

2019



FDA written evidence to the National
Crime Agency Remuneration Review Body

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2. Introduction

The FDA welcomes the opportunity to submit written evidence to the National Crime Agency Remuneration Review Body (NCARRB). We believe that employees and the UK taxpayer benefit from an independent, evidence-based review body that has democratic legitimacy through its government remit. We hope that government respects its independence and honours credible and considered recommendations.

3. NCA context

The FDA represents senior and middle managers in leadership roles in the National Crime Agency (NCA) and across government. In addition, we provide affiliated support to the staff associations across the UK Intelligence Community (UKIC). In the context of the NCA our members are employed as Directors, Deputy Directors and Grades 1 to 4 in varied professions.

The NCA is a pivotal law enforcement agency with national and international reach and the mandate and powers to work in partnership with other law enforcement organisations to bring the full weight of the law to bear in cutting serious and organised crime. NCA employees are however civil servants subject to the civil service code. To assist them in their crime fighting role staff, NCA officers may be designated with one or more of the powers and privileges of a constable, powers of a customs officer and powers of an immigration officer (triple warranted).

As NCA staff are civil servants we have based the evidence in this submission around the same comparators and using the same pay and economic data as we include in submissions to similar civil service review bodies. As acknowledged by the Home Secretary in the [NCA Annual Plan 2017-18](#), the NCA delivers a prominent crime-focused role and therefore we believe it appropriate to compare the position of NCA staff with similar roles in the police particularly as many NCA staff will work in teams with police staff. The vast majority of NCA officers designated with powers hold 'tripartite powers' (namely, the powers of a Constable in England and Wales; the powers of an Immigration Officer; and the powers of a Customs Officer) which are collectively known as NCA Standard Powers (NCASP). A number of these officers will also be designated with the powers of a Constable (Scotland).

Unlike other civil servants, NCA officers with powers are prevented from taking industrial action. We recognise the importance of national security and the contribution made by our members in its defence. However, these restrictions on

officers with powers, exercising a right to withdraw their labour, emphasises their uniqueness in the civil service context. This should be factored into NCA pay reform not only by the employer but by government with a relaxation of the pay constraints applied to the civil service.

As in previous years, the FDA is mindful that we do not create two tiers of pay arrangements for employees working in the same grade for the same organisation. To that end the FDA will be consistent in our evidence to both the NCARRB and to the employer as part of pay bargaining.

4. General economy

UK GDP growth is expected to remain subdued in 2019 as Brexit-related uncertainty, global trade tensions and higher interest rates weigh on the economy. An interest rate hike is expected by the end of the year. The Bank of England has warned that uncertainty over Brexit continues to have a negative impact on the economy and expects growth to continue to be held back into 2019.

All the same, UK unemployment is at an all-time low and the ONS reported in their latest January 2019 report ¹ on the public sector that the employment rate (the proportion of people aged from 16 to 64 years who were in work) was estimated at 75.8%, higher than for a year earlier (75.3%) and the highest since comparable estimates began. Wages are growing as employers compete for skilled employees. Latest estimates show that average weekly earnings for employees in Great Britain in nominal terms (that is, not adjusted for price inflation) increased by 3.3% excluding bonuses, and by 3.4% including bonuses, compared with a year earlier.

Therefore, the squeeze on employers to attract people with the right skills in the right place is increasing and offering competitive market rates of pay will be essential in both the private and public sectors if wage growth forecasts are correct. Our concern is that this places the NCA at a disadvantage and the pace of pay reform needs to be maintained.

¹ ONS Labour Market Statistics

(<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/january2019>)

5. Earnings data

In our evidence submitted in 2016, we reported that the IFS predicted that labour shortages in the public sector would be a growing risk. This has been borne out and we consider that this remains a risk for the NCA because of the niche skill sets required from component parts of its workforce.

It is likely that roles at grade 3 to grade 1 will have greater difficulty with recruitment and retention because of market rate disparity. It should be noted that the salary levels for senior grades in the civil and public sector have fallen further behind the private sector as pay levels are more compressed, whilst more junior grades are much closer to market rates.

