

Public Sector Pay Strategy 2023-24

Equality Impact Assessment - Results

July 2023

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy

Public Sector Pay Strategy 2023-24

Summary of aims and desired outcomes of Policy

To set the 2023-24 Pay Strategy for the Scottish Government and its Associated Departments; Executive Agencies; Non-Departmental Public Bodies; Public Corporations and the NHS Scotland Executives and Senior Managers.

The Pay Strategy has been developed to underpin the Scottish Government's Purpose.

- To create a more successful country.
- Give opportunities to all people living in Scotland.
- Increase the wellbeing of people living in Scotland.
- Create sustainable and inclusive growth.
- Reduce inequalities and give equal importance to economic, environmental and social progress.

The strategy supports the 2022-2023 Programme for Government (PfG) ambitions for "a stronger and more resilient Scotland". The overarching aims of the strategy are to set a framework to deliver fair, affordable, sustainable and value-for-money pay for the devolved public sector in Scotland.

Executive summary

The public sector pay policy is driven by the Scottish Government's Purpose "*to focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing; sustainable and inclusive economic growth; reducing inequalities and giving equal importance to economic, environmental and social progress*". The policy takes cognisance of the 2022-23 Programme for Government commitments on supporting young people, fairness, equality and ambitions for "a stronger and more resilient Scotland".

In taking decisions on the Pay Strategy, Ministers recognised the key role that public sector workers play in delivering the Government's purpose and the National Outcomes. To achieve this, Ministerial decisions focussed on delivering a Pay Strategy for 2023-24 which provides a framework to deliver fair, affordable, sustainable and value-for-money pay for the devolved public sector in Scotland. It is recommended that it should specify that public bodies and trade unions adhere to best practice negotiating principles within an affordable and sustainable funding 'ceiling'. It is also recommended that the parameters for negotiations should include having robust workforce plans that are affordable within 2023-24 budget allocations and in the medium term.

The objectives of the Pay Strategy are designed to support the Scottish Government's Purpose on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth and reducing inequalities and giving equal importance to economic, environmental and social progress. The Pay Strategy provides the framework for individual employers to set pay increases in a way that are fiscally sustainable and fair while helping to sustain public sector jobs and protect public services within the tight financial position resulting from the continued real terms reduction in the Scottish Government's resource budget. We are satisfied that as the Pay Strategy sets the overall framework there are no identified direct or indirect discrimination consequences as a result of the proposed Pay Strategy on any of the protected characteristics.

The aim of the Pay Strategy is to allow individual employers to set pay increases in a way that are fiscally sustainable and fair, while helping to sustain public sector jobs and protect public services, within the tight financial position resulting from the continued real terms reduction in the Scottish Government's resource budget. We are satisfied that as the Pay Strategy sets the overall framework there are no identified direct or indirect discrimination consequences as a result of the proposed Pay Strategy on any of the protected characteristics.

The pay negotiating principles will set the basis of the framework in which public bodies have the flexibility to draw up their own pay proposals to take account of inequalities and local pay issues and to ensure that staff do not face any detriment in their proposed pay increases. While the strategy is not prescriptive on thresholds or levels of increase it does expect individual pay proposals to be progressive and protect lower paid staff. It is noted there is a higher representation of women, disabled people, those from a minority ethnic group and those from the younger age group among lower earners, and any targeting by individual employers will help provide such individuals with a positive benefit as well as work towards reducing the gender pay gap and overall income inequality.

The strategy sets the overarching framework which is applied on the same basis to all staff regardless of gender, age, disability, ethnicity etc.

The findings from the Equality Impact Assessment of the proposed 2023-24 Public Sector Pay Strategy indicate that the continued commitment to support the real Living Wage and to award progressive increases will directly benefit younger employees. Furthermore, the analysis indicates there are higher proportions of women, those with a disability, from a minority ethnic background and younger employees among lower earners. Therefore any individual pay proposals within the overall budgetary constraints which target higher increases for lower earners will help protect these individuals and in many cases provide a positive benefit. This 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 particularly if this is further supported by the continued restraint applied to higher earners including senior appointments, where there are higher proportions of men. The continued expectation for progressive increases will also help to reduce overall income inequality.

Furthermore as there are higher proportions of women and older employees within the public sector compared with the private sector any action that protects employment will protect these groups.

The Pay Strategy provides scope for employers, within overarching pay negotiation principles, to take their own decisions for pay and reward which take account of their own business needs, workforce issues and affordability.

As employers are also subject to the statutory public sector equality duty, it is their responsibility to ensure their pay systems are fair and non-discriminatory.

