

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Public Sector Pay Policy 2018-19 (for staff remits and senior appointments)
Summary of aims and desired outcomes of Policy	The primary aim of the pay policy is to set pay increases in a way that is fair and affordable, protects those on lower incomes, jobs and services.
Directorate: Division: team	Financial Strategy Directorate Financial Strategy Division Finance Pay Policy

Executive summary

The public sector pay policy sets the priorities public bodies are required to take into account in determining their annual pay proposals. The primary aim of the Scottish Government's Public Sector Pay Policy is to set pay increases that are fair, reflect the real life circumstances people face, help sustain public sector jobs and protect public services while ensuring public sector budgets remain in balance.

To achieve these aims, the 2018-19 pay policy is based on the following principles:

- To invest in our public sector workforce which delivers top-class public services for all, supports employment and the economy, while providing for sustainable public finances.
- To provide a distinctive pay policy which is fair; affordable; sustainable; and through the targeting of resources delivers value for money in exchange for workforce flexibilities.
- To deliver a pay policy that reflects the real life circumstances people face, protects those on lower incomes and recognises recruitment and retention concerns.

The equality impact assessment concludes that the progressive measures proposed in the 2018-19 pay policy can positively benefit lower paid staff. From the data available, there is a higher proportion of women, disabled people, individuals from a minority ethnic group, younger employees or a combination of one or more of these protected characteristics as well as part time workers among lower paid employees. Therefore, the measures proposed in the pay policy help protect these employees and in many cases provide a positive benefit - underpinning Ministerial objectives for a wealthier and fairer Scotland.

The introduction of thresholds, ensuring a stepped approach to pay increases proposed for the 2018-19 pay policy, will also help to reduce overall income inequality. It may also help in positively working towards reducing the gender pay gap within the public sector as it should increase the overall base levels of pay for those at the lower end where women are overly concentrated. This is further supported by the continued restraint applied to higher earners, including senior appointments, where there are higher proportions of men.

The pay policy sets the overarching framework within which public bodies can make individual choices to reflect their own circumstances. Public bodies have the flexibility to draw up their own pay proposals to take into account local pay issues such as recruitment and retention, equality and the impact of the lower pay measures on other staff. The pay policy actively encourages employers to take into account their own staffing profile, local evidence, views of staff and unions alongside equality issues in framing their pay proposals.

To help employers work towards delivering a policy where pay is fair and non discriminatory, the 2018-19 policy continues to provide public bodies with the flexibility to use paybill savings to address evidenced equality issues.

The analysis undertaken as part of the consideration of the 2018-19 public sector pay policy does not identify any direct or indirect discrimination as a consequence of the key features of the pay policy. While we are satisfied that no discrimination exists at the level of the policy proposals outlined above, it will still be necessary for individual employers, as they are also subject to the equality duties, to ensure that they do not introduce or perpetuate any direct or indirect discrimination for individuals in their application of the 2018-19 public sector pay policy.

Background

All public bodies will be expected to submit pay proposals under the 2018-19 public sector pay policy. All pay remits must be formally approved by the Scottish Government prior to a body engaging in formal negotiations with staff and their representatives. The policy directly applies to the Scottish Government and its Associated Departments; Executive Agencies, Non-Departmental public bodies; public corporations and NHS Scotland Executives and Senior Managers. There will be a read across to the other key public sector groups such as Health professionals in particular.

In developing advice for the 2018-19 pay policy the Finance Pay Policy team consulted stakeholders on the 2017-18 pay policy and processes. This engagement provided opportunity for stakeholders to comment in the context of equality issues on which aspects of the pay policy worked well and which did not work well within their organisations.

The 2018-19 pay policy also takes in to account Ministers' commitment to lift the 1 per cent pay cap and reflect the cost of living pressures balanced against affordability for the public purse.

Key features of the 2018-19 public sector pay policy

The proposed key features of the policy for staff pay remits are:

- a single year pay policy, although public bodies may make a case to submit multi-year proposals.
- continuing the commitment to paying the real Living Wage - the 2018 rate is £8.75 which is an annual equivalent of £16,900 (based on 37 hour working week).
- a guaranteed minimum 3 per cent pay uplift for those earning £30,000 or less full time equivalent (fte).

