National Employers for local government services

To: Chief Executives in England, Wales and N Ireland
(to be shared with HR Director and Finance Director)
Members of the National Employers' Side
Regional Employer Organisations

1 November 2023

Dear Chief Executive,

Local government pay 2023-24

Agreement has today been reached on the 2023 pay award for local government services ('Green Book') employees. In order for the NJC to reach formal collective agreements, its Constitution requires a majority on each Side of the NJC to be in favour. Representation (with voting rights) on the Trade Union Side is determined on the basis of membership size: UNISON has 31 seats, GMB has 16 and Unite has 11.

Up to 2020, every NJC pay deal was reached with the agreement of all three unions. But since 2021 pay deals have been reached with just UNISON and GMB. For a third consecutive year, Unite has refused to have its details included in the 2023 NJC pay agreement circular. This is disappointing but does not prevent a formal collective agreement from being reached as the necessary constitutional requirement for a majority on each Side of the NJC to be in favour, has been met, which means the pay award can now be implemented.

Unite is also continuing to take industrial action in a small number of councils. Most of the strikes are taking place in individual service areas, such as waste, refuse, cleansing, housing repair etc. The National Employers are concerned that Unite's action is undermining employee and industrial relations (at both national and local levels) and disregards the properly constituted national collective bargaining arrangements of which it has to date been an integral part. The National Employers hope Unite will call off its strikes and instead recognise that a national collective agreement has been reached, thereby concluding the 2023 pay round.

The 2023 pay process

When the National Employers responded to the unions' pay claim on 23 February, they deliberately called their offer 'full and final' in order to provide certainty from the outset to the unions' officials, the unions' members, the wider workforce and local employers that it was the maximum offer the National Employers were able to make and to confirm that a different offer would not emerge at a later date.

A key objective in quickly consulting councils on the unions' claim and responding to it within four weeks of receiving it, was to enable agreement to be reached in a timely manner to ensure all local government employees received the award as close as possible to the 1 April implementation date, as the National Employers were acutely aware of the cost-of-living pressures the local government workforce is experiencing.

Unfortunately, the unions' vastly different timetables for consultations and strike ballots means we have again experienced a protracted process this year, which will likely delay the start of the 2024 pay round. It is unlikely the unions will lodge their pay claim until the new year. This is because the three unions each have to consult their respective memberships on the shape and content of the claim.

Another direct and very real consequence of a delayed pay deal, of which the unions are fully aware, is the adverse impact on lower-paid employees who are in receipt of income-related benefits, particularly Universal Credit (UC). This is because UC works on a monthly snapshot of income rather than any form of averaging (as occurs naturally in annual systems, like taxation).

When income goes down, the system responds by increasing UC the following month, and if there's a permanent increase in earnings the amount of UC reduces. However, if there is a one-off payment there is no way for a claimant to tell the DWP that it is a temporary increase in earnings. In the UC computer system, it just looks like they have been very well paid. What then happens is the additional pay (including any backdated award) is considered in the amount of UC someone receives in the following monthly period. In most cases the result is that UC is reduced by 55p for every extra £1 someone earns after income tax, national insurance and pension contributions. Very real problems occur if a one-off back payment means someone's UC falls to zero.

Unfortunately, payment of backpay cannot be staggered over a period of months. It is monies due to the employee so has to be paid as soon as practicable after the pay deal is reached. The only advice we are able to give local employers is, *"Universal Credit is such a very specific issue that applies in different ways to different people, it's impossible for us to issue any national guidance. Employers should advise employees affected by this issue to speak to their Universal Credit Work Coach via their online account or call the Universal Credit Helpline on 0800 328 5644."*

The National Living Wage (NLW)

The Government's policy is for the NLW to reach 66 per cent of average earnings by April 2024. The Chancellor is expected to confirm the April 2024 NLW rate in the Autumn Statement on 22 November. He may also announce whether the current policy is to be extended or replaced.

The NLW is currently £10.42 and the bottom NJC hourly rate is now £11.59, providing clear headroom of £1.17. However, the gap could narrow to just 16p from 1 April next year for the period until the 2024 pay deal is agreed.

The Low Pay Commission's (LPC) forecast in November 2022, at the time of the Autumn Statement, was for the NLW in 2024 to get as high as £11.35, an increase of 93p (8.9 per cent) from its 2023 level. This was the top end of its forecast range of £10.82 to £11.35.