There is a risk that this increasing disparity will limit the recruitment pool to those who are late in their career and able to afford lower pay levels. This in turn is likely to have a negative impact on the Agency's laudable plans to attract a more diverse workforce. Our sense is that the restrictions placed on the Agency's ambition on pay by government pay policy has meant an over reliance on recruiting staff who have completed a career in the police or other sectors. This brings in valued expertise but has a negative impact on the diversity of the Agency's workforce.

Pay growth in the private sector has on average kept in line with the rate of inflation. The latest ONS Annual Survey of Hours and Earnings (ASHE) ² tells us in April 2018, median gross weekly earnings for full-time employees were £569, up 3.5% from £550 in 2017. The 3.5% growth seen this year is the highest growth in earnings since 2008.

For the third year in a row private sector earnings increased more than public sector earnings. While private sector median earnings were down to around 85% of public sector earnings between 2010 and 2015, the proportion has risen in 2016 and 2017 to 89% this year. Of course, these averages do not reflect the civil service or the NCA as there is no pay progression in addition to cost of living uplifts unlike the police, local government and the NHS.

In the light of this, continuation of below inflation pay limits will have an increasing impact on operational delivery for the NCA if it is unable to fund necessary pay reform.

² ONS Annual Survey of Hours and Earnings Statistical bulletin (<https://www.ons.gov.uk/ASHE>)

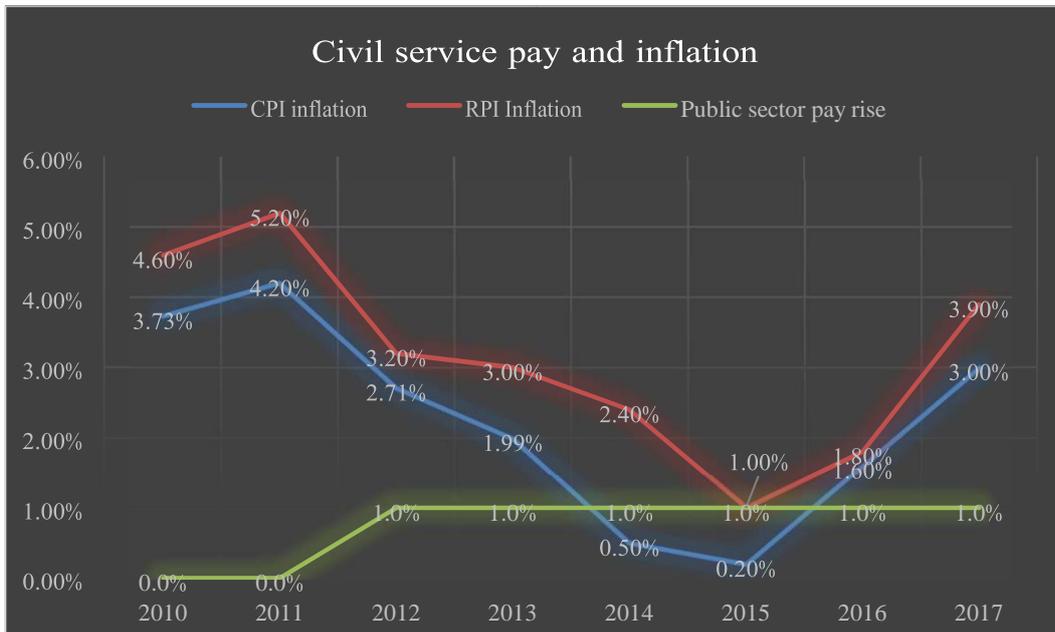
6. Market comparability

As highlighted in our evidence in previous submissions, there is a significant disparity in pay levels between senior NCA officers and their comparable grades in the police service and UKIC. For example, at G2 the pay disparity with a Superintendent of Police is in excess of £10,000 at both the minimum and maximum of range. This is exacerbated further by the recent announcement to award the police with a 2% pay rise without increasing police budgets.