- provision for increases in basic pay for all staff, with costs capped at 2 per cent for those earning between £30,000 and £80,000 fte, allowing public bodies to vary the level of the basic award across grades to reflect local circumstances as long as the overall total remains within 2 per cent.
- a cap of £1, 600 basic award increases for all staff earning above £80,000 fte.
- retention of flexibility for employers to use paybill savings where they propose to restructure existing pay systems to address evidenced workforce or equality issues, with the current cap increased to 1 per cent subject to affordability.
- provision to use the per cent flexibility to allow payment for up to an additional 1 per cent non-consolidated payment for staff on their maxima.
- preserving the discretion for individual employers to reach their own decisions with staff and trade unions about pay progression.
- the costs of any low pay measures and paying progression remaining outwith the standard remit elements.
- continued suspension of non-consolidated performance payments (e.g. bonuses)
- maintaining the position on no compulsory redundancy, in return for continued and, where appropriate, additional workforce flexibilities.

The key features of the policy for senior appointments are:

- a 2 per cent cap on the increase in basic pay for those earning below £80,000 fte.
- a cap of £1, 600 basic award increases for all staff earning above £80,000 fte.
- provision for up to an additional 1 per cent non-consolidated payment for staff on their maxima, if affordable and in line with awards for other employees.
- continued suspension of non-consolidated performance payments (bonuses).
- preserving the discretion for public bodies to reach their own decisions about pay progression but continuing to cap increases at 1.5 per cent.
- continuing the expectation for a 10 per cent reduction in the remuneration package of new Chief executive appointments.

The Scope of the Equality Impact Assessment (EQIA)

Pay forms a large part of public sector expenditure and accounts for around 55 per cent of annual revenue expenditure (£14 billion) across the public sector in Scotland and the total paybill for public bodies covered directly by the pay policy is around £1.4 billion. Due to continued public spending cuts, budgets continue to be under severe pressure and this has been compounded by increases in employer's pension and National Insurance contributions. In developing advice for the 2018-19 public sector pay policy the aim has been to set a progressive pay policy which supports the objectives of delivering increases which recognise real life pressures for employees and are deliverable while maximising public sector employment, at a time when there are significant challenges across the labour market as a whole.

In developing advice for the 2018-19 pay policy the Finance Pay Policy team consulted stakeholders on the current pay policy and processes. While this engagement highlighted issues around the impact of continued pay restraint and the erosion of pay differentials between staff around the low pay threshold no specific equality issues were identified that required to be addressed as part of the pay policy.

The findings from EQIA support Ministerial decisions taken on the 2018-19 pay policy.

Specifically in relation to the three needs of equality duty, public sector pay policy has due regard to the need to:

(1) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act

The key strategic aims of public sector pay policy include “provide a distinctive pay policy which is fair”; “reflects real life circumstances” and “protects those on lower incomes”.

(2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

The measures proposed in the 2018-19 pay policy can be seen to protect lower paid workers, and therefore women, disabled people, those from a minority ethnic group and those from the younger age group who are overrepresented in this group, from the measures of pay restraint and in many cases provide such individuals with a positive benefit.

The policy sets the overarching framework for delivering Minister’s key priorities on pay and it is for public bodies to make individual choices on the impact of the policy on their own circumstance taking into account their own staffing profile and equality issues. Although the policy does provide a positive benefit for some individuals, on the basis that, for example, they are more highly represented among the lower paid, the policy framework is applied on the same basis to all staff regardless of gender, age, disability, ethnicity etc.

(3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

While the policy provides the framework it is for public bodies to make individual choices on the impact of the policy on their own circumstance taking into account their own staffing profile and equality issues.

As part of the pay remit process public bodies are required to provide equality focussed information. This enables the Finance Pay Policy team to analyse the impact of the pay policy on individuals by gender, age, work pattern, disability and ethnicity. Gathering and analysing this information centrally, and sharing the results will aid other employers in developing their own pay proposals.

Key findings

The findings show that within the public sector there are higher proportions of women and disabled people than within the private sector and any action that protects employment will protect these groups.

