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Submission to: **THE LABOUR COURT – ADHOC HEARING**

Subject: **NURSE AND MIDWIFE PAY**

Parties: **INO/PNA** on behalf of Nurses and Midwives and **DOHC, HSE AND IBEC** on behalf of the Public Health Service, including the Voluntary Sector and certain Private Hospitals

Date: **THURSDAY, 22nd MAY 2008 2.30pm**

Time: **2.30 pm**

1. INTRODUCTION

- 1.1 Chairman and members of the Court, this ad-hoc hearing of the Court has been convened by agreement between the parties to consider the question of the appropriate pay for Irish nurses and midwives, in light of the declaration of the second Public Service Benchmarking Body that the pay claims on behalf of nurses and midwives did not fall within their terms of reference.
- 1.2 The claims which the second PSBB deemed to be beyond its terms of reference relate to the grades Staff Nurse/Midwife, Clinical Nurse/Midwife Manager 2, Public Health Nurses and the related grades of Senior Staff Nurse, Dual Qualified Staff Nurse/Midwife and Clinical Nurse/Midwife Manager 1.
- 1.3 The key pay claims on behalf of these grades, which were deemed to be beyond the terms of reference, were: -
- a) Claim for parity with all basic and related managerial therapeutic grades; and
 - b) Claim for the elimination of the anomaly between the Social Care Worker and all Nurses and Midwives.

2 BACKGROUND

- 2.1 Following the issue of the first Benchmarking Body's report, INO and PNA, on three separate occasions, have been told by this Court that outstanding grievances relating to nurse and midwifery pay and terms and conditions of employment could only be dealt with through a further benchmarking exercise. On the 18th of June 2003 when dealing with a claim for the 35 Hour Week, a Review of Shift Premia and a Dublin Weighting Allowance, the Court stated "the only way these claims can be progressed is through benchmarking". Labour Court Recommendation 17526.

One of the major legacies of the first Benchmarking Body's report, from a nursing and midwifery point of view, was the fact that in advance of its sitting an agreement had been concluded with the representatives of former Assistant House Parent and House Parent grades which provided for increases ranging from 19 to 27% with effect from 2001, was confirmed and implemented as part of the first Benchmarking Body's report. That agreement which was based on the "professionalisation" and change of title of the former

Assistant House Parent and House Parent grades created a situation where nurses working in the intellectual disability sector and child and adolescent psychiatry, although higher qualified and often in charge or supervising Assistant House Parents (qualified and unqualified), became a lesser paid grade. The anomalous situation from the point of view of the nurse and midwife created a situation where a registered nurse would be lower paid for the first 21 years of their career than the former Assistant House Parent.

- 2.2 The Court, following consideration of a complaint from the unions that that amounted to an unsustainable anomaly stated on 1st of April 2004, in recommendation 17805, "***Any future benchmarking exercise (or whatever subsequent arrangements are put in place for determining public service pay) is the appropriate forum to examine the full position of the registered mental handicap nurse grade vis-à-vis other social care professionals***".
- 2.3 INO and PNA in the discussions regarding the terms of reference for the second public service benchmarking exercise made strenuous attempts to ensure that the terms of reference would comprehend the existing claims on behalf of nurses and midwives relating to their terms and conditions of employment. Unfortunately it did not prove possible to reach agreement on the INO/PNA amendments with the result that, in the end, only the following amendment was recorded "***The Body should also consider any issues arising from any third party recommendations concerning benchmarking and any group on List A since the Body's first report, including specifically Labour Court Recommendations 17526 and 17805***".
- 2.4 INO and PNA did not consider the revised terms of reference to be sufficient to ensure that the claims relating to the alleged pay anomaly, parity of pay with therapeutic grades and reduced working week would be dealt with by the second Benchmarking Body and opted instead to process the grievances through the framework for dispute resolution for the health services. Full procedure was observed, including adherence to industrial peace, processing the claim through conciliation and ultimately through the Labour Court. The timeframe for processing that complaint was, however, much longer than that agreed under the framework for dispute resolution in the health services. In the event the Court, in the conclusion of its recommendations, urged the unions to who were "party to this dispute" to reconsider their position with regard to their participation in the benchmarking exercise so as to have their claims examined through that process.

2.5 Unhappy with the outcome of the Court's consideration of the eight claims on behalf of nurses and midwives and in accordance with the procedures agreed under the framework for dispute resolutions in the health service, INO and PNA entered into an official dispute. That dispute concluded on the 15th of May 2007 based on the recommendations of the National Implementation Body established under the terms of Towards 2016. The recommendations of the NIB provided for the processing of claims relating to hours of work separately to the pay claims.

2.6 The Body noted that the Labour Court had recommended that the issues of pay in excess of the basic terms of Towards 2016 should be dealt with through the Public Service Benchmarking Body and said it remained open to the unions to put to the Benchmarking Body a case which reflected a very much expanded role for nurses and midwives.

INO/PNA made an extensive submission to the Public Service Benchmarking Body.

2.7 The second Public Service Benchmarking Body, in its report, stated

“(i) The claim by nurses and midwives for parity with the therapeutic grades generally is beyond the terms of reference of the Body which are confined to the grades determined by the parties to the Benchmarking process (i.e. the grades on List A). in the case of the therapeutic grades only the Speech and Language Therapy grades were evaluated by the Body;

(ii) The claim for parity (simpliciter) with Speech and Language Therapist grades is not consistent with the approach dictated by the terms of reference for determining the remuneration of public service grades”; Paragraph 12.36 PSBB Report, 21st December 2007.