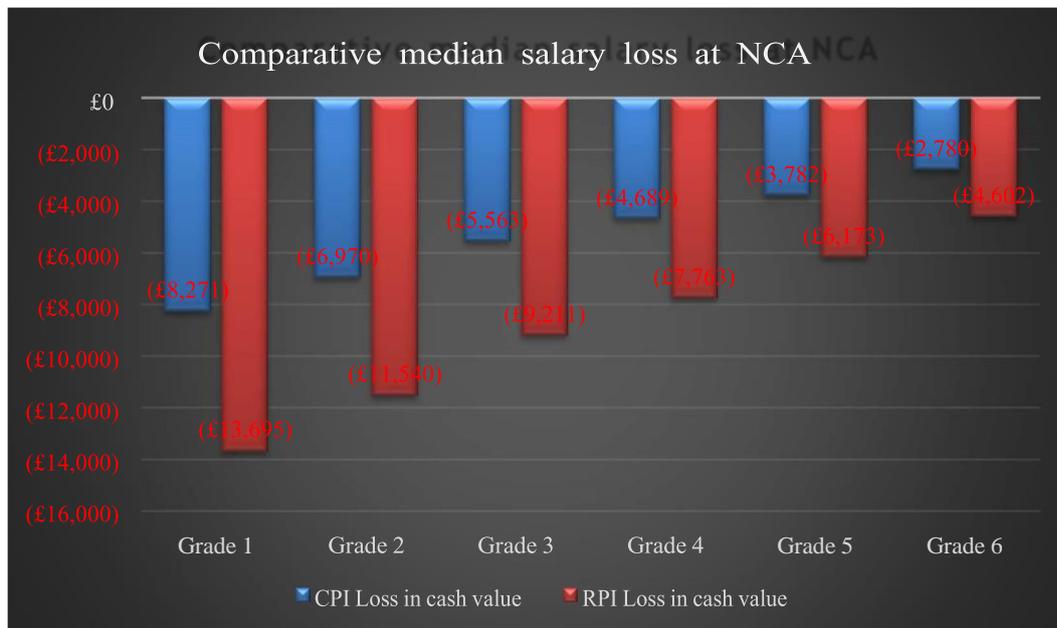
7. Inflation and income reduction

The FDA has consistently argued that RPI should remain the basis for evidence-based pay bargaining, as this is the most accurate reflection of the real inflationary pressures our members face including housing costs. The current rate of RPI inflation is 2.7% (ONS: December 2018), the lowest rate since January 2017 and as this reflects a more realistic cost of living, we invite the panel to reflect on this in its recommendations.

The graph below highlights the impact of below inflation pay settlements for NCA employees since 2010 based on ONS inflation data.



The flat line nature of NCA pay awards in the past is further illustrated in the graph below which takes the current pay median for NCA officers with powers by grade and applies adjusted inflationary pressure on pay since 2010:



These real term losses in the value of NCA salaries should be taken into account when NCARRB is considering the recommendations for pay reform from the NCA, and are represented further in the data table below:

NCA	Min	Max	Officers with powers Average	CPI Loss in cash value*	CPI % loss	RPI Loss in cash value*	RPI % loss
Grade 1	£64,989	£81,829	£66,683	-£8,271	12.4%	-£13,695	20.5%
Grade 2	£53,053	£66,822	£56,192	-£6,970	12.4%	-£11,540	20.5%

* additional losses for increases in pension contributions and national insurance not factored (see below)

It should be noted that in addition to inflation over the last 8 years and government pay restraint, our members have seen a further erosion of their net monthly income. On 6 April 2016, contracting out ended, whereby it had been possible to opt out of the state second pension in exchange for lower National Insurance contributions. Until 6 April 2016, all members of the Principal Civil Service Pension Scheme (PCSPS) received a National Insurance rebate and lower state pension provision as a result of being ‘contracted out’ as part of Defined Benefit (DB) pension scheme legislation. It is estimated that around 5.4 million public sector

employees and 1.3 million private sector workers fell within this category. From 6 April 2016 onwards, all employees have paid National Insurance at 12% (on earnings between £8,060 and £43,000) and an additional 2% on earnings greater than this. The increase has brought in an additional £5bn a year for the government and yet for civil servants it has meant that any 1% capped pay rise has resulted in a cut in take home pay with an average increase of 1.4% in NI contributions.

Furthermore, the government's levy on public sector pension scheme members has meant that the PCS member contributions have increased on average by 3.2% before tax. When combined with civil service pension reform, not only do our members contribute more from their basic pay but they are expected to work 7-9 years longer.