However, the LPC's most recent forecast now shows a new upper estimate of the projected rate for April 2024 of £11.43, which is 8p higher than November 2022's forecast (and 10p higher than LPC's forecast from March 2022). The central projection of £11.16 is also up: 8p higher than the £11.08 of its November 2022 forecast (and 21p higher than

the £10.95 forecast from March 2022). This demonstrates how much the LPC forecasts can move, albeit only in one direction in recent history.

As the National Employers have repeatedly reminded the unions, this year's pay award means the lowest paid employees have had a 22 per cent (£4,033) pay rise in the two years since 2021. However, that's achieved almost nothing in getting us ahead of the NLW, as is the employers' ambition.

Therefore, the pressure on the NJC pay spine is set to continue and will again need to be factored into the National Employers' considerations in the forthcoming 2024 pay round. The National Employers believe local government should not be a minimum wage employer, so retain their long-held position of maintaining headroom between the NLW and NJC spine.

The National Employers wholeheartedly support the principle of the NLW but their remit is limited to securing pay agreements with the trade unions. Responsibility for making clear to government the cost to the sector of its NLW policy, lies with the LGA, in partnership with the WLGA and NILGA, all of whom have made clear that if funding does not reflect government policy on the NLW, jobs and services are at risk as employers struggle to balance their budgets.

The National Employers

The membership of the National Employers' Side of the NJC for 2023-24 has been confirmed and can be found at **Annex A**.

The National Employers are eleven senior elected members, many of whom are, or have been, Leader of their council. However, they do not sit on the NJC to represent their own council, nor, in the case of the LGA members, the English region in which it is located. They are tasked by their respective LGA political groups (along with WLGA and NILGA) to reach decisions (eg, making a pay offer) based on all the information available to them including the likely impact of how their decisions might be received by councils (and by the Government, which always takes a keen interest in the pay round).

The National Employers are also responsible for reaching agreements in three other bargaining groups:

i. **JNC Craftworkers ('Red Book')**
The Trade Union Side comprises Unite (nine seats) and GMB (two seats). Both unions continue to reject the employers' full and final offer of £1,925 for 2023-24. I am unable to give any indication of when the pay deal for this group might be reached.

We advise very strongly against imposing the JNC Craft pay offer ahead of a national collective agreement being reached. To do so would not only fragment the unity of the employers' position but would also leave councils vulnerable to questions being asked by auditors about why, in the absence of a national collective agreement, expenditure had been unnecessarily incurred. Perhaps more importantly, councils would need to consider very carefully the wider legal issues,

including those arising out of the cases of *Kostal UK Limited v Dunkley* and *INEOS Infrastructure Grangemouth Limited v Jones & others*.

ii. JNC Chief Officers
Agreement was reached on the 2023 pay award of 3.50 per cent on 5 May 2023.

iii. JNC Chief Executives
Agreement was reached today on the 2023 pay award of 3.50 per cent.

Please share this letter and subsequent updates on pay, with your colleagues in HR and Finance, and with elected members, as appropriate. I shall continue to keep you informed of developments.

Yours sincerely,

Naomi Cooke
Employers' Secretary

ANNEX A

NATIONAL EMPLOYER MEMBERS 2023-24

LGA NOMINATED

LABOUR: Cllr Peter Marland (Milton Keynes, S East)
Cllr Cathy Mitchell (Warrington, N West)
Cllr Tim Roca (LB Westminster, London)
Cllr Arooj Shah (Oldham, N West)

Sub: *Cllr James Lewis (Leeds, Yorks & Humb)*
Cllr Peter Mason (LB Ealing, London)

CONSERVATIVE: Cllr John Fuller OBE (South Norfolk, East of England)
Cllr Joanne Laban (LB Enfield, London)
Cllr Roger Phillips (Herefordshire, W Mids)

Sub: *Cllr David Leaf (LB Bexley, London)*

LIB DEM: Cllr Keith House (Eastleigh / Hampshire, S East)

Sub: *Cllr Michael Headley (Bedford, S East)*

INDEPENDENT: Cllr Doug McMurdo (Bedford, East of England)

Sub: *Cllr Julian Dean (Shropshire, W Mids)*

WELSH LGA NOMINATED

LABOUR: Cllr Anthony Hunt (Torfaen, Wales)

Sub: *Cllr Jane Gebbie (Bridgend)*

N IRELAND LGA NOMINATED

SINN FEIN: Cllr Christopher Jackson

DUP: *Sub:* *Alderman Aaron Callan (Causeway Coast and Glens)*

NATIONAL ASSOC OF LOCAL COUNCILS NOMINATED

PARISH: vacant