In addition, in terms of our specific proposals, the analyses indicate that there are a higher proportion of women, those with a disability, from a minority ethnic background and younger employees earning under the low pay threshold. Therefore the proposed measures for lower earners will continue to protect these individuals and in many cases provide a positive benefit. The policy may also help in working towards reducing the gender pay gap within the public sector as it should increase the overall base levels of pay for lower earners where traditionally women are overly concentrated and this is further supported by the continued restraint applied to higher earners including senior appointments, where there are higher proportions of men.

The progressive increases proposed for 2018-19 will help erode overall income inequality and positively impact on all public sector staff directly covered by this policy including those with a protected characteristic. In particular increasing the lower pay threshold to £30,000 will benefit directly nearly 60 per cent of lower paid staff many who will have one or more protected characteristic.

From the information provided for the wider public sector, there is nothing to suggest that increasing the lower pay threshold to £30,000 will result in any staff being adversely affected and in fact will benefit over 50 per cent of staff many who will have one or more protected characteristic.

The pay policy allows flexibility for employers, within an overall framework, to take their own decisions for pay and reward to take account of their own business needs, workforce issues and affordability whilst ensuring they meet their equality duties. The 2 per cent cap is the cap on overall paybill cost for those earning between £30,000 and £80,000, rather than the level of an individual's increase.

While the policy actively targets those earning £30,000 or less it is not prescriptive and it does not exclude any other employees from receiving higher increases. It is possible for employers across the public sector to vary the level of basic pay award applied to different groups, different jobs, or grade structures to reflect their own priorities based on locally gathered evidence and assessment. It therefore remains possible for individual employers to operate within the overall pay framework to vary pay awards to allow some individuals/groups/pay grades to receive above 2 per cent and others below. The cost of paying the increase to lower and higher earners are outwith the 2 per cent cap, as is the cost of applying awarding any progression increases.

In addition to the 2 per cent cap, in recognition of issues identified by stakeholders, it is proposed that the 2018-19 pay policy will continue to provide employers with the flexibility subject to affordability to address evidenced workforce or structural pressures that create or maintain pay inequalities. It is proposed that the cap be increased from 0.5 to 1 per cent paybill cap. For 2018-19, it is also proposed that

employers may also use this flexibility to award a non-consolidated payment of up to 1 per cent to staff on their maxima. The Finance Pay Policy team will continue to target encouragement to use the flexibility at those public bodies identified as having the most risk of potential inequalities such as those with longer journey times than the average for other public bodies covered by the pay policy.

The policy continues to allow for individual employers to take decisions on the payment of progression and it is a matter for each public body to equality proof their own progression and pay arrangements taking into account affordability and performance. Therefore there is no direct discrimination as a consequence of the policy approach to progression.

Nor is there evidence to suggest that the continuation of suspending non-consolidated performance payments will adversely impact on individuals with a protected characteristic.

Nevertheless, it remains the case that women are significantly under-represented among senior appointments and although one of the key strategic aims of the pay policy is to continue to work towards making sure that pay is fair and non-discriminatory – the pay policy only focuses on levels of remuneration and not wider HR policies and the policy will remind employers of their duty in this respect.

Around 4 out of every 5 individuals who works part-time is a woman. We do not have sufficient information to analyse the profile for employees earning under £30,000 among bodies covered by the pay policy but we can draw conclusions from analyses based on the £22,000 threshold that was in place in 2017-18. The proportions of employees with a protected characteristic are broadly similar between those earning above and below the £22,000 or for those with a full-time equivalent salary above the £22,000 threshold but with an actual salary below as a result of the hours worked.

It is recognised that while we do have gaps in the information provided by public bodies directly subject to the pay policy on some of the protected characteristics we are satisfied from the analyses undertaken there is no unlawful discrimination in the pay policy proposals. The proposed progressive approach for 2018-19 are targeted to benefit lower paid staff recognising that there is a higher proportion of staff in this group who have one or more protected characteristic.