To date the FDA has seen no risk assessment of the impact of an ageing workforce on the business requirements of the NCA. Whilst we have not got the data to take a view, we anticipate based on the broad demographic of government departments that there are a significant number of NCA employees aged 50+. The operational capability of the NCA must be considered within the framework of the Equality Act and the demands placed on individuals in their roles.

Prior year awards have seen a degree of pay targeting towards the lower grades within the 1% ceiling. As the cash value of awards was equal across grades, apart from the 2016/17 pay round as highlighted in Annex A, this resulted in a compounding reduction in the value of the award to staff in grades 1 to 3. This has been most acute for those staff with long service who were above the target rate for their grade. The FDA invites the panel to reflect on this evidence when assessing the impact of inflation on the total reward package for middle and senior managers at the NCA.

8. Pay proposals

The role of leaders in the NCA is changing. The Agency held a leadership review of all employees in Grade 1 with plans for a similar review for those in Grade 2 this year. The focus on leadership is welcome but it is telling that this has not been accompanied by proposals to reform pay at these levels. As our evidence bears out, members in management grades have suffered the greatest impact from pay restraint and have little or no prospects for pay progression.

The FDA argues that the NCA is too constrained by unreasonable government constraints on their ability to reward their employees adequately. We express concern for the prospects of maintaining momentum for further pay reform against the background of uncertain public finances and inevitable changes to government priorities.

The NCA prefers a differentiated approach to pay reform but this may not prove adequate. NCA staff at all grades have been anticipating that they would see a real

improvement in their reward packages as a consequence of pay reform after 8+ years of below inflation pay offers. As we demonstrated earlier, managerial grades have seen the biggest reduction in income growth over the last 8 years and there is a widespread expectation that pay reform should be universal.

Whilst we welcome the ongoing work to shorten pay ranges, the pace of change is too slow and too limited in scope. We are not clear that it is credible to extend spot rates across all grades and risks developing a pay structure that lacks coherence.

From our perspective we prefer a structure allowing progression through pay ranges based on developing competency within a role. However, this approach should be universal, based on grade across the organisation as is the case based for the tried and trusted Agenda for Change in the NHS and police forces across the UK. It is also the driver for reward and recognition in the UK Intelligence Community.

We consider that the differentiated approach promoted by the Agency is a missed opportunity for root and branch pay reform because of the requirement to meet external demands to keep within arbitrary public spending targets rather than tackle what needs to change.

9. Budget increase to fund pay reform

We welcome the willingness of the NCA to innovate reward structures. It is a real pity that external pressure has stifled these efforts because of directions not to breach pay caps and political sensitivities. As we look to the future, we call on the Home Office and The Treasury to allow the NCA sufficient funding to continue with a strategy that genuinely deals with the challenges faced both internal and external.

Pay reform comes at a cost. It is not realistic to insist that pay reform is funded from within, without an injection of external investment. New money must be found. In our view, the NCA must be granted adequate public sector funding to realise universal pay reform. Bearing in mind NCARRB's remit, we invite the panel to consider whether it is realistic for the NCA to fund its proposals wholly and exclusively from its existing Delegated Expenditure Limit (DEL).

It is simply not viable to propose to fund pay reform from within existing budgets. We do not see it feasible for the Agency to find sufficient scope for achieving efficiencies that can in themselves find the funding necessary to achieve the reforms that are needed.

If the Home Secretary wants the NCA 'to be relentless in the disruption of organised crime', government must address the fundamental issues with NCA pay.

10. Pay progression

We endorse the view put forward in the Third report by NCARRB on government pay policy:

“We note that other workforces with similar restrictions continue to benefit from both pay uplifts and progression. In our view, the costs associated with progression (provided it is conditional on performance and competence) should be treated as a normal part of the pay system and separate from any annual uplift.”

Similar to 97% of the civil service, the NCA has no formal pay progression mechanisms in place to move from the minimum to the maximum of the pay range within a grade. Unlike local government, the NHS and other law enforcement bodies across the UK, the NCA ended time served pay progression and therefore it can only offer false aspirations that the rate for the job, the maxima, can be achieved within a reasonable period.

