

UNISON BIRMINGHAM BRANCH

Single Status JULY 2007 UPDATE

Back Pay Settlements/Equal Pay Claims. The council are claiming that they can not afford the full six years equal pay back pay (£200 million) that they owe to some mainly female occupational groups. They think they can raise £100 million but this is over the next 2 years. We recommend that members do not accept any offers of settlement that is below the full six years. The council have now settled most of the claims with home care and residential care staff, those that have declined the offer are at the early stages of lodging equal pay claims which will be supported by UNISON. Care assistants have received up to £41,250 and Homecarers have received up to £33,750 after Tax and NI. But this only represents 60% of what they might have got at Tribunal! Catering employees employed by Citiserve (Direct Services) should be made offers in October/November 2007. However, there is some doubt as to the inclusion of the post of 'general assistant' in this settlement round, but we understand that the council would like to deal with them at the same time depending on funding. Catering staff in Adults might also be included but we do not have firm guarantees at this point. All remaining groups with clear and significant claims will then be looked at the end of the financial year and beyond as funding becomes available through the next rounds of capitalisation borrowing. The Regional Office are now looking into scheduling all other occupational groups (with claims) for further grievances, prior to lodging equal pay claims with the Employment Tribunal. The collective grievances for school based (non-citiserve) unison members are now being sent in to the council – this covers around 2,500 staff.

New Pay and Grading Structure. The council are proposing a pay structure which has 7 wide grade bands. This would result in 40% of employees upgraded, 50% staying the same, and 10% downgraded as the council are not investing enough funds into the new pay line.

The council has gone back on earlier discussions reducing 3 growth increments down to 2. Under the proposals pay could also go down once linked to performance if you don't measure up to your managers expectations. Unison has grave doubts that such a scheme could be operated fairly.

Under these proposals equal pay could take ten years to be achieved. Equal pay might NEVER be achieved, due to the introduction of competence / performance reviews linked to pay and we believe that glass ceilings within the bands will restrict progression. This is why we are pressing them for an opportunity to discuss alternative structures of 9 and 10 bands so that staff could be positioned closer to their point score. We also expect that the council will shortly announce a further slip to the implementation date of 1st October 2007, UNISON think this could slip by 2 months, but we still expect backdating of pay to April 2007.

Protection. The Council has offered a three year protection package on 'basic pay only' so are not including bonus etc in this. The protection clock started running 1/4/2007.

Leave. Some people will lose up to 4 days annual leave under the councils proposals, UNISON demands that annual leave should be the same for everyone on a levelling up basis. In addition we have demanded that the current arrangements for concessionary and extra statutory days be preserved.

Spotlight on APPEALS

Appeals. There will be a right of appeal and the development of an appeals process is nearing conclusion. Stage 1 will have 4 separate steps and Stage 2 will be heard by a Joint appeal panel including trade union reps. We will share and consult with UNISON members on the 'final draft' as soon as it is available. Elected members (Councillors) and Provincial Council have effectively excluded themselves from hearing appeals in what they see as a technical process.

Some outline details below, but the process is not yet finalised:-

STAGE 1 –Appeal

Step 1 – Appeal in writing. ▼

Step 2 – Line manager considers appeal (face to face meeting).

Appeal Verified – Job analyst –re-assessment – new job score.
(further right of appeal at stage 2 if req'd)

Or,

Appeal Disputed(facts) - ▼

Step 3 – Employee appeals line manager decision to Chief Officer

Appeal Verified – Job analyst –re-assessment – new job score.
(further right of appeal at stage 2 if req'd)

Or,

Appeal Disputed(facts) - ▼

Step 4 – Employee appeals against Chief Officer decision.

Will be either alternative Chief Officer or Joint Panel, to settle dispute on any facts, still to be resolved.

Appeal Verified – Job analyst –re-assessment – new job score.
(further right of appeal at stage 2 if req'd)

Or,

Appeal rejected.

STAGE 2 – Appeal against result of re-evaluation.

Appeals panel consists of (2 TU Reps, 1 Manager, 1 HR Officer)

Appeals panel considers written appeal. Panel can make clarifications where necessary calling in both parties if required. Decisions of joint panel are final.

