



July 2021

Dear GMB member, trust you and your families all remain well during these difficult times.

2021 Pay Award

I write by way of an update on TICI employer's failure to implement in January 2021, year three of a previously agreed 3-year deal for 2019-2021. You will recall from previous newsletters and surveys that this decision formed part of a national failure to agree (FTA); subsequent to this FTA being heard and rejected by employers, we have consulted you on how to respond on this intransigence. However, there was not an across-the-board mandate to mount a national industrial response; we have also been exploring potential legal redress, which I will touch on further on in this communication.

We are now at a point where we will be submitting soon a pay claim for 2022. However, your NJC reps made it clear at the June TICI National Joint Committee (NJC) meeting, that the employers needed to first of all make good on the outstanding pay uplift that was due in January 2021 and pay retrospective back payments to this date. The employers gave a commitment that they would respond in writing on this matter. We have now received this letter and the employers have confirmed agreement to the implementation of the pay award (2.5% to engineering and 2% to HVAC) from the 1 September 2021. However, they have also confirmed that they do not intend to back date the pay award to the anniversary date of January 1 2021. This latter point is extremely disappointing, however, given there was not an across-the-board mandate nationally for an industrial response on non-implementation, we have pretty much taken this matter as far as we can industrially.

In terms of a potential legal response to this non implementation of pay. We have been exploring the potential of running ongoing unlawful pay deduction claims. Any possible success on this, would be determined by the wording of individual employee's contracts of employment, particularly if it stipulates that your pay rates and terms and conditions will be determined by the outcome of negotiations that would be set out in the TICI National Agreement. We would then need to argue that the wording of said contracts would potentially present a legal argument that would allow a transfer of intention of the National Agreement to individual employers and say that a failure to pay the rate set out in the agreement amounts to an ongoing unlawful deduction. We are still exploring this, however, now that the employers have confirmed they will be implementing the 2021 claim in September, this changes the dynamics on any potential claim, as it moves from an arguable ongoing unlawful deduction, to one that would be time bound three months minus one day from what would then be the last unlawful deduction, which would be on 1 August 2021, effectively meaning any claim would be timed out after 31 October 2021. If you believe you have a contract of employment with wording that might lend itself to a potential legal claim, you need to make GMB aware of this, either by return or, by ringing your Regional Office.

In terms of the pay claim for 2022, I appreciate many of you may have already had discussions around this either via your GMB Rep, GMB Officer or, more likely via the GMB 'Ladders/TIE' Union Branch Structure. However, if not, then please let us have your views and aspirations for pay in 2022 before the end of July 2021, by letting us know what would you like to see GMB submit in the forthcoming pay and terms and conditions claim, anything you raise by return will be treated confidentially.

Any colleagues who are not yet in GMB, they can join online at:

<https://www.gmb.org.uk/join/join-online>

Your sincerely,

Ross Murdoch

GMB National Officer