To be able to deliver effective reform, the NCA must address progression from the minima to the maxima of a grade in a realistic timeframe. We appreciate that the Agency aspires to compressing pay ranges thus reducing the difference between the highest and lowest paid. In reality the current policy of applying limited increase to pay band minima does not allow for progression through the range within a reasonable time limit and runs the risk of pay falling further behind inflation and pay developments elsewhere.

The introduction of spot rates at least displays innovation although too limited in range and as we have said earlier, we do not see that their widespread introduction across grades will happen anytime soon. At present the take up of the offer of spot rates has hardly been overwhelming and the longer working hours attached remain without adequate justification.

As the NCARRB noted on pay progression in their Fourth Report:

“If these changes are not recognised within a pay system, recruitment and retention can become more difficult and motivating staff becomes a challenge. We consider this is a matter that NCA management needs to address in future pay rounds, not least because of its potential incompatibility with requirements of the Equality Act 2010.

At FDA grades the impact of lack of progression can be seen in the table below

Grade	Quartile 1	Quartile 2	Quartile 3	Quartile 4	total
Grade 1	32	13	8	6	59
Grade 2	107	35	38	11	191

Effectively 75% of senior managers remain below mid-range. As we have argued in previous submissions, such a pace of progression is not sustainable and will leave the Agency vulnerable to critical staff losses.

A recent Institute for Government report (*Moving On - the cost of staff wastage in the civil service - IfG 2019*) demonstrates that changing department is the fastest way for civil servants to gain promotion and the fastest way to get a pay rise.

The IfG argues that continuing with no pay progression is a false economy. They estimate departments are spending between £36 million and £74 million every year in excess costs of recruitment, training and lost productivity.

Figures provided to us by the Agency as part of our evidence gathering informs us that wastage rates at Grades 1 and 2 are both over 14% with a high number of resignations and nearly 19% at Grade 2 transferring to another civil service department. Without urgent attention there is a high risk that the Agency will not be able to retain senior managers and professionals losing them to other departments or external employers.

Equality Act

The Act provides two potential exemptions in relation to pay scales which come under a general exemption for service related benefits ³ :

- Pay scales relating to a period of five years or less have an automatic exemption. An employer is entitled to calculate the five-year period either from the start of employment or from the date an employee started work at a particular level/grade (provided the level/grade is sufficiently distinct from other levels/grades)
- Pay scales relating to a period over five years provided that an employer reasonably believes that the length of the scale fulfils a business need. For example, motivating employees or retaining skilled employees. In such a case, the employer will usually need to show evidence of how the practice supports a business need.

The question then is how the NCA can objectively justify pay scales that have no mechanism for pay progression and exceed 5 years considerably if the journey towards the maxima is based on annual pay rises alone.

³ Equality Act 2010 Schedule 9 Part 2 Section 10 (<https://www.legislation.gov.uk/ukpga/2010/15/schedule/9>)

The FDA repeats our evidence that the NCA should be aiming to achieve a competency and skills-based pay progression model in the medium term to tie in with a review of performance management, professional development and talent management. Our proposed model could follow the approach within pay ranges:

Years 1 & 2	Year 3 & 4	Year 5	Upper quartile	Fully competent performers who are experts and an authority in their field of operation.
			Median Quartiles	Intermediate and proficient people in this area with appointment range for fully experienced officers (including level transfers into a grade/ role).
			Lower Quartile	Less experienced people in this area - people who are learning and developing into a role. The standard appointment range for people recruited or promoted into a grade/ role.

Competency based pay progression relies on the skills, knowledge and experience applied in the workplace rather than job title or status. This approach is designed to motivate employees to become aspirational, build on their existing skills and apply these in their job. It also directly improves retention, embeds a culture of self-improvement and leads to corporate transparency which is much in demand at the NCA. Competency based pay progression also:

- promotes need for greater competence
- encourages staff to take responsibility for own career development
- helps to integrate role and generic competences with organisational competences
- facilitates lateral career development
- redefines the learning & development offer
- professionalises the workforce
- improves employee engagement
- creates trust between employees and their managers
- ensures people know exactly what is expected of them to gain advancement and promotion

Put simply, we would expect the NCA to develop a knowledge, skills and competency-based pay progression system that does not divide the workforce and enables staff to have workplace agility by grade. The irony is that the precursor body of work is already in place for the civil service under the civil service competency framework.⁴

11. London Weighting Allowance

We propose that the allowance should receive an uplift in line with the 2% award made to the police in 2018.