The discretion for employers to consider working towards standardising to a 35 hour working week can be seen to provide a benefit to all impacted employees. It is possible there could be a greater benefit for part-time employees, particularly for the many who are lower paid and as such more likely to be a woman, a disabled person, an individual from a minority ethnic group, a younger employee or a combination of one or more of these protected characteristics.

The continuation of the commitment to the No Compulsory Redundancy policy provides job protection for all employees covered by the pay policy. There is no evidence to suggest this creates any negative direct or indirect discrimination.

There is no evidence to suggest that the Pay Strategy would adversely impact the take-up of Board Appointments among those with a protected characteristic as the level of daily fee rate may not be the key driver for taking up an appointment but rather to provide the opportunity to represent and raise awareness. The guidance for Senior Appointments makes it explicit that the main objective of remunerating Board Members is to increase diversity but is not intended to meet in full the market rate that the individual may otherwise expect or command.

The supporting Technical Guide to the Pay Strategy 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.

Background

Equality legislation means we must assess the likely equality impact of the proposed Public Sector Pay Strategy and publish the results. This duty is set out in the Scottish Specific Duties under the Public Sector Equality Duty (PSED), often referred to as the general equality duty. The aim of the PSED is to help the public sector to promote equality, tackle discrimination and foster good relations between people.

The purpose of undertaking the Equality Impact Assessment (EQIA) is to test the proposed Pay Strategy against the needs of the general equality duty in the Equality Act 2010, and to considering how it will affect people when implemented.

The EQIA examines how the proposed Pay Strategy might impact on different people and groups, what steps are taken to prevent discrimination and to identify opportunities to promote equality.

The primary purpose of the Pay Strategy is to enable employers to set pay increases in a way which is fair, reflects 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 2023-24 Pay Strategy, the cost of living was taken in to account. The outlook for inflation is for a sharp decline in the Consumer Price Index (CPI) over the next 12–18 months. Dropping from 10% to 6% over the course of 2023 and from 6% to 2% by March 2024.

The Scottish Government's progressive approach to the Scottish Rate of Income Tax was also taken in to account in developing the strategy.

The Equalities Impact Assessment was conducted on the same basis as in previous years by undertaking research using the latest available statistics to provide a baseline position of the key characteristics for employees within the Scottish public sector and then look at the impact of each of the proposed strategy.

The key sources for the assessment are as follows.

- The information published on Equality Evidence Finder on the Scottish Government's website: <http://www.scotland.gov.uk/Topics/People/Equality/Equalities>.
- Statistical analysis using Office of National Statistics (ONS) data (e.g. Public Sector Employment in Scotland Statistics (PSE) and Annual Survey of Hours and Earnings (ASHE)).
- Information provided by public bodies in their 2021-22 pay settlement proforma (The equalities data from the 2022-23 pay remits is not yet available as the majority of public bodies had not yet submitted their pay settlements pending the conclusion on pay discussions).

Scope of the Equalities Impact Assessment

Pay forms a large part of public sector expenditure and accounts for around 60% of annual resource spending across the public sector in Scotland; the total paybill for public bodies covered directly by the Pay Strategy is around £2.2 billion and the policy applies to nearly 52,500 FTE public sector employees. Due to continued public spending cuts, budgets remain under severe pressure, and this has been compounded by the recent increases in employer's pension and National Insurance contributions.

In taking decisions on the Pay Strategy, Ministers recognise the key role that public sector workers play in delivering the Government's purpose and the National Outcomes.

To achieve this, Ministerial decisions focussed on delivering a Pay Strategy for 2023-24 which provides a framework to deliver fair, affordable, sustainable and value-for-money pay for the devolved public sector in Scotland. It is recommended that it should specify that public bodies and trade unions adhere to best practice negotiating principles and within an affordable and sustainable funding 'ceiling'. It is also recommended that the parameters for negotiations should include having robust workforce plans that are affordable within 2023-24 budget allocations and in the medium term.

The strategy will set an expectation that connects pay to the Public Service Reform agenda, building on policy / reform levers including service re-design, workforce management and productivity measures set out in the Resource Spending Review.

The strategy will also include non-pay considerations including connections to well-being (including Shorter Working Week, 4 Day Working Week (4DWW) and Right to Disconnect), workforce and public service reform as well as extending the commitment to no compulsory redundancy and re-deployment.

The objectives of the Pay Strategy are designed to support the Scottish Government's Purpose on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth and reducing inequalities and giving equal importance to economic, environmental and social progress. The Pay Strategy provides the framework for individual employers to set pay increases in a way that are fiscally sustainable and fair while helping to sustain public sector jobs and protect public services within the tight financial position resulting from the continued real terms reduction in the Scottish Government's resource budget. We are satisfied that as the Pay Strategy sets the overall framework there are no identified direct or indirect discrimination consequences as a result of the proposed Pay Strategy on any of the protected characteristics.