Hours and Flexibility. The council wants everyone to work a 36 ½ hour week. Nationally the trade union side has put forward a claim for a 35 hour week for all employees. If this is not agreed nationally then we would be in favour of reducing the current 37hr contracts down to 36 ½ hrs with no loss of pay. However we have argued that staff currently working less than a 36 ½ hrs standard week should not have hours increased or pay reduced as a result of the change. The council want a contract as flexible as 7am to 7pm working any five days from seven. The council also wishes to include something called the 'Employee Bargain'. This requires total flexibility of your employment contract. UNISON believes this is a very serious undermining of your terms and conditions. The council has also just torn up the redundancy and redeployment agreement, it will save the council millions by retraining long service employees instead of making redundancies where staff are displaced.

Monthly Pay. The Council are insisting on transferring all employees to monthly pay by 1/4/2008 as it gives them a £500,000 ongoing saving per year on processing payroll costs. UNISON continues to oppose the proposed change to monthly pay for all those not already monthly paid, due to the hardship that this creates for those affected during the transitional period.

Leavers/Role Changers. Anyone *leaving the Council or changing roles/contracts* within the council should request and complete a UNISON equal pay enquiry form ASAP (0121-622-8740) as there is a six month time limit for submitting equal pay grievances, from the date of leaving or changing role/contract..

Calling all ex-homecare and ex-care staff that are still employed at Birmingham City Council and have continuity of service, and have not received a settlement offer from the council. A separate COUNCIL claim form is available for you to make a claim for work during the past six years from the employer- you can ring the BCC Pay and Grading Hotline on 0121-675-8080. Members need to be aware that there are 2 conflicting pieces of case law and that the Council are considering these claims on an individual basis following local lobbying by the branch about a ruling in a case called National Power v Young.

Spotlight on MARKET SUPPLEMENTS

Market Supplements. In order to maintain the integrity of equality in the new pay and grading structure, where it is established that a market payment is justifiable as an addition to the job evaluated rate, the following principles have been argued for by UNISON to comply with the law.

Market supplement payments must be demonstrable at the time of introduction. This must be on the grounds of either actual staff shortages or anticipated recruitment or retention problems as a result of the introduction of the new pay and grading structure. In all cases clear evidence of local/national pay levels from agreed sources should be collated as an audit trail for the annual equal pay audit.

Market supplement payments must never be consolidated into basic pay.

Market supplement payments will be subject to audit, review and equality impact assessments.

Market supplement payments are applied to 'posts' and 'not persons'.

Market supplement payments are not portable, on either transfer or promotion.

Market supplement payments will apply equally to both new post-holders (as a recruitment payment) and existing post-holders (as a retention payment).

Market supplements will have a clear end date (to cover market reviews) and reasonable notice to withdraw (still to be agreed)

A form of appeal will exist where the employer excludes a post-holder from market pay where other post-holders employed in an identical post are in receipt of such payment.

Market Supplement payments will usually be paid as an annual amount divided equally across the year.

Pension Implications of market supplements are likely to be:

Short term requirement = not contractual = not pensionable

Or,

Long term requirement = contractual = pensionable at normal rate.

EQUAL PAY FOR EQUAL VALUE – THAT WAS THE AIM - WASN'T IT ?

MRS SMITH : 'FEMALE' JOB Scores 398 points. Her salary is now £12,000

MR JONES : 'MALE' JOB Scores 330 points. His Salary is now £18,500

They both fall into the councils new 'grade 2' which covers everyone scoring between 325 and 399 points and there are 10 steps within this grade band. But, because of the Councils proposed assimilation rules It will take a minimum of 10 years for Mrs Smith to achieve EQUAL PAY with Mr Jones. **So points don't necessarily equal prizes !**

UNISON think that these assimilation rules discriminate against women, as it could take another 10 years to deliver EQUAL PAY but with pay linked to performance some will probably never achieve equal pay.

LOOK for your self and ask your self is this fair ?

Mr Jones is placed at the top of grade 2 on £17,352 straight away in year 1, because his salary is being cut, but he would also receive pay protection for 3 years (and rightly so !).

SCP20
17,352

SCP19
16,740

SCP18
16,137

SCP17
15,825

SCP16
15,459

SCP15
15,096

SCP14
14,787

SCP13
14,544

SCP12
14,163



SINGLE STATUS

3) In year 3 Mrs Smith would automatically step up £14,544. But, then, all further steps would dependent on her managers view of her performance and Barriers could be also be introduced further up.