12. Recruitment and retention

In relation to pay, a difficult issue for FDA members is the starting salary for external recruits when compared to staff who reside between the minima and target range mid-point. Our members tell us that external recruits are frequently paid more than themselves which is undermining team morale and this informal assessment seems to be borne out by current data.

There needs to be a rethink about the internal promotion process in the NCA if the number of external recruits continue to be paid above the minima. The current practice of offering internal candidates the minimum or a 10% uplift if greater does not incentivise career progression or reward fairly.

In addition, there is considerable overlap between the maximum of a grade and the minimum of the higher grade. Our members tell us that they find themselves managing people in teams who earn more than they do which creates tensions and increases risks for the NCA with equality legislation. Pay reform must address and remove these salary overlaps more aggressively.

13. NCA People Survey 2018 and workforce motivation

The overall engagement index places the NCA in the lower range of civil service employers. It has declined in every index from last year with the exception of pay which has increased by 9% to a 23% positive response.

It has to be accepted that this is from a very low base, remains 9 points below the CS benchmark and a full 18 percentage points below the highest performers. Given the concern we have outlined on the competition for skilled workers across the civil service, the fact that 64% of staff believe their pay suffers in comparison with those doing similar work in other organisations is a warning shot for the future.

This reflects the reality that there is a very long way to go even to match best scores in an area of the public sector that has fared less well than law enforcement, the NHS and local authorities. In short the NCA is well behind a civil service benchmark of 31% which in itself is falls a long way short of where the Agency needs to aim to be.

⁴ [Civil Service Competency Framework](#)

14. Performance management and non-con bonuses

Performance related pay in all its guises is a difficult topic for any trade union when linked to end of year performance outcomes. This is why the FDA proposed performance management reform by combining it with pay reform so that a coherent approach on reward could be developed. Ideally, we would want to see a move away from end of year bonuses as is becoming the growing trend across the civil service as the Cabinet Office has issued new, relaxed guidance on performance management.

The NCA cash value of performance bonuses has been relatively small compared to civil service organisations within reward and recognition parameters so they play no real driver for individual and corporate performance improvement.

We welcome a more creative approach to reward that allow for more “in the moment” recognition of people’s commitment.

15. Summary

It is hard to decouple this year’s proposal from the NCA from the proposals for longer term reform. Viewed against the economic background, improving picture on pay developments generally, awards made for the police and other public sector workers and the challenges facing the Agency then the NCA proposals fall well short of what is required taken as a single year.

We applaud the Agency for recognising and acting on the need for pay reform. We have consistently argued that this was necessary and highlighted that in earlier years the Agency lacked a pay strategy. It is clear that the leadership of the NCA are resolved to tackle the structural pay issues that have for years been such a problematic issue in staff surveys.

The FDA recognises the constraints that have been placed on the NCA for many years now. It is crucial that the momentum for pay reform is supported by the Government and delivered with sufficient funding to secure the long-term future of the agency to put it in the best position to respond to the changing challenges posed by serious and organised crime.

Whilst applauding the clear focus, that is not to say we agree with the overall direction. The Agency has grasped the challenges posed by previous lack of action in part through the first stage of pay reform but the current differentiated direction of travel may only resolve historic pay issues in part.

We have restated our vision for a more comprehensive version of reform, one that embraces all employees so that they gain tangible benefits from that reform.

Whatever version of reform is preferred the entire project is vulnerable without adequate additional funding. The inadequate budget underpinning this year's proposal underlines that fact. We ask the NCARRB to balance the Home Office requirement for affordability and sustainability with the pressing need to allow the Agency to recruit and retain the skills needed and motivate its workforce.

Recognition from the Pay Review Body of the need for continuing reform and the requisite Treasury funding is necessary as political and ministerial priorities too easily shift and the demands on Treasury funding is to say the least unpredictable for the next few years.

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