima will increase as shown on each 1 August during the 5 year MEP period.

#### **Spot Rates**

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Pay rates for AA and AO take into account of the projected annual increase to the statutory National Living Wage due the following April. This means affected employees gain the benefit of 8 months additional payment at the projected statutory National Living Wage rate each year. Hourly rates at Year 5 (including London non consolidated allowance from year 3) are as follows:

AA National	£9.94
AA London	£10.44
AO National	£10.51
AO London	£12.15

### **London Allowance**

A non consolidated non pensionable London Allowance will be paid to staff in Inner and Outer London of £500 in year 3 and £1000 in year 4 and 5. This will be removable in the event of a member of staff leaving a London post. Inner and Outer London locations will remain as specified under the Deal.. This allowance will not be paid to staff in SE Hotspots.

### **Recruitment**

Recruitment will normally be expected to be at the range minimum however managers will have discretion to set starting salaries for new recruits (not existing Civil Servants, unless successful in an external recruitment competition) above the minimum, subject to a business case process which will require agreement by the relevant Director General. This will be required to meet agreed criteria including market rates, recruitment and retention difficulties, skills and experience of the candidate, comparison with benchmark data and matching the existing salary of the candidate. This process will be discussed with TUS and will be subject to monitoring by Ex Co and oversight by the Reward Team and the use of higher starting salary will be kept under review over the MEP period as minima increase. We will discuss with TUS providing high level anonymised data on use of higher starting salaries.

Flexible non-consolidated non-pensionable allowances (RRAs) will also be used to attract and retain staff to key roles in exceptional circumstances subject to business case. Again these are subject to tight governance.

### **MEP Pay Offer**

A 3% consolidated pay award will be paid to staff in National and London pay areas in years 1, 2 and 3 (2018/19, 19/20 and 20/21) where they are below the relevant MEP pay range maxima. All staff in National and London pay areas who are below the relevant MEP pay range maxima will receive a 1% consolidated pay award in Years 4 and 5 (2021/22 and 22/23). A basic pay calculator will be provided to staff with supporting detail in the wraparound.

### **Starting Pay on Promotion and Temporary Responsibility Allowance (TRA)**

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Starting pay on promotion will be the higher of the minimum of the pay range in the higher grade or an increase of 10% on pre promotion base salary, restricted to the maximum of the new pay range maximum. This will remain consolidated and pensionable.

A single non pensionable rate of TRA at 10% of base salary will be introduced from no later than 1 October 2018. TRA at 5% and 15% of base salary and TRA cash value (payable at the minimum of the higher grade) will cease no later than 30 September 2018. TRA at 10% of base salary will be non consolidated and non pensionable.

TRA will be limited to 1 year and under MEP there will be tighter controls around extensions of TRAs. Extensions to TRA will be limited to exceptional circumstances e.g. maternity, long term sick.

Legacy deputising and acting up allowances will end no later than 30 September 2018.

### **Allowances to cease no later than 1 October 2018**

A number of allowances, many of these legacy allowances, will cease no later than 30 September 2018. Any staff who qualify to claim these allowances will be able to do so until the closedown date for December 2018 pay.

### **Specialists**

The Deal specialist pay ranges for Bands A-D (established in 2007 as +5%,+10% and +15% above generalist grades) will be removed with effect from 1 August 2018 and employees who are currently paid on these pay ranges will be mapped to the relevant MEP pay range with effect from 1 August 2018 on their pre MEP salary plus appropriate MEP pay award.

A range of new specialist allowances are being introduced along with more targeted use of RRAs to address specialist recruitment and retention issues.

### **Pay Protection**

Pay protection will be paid to a person whose *MEP protected earnings* are less than their *current protected earnings* and it will be paid for the first three years of MEP.

By *MEP protected earnings* we mean the MEP salary and any allowances an individual receives (including the London Allowance) that have been revised and are eligible for protection. Some new MEP allowances will also be included here and these will all be listed in the MEP Pay and Allowances Manual.

By *current protected earnings* we mean current salary and any allowances that an individual receives that will be removed or revised under MEP and are eligible for protection.

