

National Reward Team

Advice Note 12 - Temporary Promotion and Reckoning of Service

February 2024

Introduction

This Advice Note advises forces of actions to take in reviewing and correcting payments to some officers who have taken temporary promotions with effect from 1 February 2012.

Forces may have applied the Police Negotiating Board (PNB) Circular 2012/1 to determine pay on temporary or substantive promotion, and consequent Home Office Circular 018/2012. As explained below neither should be applied.

Forces should apply Regulation 24(2) of the Police Regulations 2003 without reference to the PNB or Home Office circulars. Regulation 24(2) provides for periods of temporary promotion to be reckonable in both higher and lower ranks.

This note sets out the correct approach. All forces will need to review their local policies to ensure that they are applying the appropriate regulation when setting base pay and ensure that any incorrect payments made after February 2012 are corrected.

Background to issue relating to PNB and Home Office circulars

The PNB agreed that, with effect from 1 February 2012, that the effect of Regulation 24(2) should be amended so that service specified below should be taken into account in reckoning the service of a member for the purposes of pay on any promotion (whether temporary or permanent). Home Office Circular (HOC) 018/2012 endorsed the PNB's decision¹. Both documents were shared with forces.

The revised specified service was described as:

(a) All prior service in the higher rank on substantive (permanent) promotion.

(b) All prior service in the higher rank on temporary promotion, *but only if the member had served in the higher rank (whether on temporary or substantive promotion) at any time within the five years preceding the date of the substantive or temporary promotion in question*. In calculating, the five year period for the purposes of paragraph (b), any period of maternity or adoption leave was ignored².

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226196/CIRCULAR_2012-1_RECKONING_OF_SERVICE_FINAL__1_.docx.

² For forces that followed the above, in relation to paragraph (b):

- Where a member completed a period of temporary or permanent promotion in the five year period preceding a temporary or permanent promotion which took effect on or after 1 February 2012, the pay point in the higher rank on which the member was placed when commencing the new period of temporary or permanent promotion was to be the same as the pay point at which the member completed the last period of temporary or permanent promotion.

However for some PNB circulars to be valid (those labelled as ‘advisory’ after the circular number) there should be an accompanying Home Office Circular or legislation. The ‘reckoning of service’ aspect of this PNB agreement has not been enacted.

Revised Position

In 2021 a legal challenge was brought by an officer, who had been temporarily promoted on a number of occasions and, as a result of the circulars, that service had not been treated as reckonable, with an impact on their pay and pension. The claim was on the basis that the PNB and Home Office circulars are not supported by accompanying legislation. The force conceded his claim on the basis of legal advice. A determination is needed to support such circulars, and therefore the circulars should not have been implemented.

The NRT is recommending to forces that they review all historic temporary promotions, where relevant. Regulation 24(2) should be applied:

“(2) Subject to regulations 42, 43 and 44 and section 97 (3) of the Act, in reckoning the service of a member of a police force in any rank for the purposes of pay, account shall be taken of all his service in that rank, whether in that or another police force, and service in a higher rank, on temporary promotion thereto or otherwise, shall be treated as if it had been service in that rank”.

Current Practice in Forces

From a survey of force practice conducted in 2022 by the NRT, it was clear that generally forces have applied the guidance in the circulars, rather than Regulation 24(2) for officers on temporary promotion. Some forces appear to be unaffected.

In the meantime, a number of forces have since ceased to apply the circulars and applied the current Regulations from a range of dates.

Consequential Requirement

All forces will now need to confirm that their treatment of current and retired officers is appropriate:

1. For those officers who have undertaken any temporary promotion - that ALL previous periods were taken into account, each time, and
2. For officers substantively promoted that ALL previous periods of temporary promotion were taken into account

The NPCC NRT will liaise with forces to ensure that they are aware of this Advice Note and that each force is seeking to make corrections where appropriate.

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- But where the member had not performed any service at the higher rank within the five year period preceding a temporary or permanent promotion taking effect on or after 1 February 2012, then the member would commence their service in the higher rank at the lowest rate of pay to which a member is entitled on promotion to that rank.

Next Steps & Timeline

It is therefore necessary for those forces which have adopted the circulars, rather Regulation 24 (2), to identify cases where officers have been disadvantaged in terms of pay or pay and pension and seek to rectify the position. The NPCC will work with forces as required and request that:

- A local SPOC should be identified to lead on this matter and their details forwarded to the NPCC NRT. The lead for this matter at the NRT will be andy.fittes@npcc.police.uk.
- A toolkit for forces, based on this Advice Note, will be agreed with PFEW and PSA and circulated to the SPOC. This will be provided by [date].
- In order to assist forces, it is intended that the issue will be publicised through force communication methods.
- Local Federation Branch Boards, PSA and NARPO could also be utilised to ensure the message reaches a wide audience.
- Forces are recommended to agree a work plan with their local branch to identify those who might be affected.
- If the historic records are not readily available we would recommend that that each force liaises with its local PFEW reps and works with them to publicise the issue, asking for those officers who believe they may be affected to come forward so that their individual case can be reviewed.
- A flowchart is attached to this note which illustrates whether officers might be affected. This can be shared with the Staff Associations and relevant officers.