It is a matter for public bodies to take their own decisions on pay within the pay negotiation principles set out in the Pay Strategy.

In developing the 2023-24 Pay Policy the Public Sector Pay team consulted stakeholders on the 2022-23 Pay Strategy and processes. The application of the pay thresholds was raised, in particular that the lower increase was the main issue identified in terms of equality. In addition some employers considered the current approach on No Compulsory Redundancies was a barrier to making reforms and savings that could be used to address inequalities.

The findings from the EQIA support Ministerial decisions taken in developing the 2023-24 Pay Strategy. In developing the 2023-24 Pay Strategy, consideration is required to be given to affordability for the public purse and the public's expectations on public spending on against the risks of industrial action. To achieve this a number of options were considered to optimise the benefits of a strategic approach within the current tight financial constraints. Consideration was also given to balancing the need for fairness and consistency across all public sector workforces against the value to individual bodies covered by the Pay Strategy

and to provide greater flexibility to those organisations undertaking wider reform to negotiate changes in working practices where it is affordable to do so and over a longer period that will support the delivery of high quality public services and increase productivity.

Specifically in relation to the three needs of equality duty, Public Sector Pay Strategy 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 purpose of the Public Sector Pay Strategy is to set the framework to deliver fair, affordable, sustainable and value for money for devolved public sector pay in Scotland.

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

The aim of the Pay Strategy is to allow individual employers to set pay increases in a way that are fiscally sustainable and fair while helping to sustain public sector jobs and protect public services within the tight financial position resulting from the continued real terms reduction in the Scottish Government's resource budget. We are satisfied that as the Pay Strategy sets the overall framework there are no identified direct or indirect discrimination consequences as a result of the proposed Pay Strategy on any of the protected characteristics.

The pay negotiating principles will set the basis of the framework in which public bodies have the flexibility to draw up their own pay proposals to consider inequalities and local pay issues and to ensure that staff do not face any detriment in their proposed pay increases. While the strategy is not prescriptive on thresholds or levels of increase it does expect individual pay proposals to be progressive and protect lower paid staff. It is noted there is a higher representation of women, disabled people, those from a minority ethnic group and those from the younger age group among lower earners, and any targeting by individual employers will help provide such individuals with a positive benefit as well as work towards reducing the gender pay gap and overall income inequality.

The strategy sets the overarching framework which 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 strategy provides the framework it is for public bodies to make individual choices on the impact of the policy on their specific circumstances considering their own staffing profile and HR policies.

All employers are required to confirm they have considered their obligations under equalities legislation in developing their pay proposals. Furthermore, as part of the pay remit process public bodies are required to provide equality focussed information. This enables the Public Sector Pay team to analyse the impact of the Pay Strategy 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 indicate that within the public sector there are higher proportions of women and older employees than within the private sector and any action that protects employment will protect these groups.

In terms of the Pay Strategy, the continued commitment to support the real Living Wage, the suggested cash underpin for those earning below £25,000 and to award progressive increases will directly benefit younger employees. Furthermore, the analysis indicates there are higher proportions of women, those with a disability, from a minority ethnic background and younger employees among lower earners. Therefore any individual pay proposals within the overall budgetary constraints which target higher increases for lower earners will help protect these individuals and in many cases provide a positive benefit. This 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 particularly if this is further supported by the continued restraint applied to higher earners including senior appointments, where there are higher proportions of men.

The Pay Strategy provides scope for employers, within overarching pay negotiation principles, to take their own decisions for pay and reward which take account of their own business needs, workforce issues and affordability. As employers are also subject to the statutory public sector equality duty, it is their responsibility to ensure their pay systems are fair and non-discriminatory. Employers are expected to undertake their own assessment of their pay proposals prior to submitting them to the Scottish Government.

The Pay Strategy provides employers with the flexibility subject to affordability to address evidenced workforce or structural pressures that create or maintain pay inequalities. The strategy will also continue to provide organisations the opportunity to submit proposals, to undergo wider reform over a longer period subject to affordability. The Public Sector Pay team collects information to enable them to have oversight and identify those public bodies at risk of potential inequalities, such as lower paying organisations or those with longer journey times than the average.

Employers may choose to vary the level of basic pay award applied to different staff groups, different jobs, or grade structures to reflect their own priorities based on locally gathered evidence and assessment.

The strategy continues to allow for individual employers to take decisions on the payment of progression within their overall budgetary envelope. It is a matter for each public body to equality proof their own progression and pay arrangements considering affordability and performance. Therefore there is no direct discrimination as a consequence of the strategy 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.