2) In year 2 Mrs Smith would automatically step up to £14,163 (see step above)

SCP11

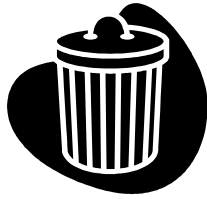
13,588

1) Mrs Smith pay rises from £12,000 to £13,588 (SCP11) in year 1. But, please note she has only been put at the bottom of the new grade 2 as her salary is increasing. (see step above)



Start Here at the bottom of Grade 2 if your Mrs Smith (all figures exclude inflation).

Spotlight on BONUS Earners



UNISON Birmingham Branch are committed to the principle of our 'NO LOSERS' and 'levelling up' policy.

National Union Policy is that bonus should be removed as it is discriminatory because only male manual groups have access and female manual groups do not. Methods of removing bonus were considered by the NJC (National Joint Council) in 1998 and these are:

- Consolidation into basic pay
- Buy-out if can't be consolidated
- Current Bonus payments to be subject to protection arrangements for existing staff and phased out completely as new employees are recruited.

UNISON was in favour of consolidation of bonus pre-protection.

BUT, this and the other option of protecting bonus are NOW both legally in doubt because of various case law established in recent employment tribunals.

- Bainbridge v Redcar and Cleveland, coupled with -
- Allen v GMB

Which means that Councils will not protect or consolidate Bonus because it continues the discriminatory payments and leaves them potentially exposed to the risk of a further 3 year equal pay claim from comparator groups (could be another £50 million).

Likewise if trade unions seek to consolidate the bonus into basic pay they (and their individual reps) could be exposed to similar claims for perpetuating the discrimination.

This leaves buy-out as an option but any value of buy-out would also have to be made to other comparator groups so the council have ruled this out for cost reasons as the comparators vastly outnumber the bonus earners.

So basically bonus earners are in a real predicament because of this developing web of case law. Its like trying to negotiate with both hands tied behind our backs and this is very frustrating as we have never had local negotiations restricted by so much case law before!

The bit of the Bainbridge case covering bonus is under appeal and we are still waiting the result – as this decision is creating the problem of preventing consolidating bonus.

Genuine payments for performance (bonus/productivity payments) are not actually illegal as such but to be legal the council would have to offer similar bonus schemes to all other occupational groups and the council say that is not practical for most occupational groups. 2% of the workforce (1,100) are on Bonus and 98% (38,000) are not.

Even if the Bainbridge appeal changes the earlier case law decision, the council are already falling back on their Plan B to avoid protecting bonus, **Section 112** of the Local Government Act. The council have stated that Section 112 says it is unlawful for a council to pay above the national/local going rate for the job and its individual officers can be fined and the council surcharged. So bonus earners can't just rely on the Bainbridge appeal, as the council are likely to play the Section 112 Card next!

What will this mean to bonus earners?

This could mean 'No Protection' for Bonus earners! The Council has offered a three year protection package on 'basic pay only' so are not including bonus etc. The council is also trying to now exclude the value of previously consolidated bonus payments from the protection arrangements. UNISON are working with the other unions at regional level to try to ensure we get a fair protection deal for all and that bonus earners are not treated differently. This may require legal action and this is being explored jointly by the regional secretaries of all the signatory trade unions (UNISON, GMB, TGWU) as in reality this will mean bonus earners are excluded from pay protection. A brand new Employment Appeal Tribunal judgement, just in this week, 'Middlesborough v Surtees' may help our arguments. The position of the branch remains to seek to achieve no losers.

Where will bonus earners be placed within the new bands?