Practical Implications – Key Points

Not all temporary or substantive promotions are affected – only those occurring since February 2012, depending upon the policy applied by the force.

For individual members, the impact of following Regulation 24 (2) may result in higher pay. But this depends on the number of periods of temporary promotion, the duration of each period and whether substantively promoted or not. Any increase in pay will be backdated and/or amended, but will be subject to deduction of tax, National Insurance and member pension contributions. Pension contributions are allowable for tax relief only for active members of pension schemes and therefore cannot apply to retired members.

It may also in some cases affect pension and lumps sums paid to retired officers, where pensionable pay is increased in the final three years of service.

Conclusion

As explained above the impact is limited and will apply only to some officers. Each force should review their records to identify officers who have had multiple temporary promotions, or one or more temporary promotion followed by substantive promotion and where there is a gap between periods of promotion exceeding 5 years.

Forces need to be confident that they have located all officers who may have been affected by this issue so the recommendation is that forces should check:

- For those officers who undertook temporary promotion, that ALL previous temporary promotions were taken into account each time
- For officers substantively promoted, that all previous periods of temporary promotion were taken into account

Where forces have applied the provisions of the above PNB and Home Office circulars and 're-set' the promotion salary to the minimum point, they will need to ignore the gap, apply the provisions set out in Regulation 24(2) and check the appropriate pay point for the second and any subsequent promotion.

This could impact an officer's pension where there is an adjustment to pensionable pay within the last three years of pensionable service in either the 1987 or 2006 schemes, or in respect of any period during which the officer was a member of the 2015 scheme.

Any queries or who to contact concerning further advice can be emailed to:

nationalrewardteam@npcc.police.uk

NPCC National Reward Team

February 2024

Flow Chart illustrating whether an officer will be affected by the withdrawal of PNB Circular 2012/1 and Home Office Circular 018/2012

Pension implications

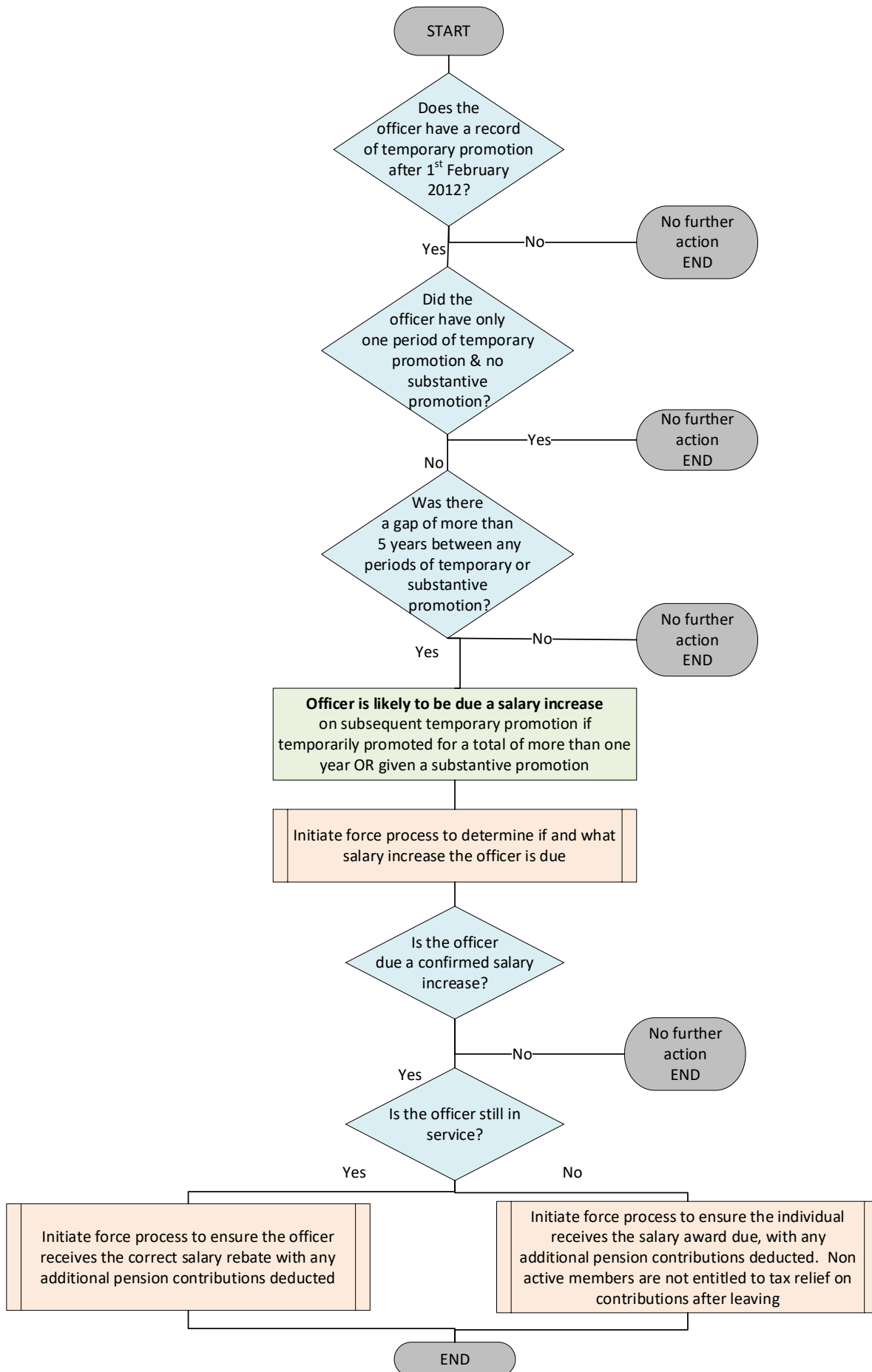
If there was substantive promotion:

- If the officer was substantively promoted to the higher rank after temporary promotion and retired having served on the maximum point of the rank for at least one full year, there are no pension implications.
- If the officer was substantively promoted to the higher rank after temporary promotion but retired not having served on the maximum point of the rank for at least one full year, there may be a pension impact and the pension, and any lump sum may need to be recalculated.

If there was no substantive promotion:

- If the officer was not temporarily promoted in their last 3 years of service, there are no pension implications.

If the officer was temporarily promoted for a second or subsequent period in their last 3 years of service, and is due a salary increase as a result, there will be a pension impact and the pension and any lump sum will need to be recalculated.



Temporary Promotion Remedy – Actions Feb 2024

These steps are intended as a quick guide to the actions needed to deal with the remedy for the Temporary Promotion issue contained in NPCC NRT Advice Note 12. Advice and help can be obtained from the NRT via andy.fittes@npcc.police.uk

Step 1	<p>Each force to identify if they have applied the Police Negotiating Board (PNB) Circular 2012/1 to determine pay on temporary or substantive promotion, and consequent Home Office Circular 018/2012:</p> <ul style="list-style-type: none"> • Are you still applying this? • If you did apply then officers could have suffered a detriment • If you did not apply the circular are you confident that their officers who have been temporary promoted have suffered no detriment?
Step 2	<p>Stop applying it as a matter of urgency (if you do, as identified under step 1)</p> <p>Appoint a SPOC to coordinate a response and liaise with the NRT. Send your SPOC details to the email address above please</p>
Step 3	<p>Forces should identify from its records all officers who may have been affected by applying the circular. . The start date to look for is the 1st February 2012 . This includes officers who have since retired . Forces need to record the relevant periods of temporary promotion which have been discounted as not eligible for payment . (See Advice Note)</p> <p><u>To Note</u> : The Government pay and increment ‘freeze’ between 1st April 2012 – 31st March 2014 influences the amounts that officers could be eligible to receive but does not affect their entitlement.</p>
Step 4	<p>Communications should be sent out to ensure all officers who may have been affected are aware and can contact their force . This could include communications via force intranet , newsletters and email Also the local staff organisations could assist . To reach retired officers then Pensions administrators and NARPO could assist .</p>
Step 5	<p>You should contact the officers who have been affected after having calculated the amount of detriment so they are aware of the remedy process . Officers should have the opportunity to clarify any details and agree that the records are correct and / or submit their own evidence.</p>
Step 6	<p>Officers should be reimbursed.</p> <p>Ensure officers are on the correct pay point</p> <p>Ensure there is a correct record of their reckonable service in total and at that pay point / when they are due to move to the next pay point (if relevant)</p> <p>Ensure all pension implications are identified and addressed (in consultation with the affected officer and staff association where relevant)</p>
Step 7	<p>The resolution details should be forwarded to the NPCC National Reward team. This should include:</p> <p>Number of officers affected (No personal details required)</p> <p>Amount and date reimbursed</p>
Any queries please send to:	andy.fittes@npcc.police.uk