There is no evidence to suggest that the Pay Strategy would adversely impact the take-up of Board Appointments among those with a protected characteristic as the level of daily fee rate may not be the key driver for taking up an appointment but rather to provide the opportunity to represent and raise awareness. The guidance for Senior Appointments makes it explicit that the main objective of remunerating Board Members is to increase diversity but is not intended to meet in full the market rate that the individual may otherwise expect or command.

Nevertheless it remains the case that women are significantly under-represented among senior appointments and, although the aim of the Pay Strategy is to continue to work towards making sure that pay is fair and non-discriminatory, the Pay Strategy 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.

A fifth of employees covered by the Pay Strategy work part-time and three out of every four of them is a woman. Part-time workers are more likely to be among the lower paid employees. Although we do not have the information, it is likely that some of those working part-time are older employees and may do so to cover care duties however there may also be some who choose to reduce their hours for phased retirement or to pursue other life choices. We do not have information on full-time equivalent salaries or individual working patterns to determine the extent of any potential detriment.

The inclusion of the encouragement for employers to work towards standardising to a 35 hour working week can be seen to provide a benefit to all impacted employees. It is possible there could potentially be a greater benefit for part-time employees, particularly for the many who are lower paid and as such more likely to be a woman, a disabled person, an individual from a minority ethnic group, a younger employee or a combination of one or more of these protected characteristics.

The continuation of the commitment to a No Compulsory Redundancy policy provides job protection for all employees covered by the Pay Strategy and there is no evidence to suggest that this creates any negative direct or indirect discrimination.

It is recognised that, while we do have gaps in the information provided by public bodies directly subject to the Pay Strategy on some of the protected characteristics, we are satisfied from the analyses undertaken there is no unlawful discrimination in the proposed Pay Strategy.

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 any progressive pay measures and will help to work to reduce the gender pay gap and overall pay inequality. Furthermore the need, due to restricted budgets, to continue to set capped pay increases to ensure they are affordable

and sustainable along with maintaining a no compulsory redundancy policy helps to protect public sector jobs.

Recommendations and Conclusion

Pay forms a large part of public sector expenditure in Scotland. As a result of continued public spending cuts, budgets remain under severe pressure. The primary aims of the Scottish Government's Public Sector Pay Strategy is to set a framework to deliver fair, affordable, sustainable and value for money for devolved public sector pay in Scotland. This will provide employers with the tools 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.

The Pay Strategy is designed to underpin the Ministerial commitment to national wellbeing helping to create a fairer and more resilient Scotland and specifically supporting young people.

The aims of the strategy recognise that the impact of Cost of Living crisis has not been felt equally. It is expected the on-going economic impact will be felt disproportionately by women as well as those from minority ethnic communities, disabled people and young people, and this could result in increasing employment and pay gaps in the short to medium term.

The Scottish Government's commitment for staff under its direct control to supporting payment of at least the real Living Wage and the suggested cash underpin for those earning below £25,000 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 reduce the impact on future baseline paybills, employers may consider the use of non-consolidated payments where appropriate and which may help maximise the value of the pay award to staff within constrained resources.

It is concluded from our Equalities Impact Assessment of the 2023-24 Pay Strategy, that as the proposed pay negotiation principles set the framework for individual employers to draw up their own pay proposals, there are no identified direct or indirect discrimination consequences within the strategy on any of the protected characteristics. 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 any individual pay proposals may help protect these employees from pay restraint and in many cases provide a positive benefit - underpinning Ministerial objectives for a wealthier and fairer Scotland as well as helping to reduce the impact of Cost of Living crisis on these individuals.

As employers are expected to take a progressive approach this should 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 historically women are overly concentrated and this is further supported by any restraint applied to higher earners including senior appointments, where there are higher proportions of men.

The Pay Strategy sets the overarching framework in which public bodies can make individual choices on the impact of the strategy on their own circumstances. Public bodies have the flexibility to draw up their own pay proposals to consider local pay issues such as recruitment and retention, equality, and the impact of the low pay measures on other staff. The pay negotiation principles within the strategy actively encourage employers to consider their own staffing profile, local evidence, views of staff and unions and equality issues in framing their pay proposals.

While we are satisfied that the risk of any direct or indirect discrimination by removing prescribed increases can be justified by the overarching aims of the Pay Strategy. It is for individual public bodies to submit pay proposals within the framework set by the Pay Strategy considering their own local pay issues and to ensure that they do not create new or perpetuate pay inequalities in doing so. Employers covered by the Pay Strategy 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 Strategy 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.

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