Pay protection is calculated as the difference between the *MEP protected earnings* and the *current protected earnings*. In year 1 it will be paid from October. In subsequent years it will be calculated at the beginning of each MEP year and paid from 1 August. It will be paid monthly.

As pay protection will be calculated on an annual basis, an employee may be protected for one or more years. Once pay protection has been calculated, the amount will be final. Any

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changes in working pattern will not result in a recalculation of pay protection. If an employee leaves MoJ or moves on promotion they will no longer be eligible for pay protection and the payments will be stopped.

### **Targeted use of Recruitment and Retention Allowances**

Flexible non-consolidated non-pensionable allowance will be used to attract and retain staff to key roles in exceptional circumstances subject to business case.

Under MEP RRAs will be subject to tight governance. RRA business cases will be subject to approval by DGs or their delegated representative before being actioned on SOP. The business case submitted will need to clarify why an RRA is required and explain the criteria which justify the payment.

Criteria for RRA include; business criticality of role; the scarcity of required skills and expertise, and how easily these are replaceable; market rates and flight risk.

Each business area will be responsible for managing and monitoring their use of RRA. MoJ Reward Strategy will obtain returns from DGs on extensions to RRA for audit purposes and these will be provided to Ex Co on a regular basis. MoJ Reward Strategy will retain oversight. RRAs are non contractual. We will consult TUS on the policy on RRAs.

### **Staff with legacy progression**

Legacy pay progression in legacy terms and conditions will be removed with effect from 1 August 2018. Target rate moves for MoJ staff on Legal Services Commission terms will cease with effect from 1 August 2018, and these staff will lose their ability to opt into the Deal with effect from this date. Functional Leadership staff and other staff with contractual entitlements to pay progression will be included in the MEP pay award for performance year 2017/18.

### **Standardisation of Overtime**

From no later than 1 October 2018 MoJ will move to a plain time non pensionable rate for all overtime hours worked for all delegated grades G7/6 (Band A) – AA (Band F). Breaks during periods of overtime will be unpaid. All premia for weekend and evening working will be removed excluding RCJ Security payments. On call will be rationalised. Travel time payments will not be made beyond 30 September 2018.

Staff who have worked overtime prior to 1 October 2018 can claim payment on Deal terms as long as the claim is submitted before the deadline for December 18 closedown.

### **Working Week of 38 hours**

From no later than 1 October 2018 the standard working week will be 38 hours net (FTE) irrespective of geographical location and pro-rated for part time-time staff with no paid breaks. This will apply to all parts of MoJ in scope for MEP and will apply to arrangements that are contracted separately such as the OPG twilight shift.

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It is proposed that the MEP contract will state that employees **may be required to** work at weekends, Bank Holidays, evenings or early mornings at the same rate as any other day, to meet the needs of the business. This is subject to meaningful consultation with the departmental trades union on implementation and safeguards for staff.

Although the MEP contract will state that staff **may be required to** work on Saturdays, Bank Holidays, evenings and early morning at the same rate of pay as any other day, in practice it will not be all staff and it need not be every weekend, Bank Holiday, early morning or evening.

Safeguards will be put in place within the contract for all staff to ensure that:

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- a. Staff have adequate notice to manage their personal commitments in the form of a fair and flexible rota;
- b. Managers will discuss arrangements with staff to establish what is reasonable for individual staff members, depending on their circumstances;
- c. Staff can adequately balance their home lives with the needs of the business;
- d. HMCTS can meet the needs of its users; and
- e. Any changes to working patterns are consulted with the trade unions, executed fairly and with sufficient notice for staff to manage their personal commitments.

### **Occupational Sick Pay (OSP)**

Standardisation of occupational sick pay arrangements will be introduced for MoJ staff with Civil Service arrangements introduced in 2014 which provide for a maximum of 5 months full pay and 5 months half pay.

This means that all MoJ staff in scope for MEP will adopt Civil Service occupational sick pay arrangements from no later than 1 October 2018.

### **Mark time**

With effect from 1 August all Mark Time will be limited to two years. This time limit also applies to any mark time payments arising under MEP.

