



EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Public Sector Pay Policy 2019-20
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, helps to sustain public sector jobs and protect public services within the tight financial position resulting from the real terms reductions made to the Scottish Budget in the UK Government Spending Review
Directorate: Division: team	Directorate for Budget and Sustainability Public Spending Division Finance Pay Policy

Executive summary

The primary aims of the Scottish Government's Public Sector Pay Policy are to set pay increases in a way 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 ensure that that pay rises are affordable now and in the future. To help employers work towards delivering the policy aim that pay is fair and non-discriminatory, the 2019-20 policy continues to provide public bodies with the flexibility to use paybill savings address evidenced equality issues.

The equality impact assessment concluded that the progressive measures proposed in the 2019-20 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.

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 progressive approach taken in the 2019-20 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 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 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 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 supporting Technical Guides 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 their obligations under public sector equalities duties in considering their pay proposals.

Background

In 2018-19 Ministers gave a clear commitment in their Programme for Government (PfG) to lift the 1% pay cap. The policy for 2019-20 continues that journey and supports the 2019-20 PfG commitments of supporting the Living Wage and protecting those on lower incomes and tackling the gender pay gap.

In developing the 2019-20 pay policy, consideration required to continue to be given to balancing the cost of living pressures being experienced by public sector workers against affordability for the public purse. Deliberation was also given to balancing the need for fairness and consistency across all public sector workforces against the value to individual bodies of flexibility, particularly where public bodies can use the flexibility to negotiate changes in working practices that will support the delivery of high quality public services and increase productivity.

In line with the stance Ministers have taken on income tax policy, the pay policy continues to need to be progressive and to provide the greatest protection to those on the lower rates of pay.

The primary purpose of the pay policy is to set pay increases in a way that is fair, reflect the real life circumstances people face while helping to sustain public sector jobs and protect public services within the tight financial position resulting from the continuing real terms reduction in the Scottish Government's resource budget to ensure that that pay rises are affordable now and in the future.

In developing the 2019-20 pay policy, we have taken account of the cost of living (2.4% as at October 2018), and continue to provide measures to protect the lower paid, while ensuring public sector budgets remain in balance.

To achieve this, the 2019-20 pay policy is based on the following principles:

- To provide increases in public sector pay settlements which take account of inflation within a tightly constrained financial climate; so that pay remains affordable and sustainable; and, through the targeting of resources, that value for money is secured by:
 - continuing to protect the lowest paid by continuing to deliver the Minister's commitment to the Scottish Living Wage.
 - providing progressive increases to protect lower paid earners.
 - allowing for non-consolidated payments to be made to staff on their maxima.
- To deliver top-class public services, protect jobs and preserve pay progression in return for continuing constraint on overall paybill costs and flexibility to help ensure productivity improves.
- To continue to work towards making sure that pay is fair and non discriminatory.
- To provide flexibility within an overarching policy of pay restraint for public bodies for submit pay proposals that address local pay issues.

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. With a view to delivering a longer-term policy in 2020-21 in line with the duration of the Spending Review.
- continuing the commitment to paying the Scottish Living Wage - the 2019 rate is £9.00 which is an annual equivalent of £17,385 (based on a 37 hour working week).

- a guaranteed minimum 3% pay uplift for those earning £36,500 or less full time equivalent (fte).
- provision for increases in basic pay for all staff, with costs capped at 2% for those earning between £36,500 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 the 2% baseline paybill costs for the cohort.
- a cap of £1,600 basic award increases for all staff earning above £80,000 fte.
- retention of the flexibility for employers to use savings, equivalent to up to 1% of baseline paybill, where they propose to restructure existing pay systems to address evidenced workforce or equality issues – including addressing pay restoration or recruitment and retention.
- provision to use the 1% flexibility to provide a non-consolidated payment of up to 1.0% 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 guarantee of 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% 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 1.0% 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%.
- continuing the expectation for a 10% reduction in the remuneration package of new Chief executive appointments.

The Scope of the EQIA

Pay forms a large part of public sector expenditure and accounts for around 55% of annual revenue (£14 billion) across the public sector in Scotland; the total paybill for public bodies covered directly by the pay policy is around £1.6 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 2019-20 public sector pay policy the aim has been to continue 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 2019-20 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 lifting the pay cap on affordability; inconsistency on the use of paybill savings to fund flexibilities; the increase for staff earning > £36,500 was not inflation proofed; and the no compulsory redundancy policy, no specific equality issues were identified that required to be addressed as part of the pay policy.

The findings from the EQIA will support Ministerial decisions taken on the 2019-20 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 2019-20 pay policy can be seen to protect low 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 lower 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 2019-20 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 retaining the lower pay threshold at £36,500 will directly benefit just under 75 per cent of lower paid public sector employees many who will have one or more protected characteristic. Furthermore the policy will encourage employers to use the 1 per cent flexibilities available to them under the pay policy to address inequalities to continue

to award higher increases for the very lowest paid such as setting a cash underpin of up to £750 for those earning under £25,000.

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 £36,500 and £80,000, rather than the level of an individual's increase.

While the policy actively targets those earning £36,500 or less it is not prescriptive for those earning between £36,500 and £80,000 and it does not exclude this group of employees from receiving increases of more than 2 per cent. 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.

In addition to the 2 per cent paybill limit, in recognition of issues identified by stakeholders, it is proposed that the 2019-20 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 retained at 1 per cent of baseline paybill. For 2019-20, it is proposed that as noted above employers will be able to use this to apply higher increases for the very lowest paid as well as being able to continue to use this flexibility to award a non-consolidated payment of up to 1 per cent to staff on their maxima. This recognises that such staff have faced detriment following the years of pay constraint. 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 longer journey times than the average.

The policy continues to allow for individual employers to take decisions on the payment of progression and the cost of paying progression is outwith the limits set for basic pay increases. 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 supporting Technical Guide 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 £36,500 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. These numbers do not vary significantly between those earning above and below the current £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. The Finance Pay Policy team will review the information collected from public bodies to address this gap for 2020-21.

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 2019-20 is 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 £36,500 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 £36,500 is mitigated by the aim of the policy to protect public sector jobs and maintaining the no compulsory redundancy policy.

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 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 ensure that pay rises are affordable now and in the future.

To achieve these aims, the 2019-20 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.

It is acknowledged that the 2 per cent cap on the paybill for basic pay increases for those earning above £36,500, will continue to impact on the real incomes of those staff subject to the public sector pay policy and particularly those earning up to £40,000 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 £36,500 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 2019-20 policy continues to provide public bodies with the flexibility to use paybill savings address evidenced equality issues. This flexibility has been continued to be set at 1 per cent for 2019-20.

It is concluded from our assessment the measures proposed in the 2019-20 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 provide a positive benefit - underpinning Ministerial objectives for a wealthier and fairer Scotland.

The progressive approach proposed for the 2019-20 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 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.