In relation to the claim relating to the alleged anomaly between the pay of the Social Care Workers (former Assistant House Parent grades) and the nurse and midwife, the PSBB at 12.50 stated ***“the conclusions of the Body on this claim are broadly similar to the ones reached on the claim for parity with therapeutic grade.”*** The Body went on at 12.54 in its recommendations and stated that it considered ***“that upgrading to Clinical Nurse Manager 1 level should be applied to Staff Nurses working in the intellectual disability sector, who as part of their daily work, supervise Social Care Workers or otherwise work alongside them in the same location.”*** This recommendation was made having subjected both the Social Care

Worker and the Nurse and Midwife to their job evaluation exercise as both were List A grades.

- 2.7 The Public Service Benchmarking Body, in its findings, did recommend a 6.8% increase in pay for the Clinical Nurse Manager 3 and a 10% increase in pay for Assistant Director and for Directors of Nursing.
- 2.8 Since 2003 the Court, on three separate occasions, has consistently indicated that benchmarking was the available mechanism to deal with nursing and midwifery pay grievances. These recommendations were given considerable additional weight by the National Implementation Body who oversees the current pay agreement when they assured both INO and PNA members that the Public Service Benchmarking Body would deal with their pay claims. The Benchmarking Body, in their report, clearly took a different view and in the case of the outstanding pay claims have declared them to have been beyond their terms of reference.
- 2.9 Nurses and midwives, at this point, are left with the position where their claim for equal pay with therapy grades has never in its own right been considered and dealt with and they come back to this hearing of the Court legitimately seeking a hearing and a conclusion to that claim. We do so in the context of offering considerable productivity and role enhancement which can truly improve the quality and comfort of patient care in our Irish health service and they are the one large group who can truly change the face of Irish health care.

3. SUGGESTED CONTEXT FOR FURTHER EXAMINATION OF NURSE AND MIDWIFE PAY

- 3.1 INO/PNA come to this ad-hoc hearing in the context of accepting Labour Court Recommendation 17863 and the subsequent recommendations of the National Implementation Body. We believe we are working within the context of the second Public Service Benchmarking Report which did not reject the parity or anomaly claims, but instead indicated that they were beyond its terms of reference. Our view put plainly is that at some point the merit or otherwise of these claims must be dealt with either by the employers or through an appropriate third party mechanism.

- 3.2 The Benchmarking Body's report has acknowledged that there is an anomaly between the pay of the former Assistant House Parent grade / Social Care Worker and the Nurse in the I.D. Sector by saying that wherever they work alongside each other the nurse should be paid a CNM1 salary scale. (15 – 30% higher) While this clearly recognises that the nurse should be higher paid grade than the Social Care Worker based on the Benchmarking Body's own evaluation exercise, it ignores the fact that the registered nurse in mental handicap services is a grade which is currently of equal value with all other registered nurses and midwives. Most significant, however, is the absolute conclusion from this finding that the relative pay of the nurse is wrongly positioned.
- 3.3 At 12.36 (i) the Benchmarking Body offers as its reason for considering parity with therapeutic grades to be beyond its terms of reference the fact that their exercise was limited to examining only those grades on List A. In the case of the therapeutic grades only the Speech and Language Therapy grades were evaluated by the Body. At 12.41 they do suggest that in the job evaluation exercise conducted on their behalf the grade of Speech and Language Therapists achieved a higher point's score than the grade of Staff Nurse. However, they then refer to the kind of developments outlined in the NIB statement and recorded in their report at 12.16 and they suggest that those developments might bring about a change in that position in a future benchmarking type exercise. The NIB statement in May of 2007, in settlement of the dispute effecting nurses and midwives, stated ***"it remains open to the unions to put to the Benchmarking Body a case which reflects a very much expanded role for nurses and midwives in the context of enhanced duties or cost effective and appropriate skill mixes and more efficient rosters, as have been proposed during the discussion between the parties."***

The NIB recommends that the parties should confirm to the Benchmarking Body the scope and potential of such proposed changes and assist the Body by outlining the arrangements for verification and validation of such changes. These changes are consistent with the overall transformation programme which is underway in the HSE and would deliver significant added value to the health service."

- 3.4 The second Public Service Benchmarking Body in its preliminary meeting with INO/PNA, prior to the making of submissions had specifically asked that we concentrate on the changes which had occurred in the professions since the first Public Service Benchmarking Body exercise and not to rely on future change. At 12.21 of their recommendations they go on to suggest that the submissions made to them gave little emphasis on the possible changes in roles of nurses and midwives but they state quite

clearly ***“as a general principle the Body’s recommendations must be based on the jobs of the public service grades as they now exist and it would not be appropriate to recommend increases on the basis of possible future changes.”*** In that statement the Body are indicating they are not prepared to take on the role suggested for them by the NIB. They do, however, in the same paragraph go on to state ***“The Body would make the general point that if there are to be defined developments of the kinds mentioned in the case of nurses, these could have an impact on the overall role and job size of nurses and would be reflected in a future evaluation of their jobs.”***

4. We come before this hearing clearly stating that nurses and midwives are prepared to agree a most radical transformation in terms of role and responsibility in the context of that newly defined role being fairly valued in terms of the productivity and improvements in patient quality and care which it can deliver.
5. Nurses and midwives are, we believe, entitled for once and for all to have their jobs valued in their own right and for the contribution they make. If that value cannot be conceded through direct acknowledgment by their employer, then they are entitled at this point to have it determined by an appropriate third party.
6. Finally, as a demonstration of the willingness to change the following initiatives have already been agreed as an example of the radical changes which could ultimately become part of pre-registration nurse and midwife education.

Drug Prescribing; Ordering of Diagnostic Imaging; and IV Cannulation.

- 6.1 This willingness to embrace change needs now to be nurtured and encouraged in a system which is fair and seen to be fair and capable of recognising productivity gain and unique radical advancement and change.