Due to the higher proportion of women, disabled people, those from a minority ethnic group and younger employees among lower paid public sector workers, these individuals are more likely to benefit from the progressive pay measures. The cap on paybill increases for those earning above £30,000 and the cap on pay progression (for those subject to the senior appointments pay policy) will not impact any protected group unduly. Any risk of individuals being adversely affected by the cap on progression (for those subject to senior appointments pay policy) and the reduced increases for those earning above £30,000 is mitigated by the aim of the policy to protect public sector jobs and maintaining the no compulsory redundancy policy.

While we are satisfied that no discrimination exists at the level of the policy proposals outlined here, it will still be necessary for individual employers to ensure that they do not introduce or perpetuate any direct or indirect discrimination for

individuals in their application of the policy. Employers subject to this pay policy are also subject to the equality duties and are expected to undertake their own assessment of their pay proposals prior to submitting them to the Scottish Government

Recommendations and Conclusion

Pay forms a large part of public sector expenditure in Scotland. Due to continued public spending cuts, budgets remain under severe pressure and this is compounded by the increases in employer's pension and National Insurance contributions. The primary aims of the Scottish Government's public sector pay policy are to set pay increases in a way that is fair, reflects the real life circumstances people face, helps sustain public sector jobs and protects public services while ensuring public sector budgets remain in balance to ensure that that pay rises are affordable now and in the future.

It is acknowledged that the 2 per cent cap on the paybill for basic pay increases for those earning above £30,000, will continue to impact on the real incomes of those staff subject to the public sector pay policy and particularly those earning just above the threshold who have faced the greatest detriment as a result of increases to employees National Insurance and pension contributions. However the pay policy is intended to help protect jobs of everyone subject to the pay policy.

The Scottish Government's commitment, for staff under its direct control, to a living wage and a 3 per cent uplift for those earning £30,000 or less directly benefits those on the lowest incomes and will continue to provide protection to low earners in particularly those individuals with a protected characteristic.

To help employers work towards delivering the policy aim that pay is fair and non-discriminatory; the 2018-19 policy continues to provide public bodies with the flexibility to use paybill savings address evidenced equality issues. This flexibility has been extended to 1 per cent for 2018-19.

It is concluded from our assessment the measures proposed in the 2018-19 pay policy can be seen to positively benefit lower paid staff. From the data available there is a higher proportion of women, disabled people, individuals from a minority ethnic group, younger employees or a combination of one or more of these protected characteristics as well as part-time workers among lower paid employees. Therefore the measures proposed in the pay policy protect these employees from pay restraint and in many cases providing a positive benefit - underpinning Ministerial objectives for a wealthier and fairer Scotland.

The progressive approach proposed for the 2018-19 pay policy will also help to reduce overall income inequality. It may also help in positively working towards reducing the gender pay gap within the public sector as it should increase the overall base levels of pay for those at the lower end where women are overly concentrated and this is further supported by the continued restraint applied to higher earners including senior appointments, where there are higher proportions of men.

The pay policy sets the overarching framework in which public bodies can make individual choices on the impact of the policy on their own circumstances. Public bodies have the flexibility to draw up their own pay proposals to take into account local pay issues such as recruitment and retention, equality, and the impact of the low pay measures on other staff. The pay policy actively encourages employers to take into account their own staffing profile, local evidence, views of staff and unions and equality issues in framing their pay proposals.

While we are satisfied that no discrimination exists at the level of the policy proposals outlined above, it will still be necessary for individual employers to ensure that they do not introduce or perpetuate any direct or indirect discrimination for individuals in their application of the policy. Employers covered by this pay policy are also subject to the equality duties and are expected to undertake their own assessment of their pay proposals prior to submitting them to the Scottish Government.

The impact of the pay policy is monitored through the annual pay remit process by the levels of pay awards proposed and implemented. It is for individual public bodies to submit pay proposals that are affordable and within the framework set by the pay policy taking into account their own local pay issues and ensuring that they do not create new or perpetuate pay inequalities. As part of the 2018-19 pay remit process we will review the key statistics we currently collect from public bodies to enable us to be able to undertake an equality impact analyses of different thresholds and increases in future pay policy.

The supporting Technical Guide to the pay policy will continue to remind public bodies of their duty to ensure their pay systems are fair and non-discriminatory and that they have due regard to its obligations under public sector equalities duties in considering their pay proposals.

Finance Pay Policy
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