### **Travel and Subsistence (T&S) and Mileage**

From no later than 1 October 2018 MoJ will move to a single mileage rate of 25p. Personal Incidental Expenses (PIE) will also be removed and a single T&S rate will be paid. T&S will only be paid on a reimbursement basis. Travel from home to normal workplace will not be paid.

### **Mobility**

From no later than 1 October 2018 the CSEP model mobility clause will be extended to all MoJ staff in scope for MEP. This is currently applicable to MoJ new starters and provides

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for all staff to be mobile within government departments within the parameters of reasonableness.

### **Excess Fares (EFA)**

From no later than 1 October 2018 (subject to transitional arrangements) eligibility to Excess Fares will be limited to two years. In exceptional circumstances a further year of EFA may be payable on evidenced hardship grounds only.

### **Loans and Secondments and Detached Duty**

The handling of detached duty, loans and secondments will be reviewed to ensure that Cabinet Office policy on application of these terms is being consistently applied.

### **Allowances from October 2018.**

Several allowances will be rebranded or introduced no later than 1 October 2018. These will not be backdated to 1 August 2018. The value of these allowances will not increase during the 5 year MEP period. MEP allowances will be payable for a maximum of 2 years. Managers may then reapply if the allowance is required to continue. All allowances are non consolidated, non pensionable, non overtimeable and pro- rateable. Allowances are non contractual.

### **Areas for further consultation with TUS**

Several areas have come out of these negotiations on which we have agreed we will engage meaningfully with TUS. These are:

#### **a) MEP – Formal Review in year 3 of 5**

MEP is a 5 year pay deal. During Year 3 a formal review will however be conducted as to the impact of the new MEP arrangements. TUS will contribute to the areas for discussion under this review. It is noted TUS has raised a number of issues during these negotiations which they may wish to revisit. These include relative pay position and the introduction of non consolidated specialist allowances pay arrangements and the position of existing specialists.

As discussed during the MEP negotiations, should the trade unions submit a pay claim for year 4 onwards, this will be given due meaningful consideration in accordance with established consultation mechanisms as contained within the MoJ Collective Engagement Framework and HMT rules.

To ensure that consultation on the review with the trade unions is meaningful, further to s7 of the Collective Engagement Framework:

- a reasonable timeline for consultation will be proposed and discussed in advance of the start of the review and any representations meaningfully considered;
- thereafter, the consultation timeline and the duration of any attached embargos will be regularly reviewed and sufficient time included to provide for trade unions to consult their members, as appropriate;

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- sufficient information will be provided in advance to enable the trades unions to prepare a study, formulate an opinion, submit it to management and receive management feedback on that opinion;
- the trade union side will be formally consulted in advance on any evaluation criteria and consultation will take place at the key review stages in advance of decision making and implementation.

### **b) MEP – Review of use of RRA in non South East locations**

As discussed during negotiations TUS will be engaged on the approach to application of RRAs in locations outside the South East where there may be specific market rate pressures.

### **c) MEP – Gainshare**

Following pilots MoJ may wish to move to a gainshare scheme and we will consult meaningfully with TUS in developing options.

### **Equality Analysis**

Improved equality outcomes including the protection and advancement of equality under the public sector quality duty are a theme running through MEP from the inception of the Programme through scoping, development and continuing through implementation and beyond to assessment of benefits realisation. A key aim of MEP is to harmonise pay and terms and conditions for all staff and to eliminate anomalies including inequalities in pay and reward. We will continue to monitor the impact of the programme on staff with protected characteristics under the Equality Act 2010. Where there is a potential disparate impact we will mitigate this impact wherever possible. For example, where there is any disparate equality impact on particular groups as a result of the longer working week or other contractual changes we will include measures in our implementation plan to address this through one to one conversations with managers and through communications. We have provided TUS with modelling showing the impact of the MEP changes on business areas and groups of staff as part of the MEP negotiations.

### **Impact Analysis**

This shows that this revised offer over the 5 years benefits most staff. This includes analysis of specialists and for LAA staff which I hope is helpful.

I would welcome an early response and an indication of whether we may expect a ballot to be completed by 17 August and a positive recommendation to your members.

**Dr Neil Wooding**  
**Chief People Officer**  
**HR Directorate**

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