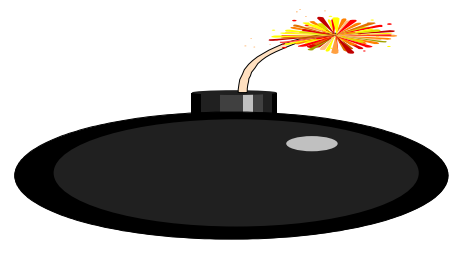
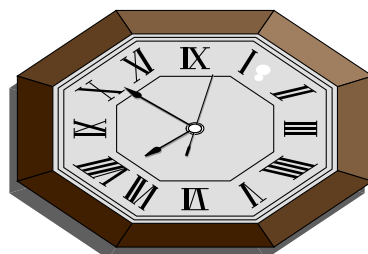
Assimilation rules dictate where you are placed within the wide grading band so it's important that this is done fairly. If bonus earners basic pay goes up, but total pay is reduced due to withdrawal of bonus, they would move to the bottom of the band. This is in stark contrast to earlier positions of the council that those downgraded would be assimilated at the top of the band. This means potentially even higher cuts to bonus earners than we first anticipated.

What about standby payments?

Standby payments are also likely to be at risk as the council will have to harmonise standby payments on equality grounds, which vary greatly between groups where they are payable, so there is also a risk of standby payments reducing.

Will I get a say in this?

UNISON is a democratic union and NO final decisions on single status will be reached without a full ballot of the branch membership. UNISON would have a legitimate trade dispute if we did not agree and the Council imposed a package, this would mean an **industrial action time bomb**.



A selection of views from UNISON Reps on Single Status proposals:-

Terry Mills (UNISON Birmingham Branch -Single Status Co-ordinator) said:

*"We are currently building a **JUST SAY NO CAMPAIGN** to the councils overall plans. Women deserve equal pay, but we believe that the council should not be expecting some groups of workers to pay for the council's discrimination through pay cuts and attacks on all of our terms and conditions. The government needs to fund Single Status properly".*

Alun Gunter (UNISON Birmingham Branch Chair) added:

"The issue is the pay line. This brings together all our members, the so called winners and those the Council would take money off. We must unite to achieve a fair deal for all. We are not prepared to stand by and allow the Council to impose an unfair pay structure upon us. Be prepared for a ballot on action in the near future up to and including strike action".

Jim Elwood (Social Services UNISON Rep– Chauffeur Driver) said:

"Chauffeur Drivers currently get a weekly bonus of £93, but our basic pay is very low so our total pay packet is barely a living wage. If that goes we will lose our homes as there is no protection for us. We need to force the council to deliver reasonable protection arrangements for all those affected".

Jo Bickley (Street Cleansing Steward – Lifford Lane Depot) said:

"The way the council is handling single status is to divide and conquer, therefore the only way we will win this fight is for all our members to stand together. I signed a contract of employment with the Council and all my out goings are based on an expectation that the council would honour that contract. We have all got mortgages and bills based on that expectation. Nobody should lose pay but the exclusion of bonus earners from protection is an absolute disgrace. The thing that bothers me is that there has been a very poor turn out from bonus earners at all the mass members meetings. This is strange as we are the ones likely to suffer the most pain from the councils plans. Bonus earners can not win this fight alone and need to connect up with other groups of workers at mass meetings as often as possible to show our solidarity and support for each other".

Caroline Johnson (UNISON Birmingham Branch Assistant Secretary) commented further:

"I've been a shop steward representing our thousands of low paid members for 14 years. These women have been forced to work for poverty pay for far too long and equal pay must be bought in now. Over the last 12 months I have done over 100 workplace meetings and I've always argued that bonus earners are NOT to blame for women's low pay. The only way to stop this happening is a united fight across all sections of the Council – Men and Women".

Carole Hagans (Birmingham Branch Secretary) added:

*Since December 2003, our Branch has been united in its approach to single status, there should be no losers in this process. Our Branch is working hard in an effort to achieve the best for every member, but I believe that united industrial action may be the only way to achieve the best deal for all. At every members meeting we have stressed that no one section of the workforce should be losing their pay so that another section benefits. We are campaigning on the basis of "**just say no**" to the proposals and need to continue our fight against any detriment to the pay or terms and conditions, for all of our members.*

Barry Hanley (Environment Section Secretary) said:

"I find it disgusting that Birmingham City Council is taking this opportunity to attack the pay of bonus earners and use the excuse of their discrimination against women as the reason for doing so".

Graeme Horn (Social Services Section Secretary) said:

“The Council and the people of Birmingham have benefited hugely from the hard work our bonus earning members have put into emptying the bins, cleaning the streets, providing transport for social services users and all the other areas of work. Lower pay only means worse services for Birmingham”.