

SCOTTISH PUBLIC SECTOR PAY POLICY 2020 TO 2021: EQUALITIES IMPACT ASSESSMENT



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EQUALITY IMPACT ASSESSMENT - RESULTS

Title of policy	Public Sector Pay Policy 2020-21
Summary of aims and desired outcomes of the Policy	To set the 2020-21 pay policy for the Scottish Government and its Associated Departments; Executive Agencies; Non-Departmental public bodies; public corporations and NHS Scotland Executives and Senior Managers. The overarching aims of the 2020-21 pay policy is to set pay increases in a way that is fair, progressive, restorative and affordable, protects the lower paid and protects jobs and services.
Directorate: Division: Team	Directorate for Budget and Sustainability: Public Spending Division: Finance Pay Policy
Is this new policy or revision to an existing policy?	An update of existing public sector pay policy

Executive Summary

This is a distinctive pay policy for Scotland. It is one that is progressive and continues the Scottish Government's focus on fairness, sustainability, value for money as well as tackling poverty and promoting wellbeing.

The primary aims of the Scottish Government's Public Sector Pay Policy are to set pay increases in a way that helps pay restoration and continues to be fair and affordable through its progressive increases to protect the lower paid. The decisions taken in setting the pay policy 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.

The Equality Impact Assessment concluded from our assessment that the restorative and progressive measures proposed in the 2020-21 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 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 2020-21 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.

The Equality Impact Assessment concludes that the risk of any indirect discrimination, as a result of capping the pay for higher earners, can be justified by the overarching aims of the pay policy to ensure fairness by working to reducing poverty; the gender pay gap as well as overall income inequality, 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.

Background

In 2018-19 Ministers gave a clear commitment in their Programme for Government to lift the 1 per cent pay cap on base pay increases¹. To help deliver this and help work towards pay restoration, particularly for the lower earners who were most impacted by the years of pay freezes and pay constraint, the 2018-19 public sector pay policy provided a guaranteed 3 per cent base pay increase for those earning under £36,500. The policy for 2019-20 again provided for a guaranteed 3 per cent basic pay increase for those earning under £36,500. The policy for 2020-21 continues that journey and supports the 2020-21 Programme for Government commitments of supporting the real Living Wage, protecting those on lower incomes and tackling the gender pay gap.

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

In developing the 2020-21 pay policy, consideration continued to be given to balancing the cost of living pressures² being experienced by public sector workers

¹ The basic award increase or base pay increase is the inflation or cost of living element of the pay award.

² The Consumer Price Index (CPI) was 1.3 per cent as at December 2019, published on 15 January 2020 and 1.7 per cent in September 2019 which is the UK Government's reference point for taking decisions on inflationary uplifts for pensions and benefits

against affordability for the public purse and the public's expectations on public spending to ensure public sector budgets remain in balance.

Deliberation was also given to balancing the need for fairness and consistency across all public sector workforces against the value to individual bodies of the pay policy providing sufficient flexibility to negotiate changes in working practices that will support the delivery of high quality public services and increase productivity. The public sector workforce plays a key part in delivering the Scottish Government's purpose and National Outcomes.

The public sector pay policy is driven by the Scottish Government's Purpose to focus government and public services to:

- create a more successful country
- give opportunities to all people living in Scotland
- create sustainable and inclusive growth
- reduce inequalities and give equal importance to economic, environmental and social progress
- increase the wellbeing of people living in Scotland

The public sector pay policy contributes towards this through the following National Outcomes:

- Economy - we have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- Fair Work and Business - we have thriving and innovative businesses, with quality jobs and fair work for everyone.
- Human Rights - we respect, protect and fulfil human rights and live free from discrimination.
- Poverty - we tackle poverty by sharing opportunities, wealth and power more equally.

In light of the continued economic uncertainty and the delay to the budget this year due to the UK General Election, the pay policy for 2020-21 will continue to be a single-year policy with potentially a view to considering a longer-term policy in 2020-21 in line with the duration of the Spending Review.

To achieve this, the 2020-21 pay policy is based on the following principles:

- To continue the journey to address pay restoration by providing increases for 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. This will be delivered by:
 - continuing to protect the lowest paid through the Ministers' commitment to supporting the real Living Wage.
 - providing guaranteed increases to protect lower paid earners.
 - continuing to constrain increases for the highest earners.
- 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 for public bodies to identify the use of paybill savings to submit pay proposals that address evidenced workforce and pay inequality issues.

The proposed key features of the policy in 2020-21 are:

- a single-year pay policy, although public bodies may make a case to submit multi-year proposals.
- continuing the commitment to paying at least the real Living Wage - the 2020 rate is £9.30.
- a guaranteed cash underpin for those with a full-time equivalent salary of £25,000 or less.
- a guaranteed percentage pay uplift for those with full-time equivalent salaries of between £25,000 and £80,000.
- a cap on the basic award³ increases for all staff with full-time equivalent salaries of £80,000 or more.
- retention of the flexibility for employers to use savings, up to a fixed percentage 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.
- preserving the discretion for individual employers to reach their own decisions with staff and trade unions about pay progression. Although retaining a cap on progression increases for senior appointments including Chief Executives and senior managers in the NHS Scotland.
- 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.
- 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

Pay forms a large part of public sector expenditure and accounts for around 60 per cent of annual revenue across the public sector in Scotland; the total paybill for public bodies covered directly by the pay policy is around £1.8 billion. 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 developing advice for the 2020-21 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.

³ The basic award increase or basic pay increase is the inflation or cost of living element of the pay award.

The population for Scotland as at 30 June 2019 was 5.5 million (2018 mid-year population estimate) of which 3.5 million (64 per cent) are of working age. Of those working just over 1 in 5 (22 percent) are employed in the public sector and nearly 6 per cent of those are directly subject to Scottish Ministers public sector pay policy. The public sector pay policy impacts on around 41,400 employees who are directly subject to the pay policy. It can also indirectly impact on over 457,000 employees in the devolved wider public sector, as any decisions taken will be watched closely by other public sector pay groups and will be key in setting the context for their own pay negotiations. However it is noted that for 2020-21 most of the wider public sector workforces have a previously agreed multi-year pay settlement in place.

While over half of all Scottish employees earn under £25,000 there is a significant difference between private and public sector workers with the majority being in the private sector. The proportion in the public sector earning below £25,000 is around a third compared with nearly 60 per cent in the private sector. It is estimated around 2 per cent of the wider public sector earn more than £80,000 – the estimated proportion for those directly covered by the pay policy is lower at 0.3 per cent but this lower proportion is due to the Senior Civil Service cohort being reserved and therefore subject to UK Government pay policy. The position within those public bodies directly covered by the pay policy is broadly similar to the wider public sector.

It is noted that a higher proportion of part-time employees are among the lower paid staff and they are more likely to be women. While over 30 per cent of all public sector employees work part-time nearly 90 per cent are women. However the proportion of employees working part-time in bodies directly covered by the pay policy is lower than the wider public sector. Around 20 per cent (just under 1 in 5) of employees work part-time and of those part-time employees around three-quarters are women.

In developing advice for the 2020-21 pay policy the Finance Pay Policy team consulted stakeholders on the 2019-20 pay policy and processes. The application of the pay thresholds, in particular that the lower increase for staff earning more than £36,500 was the main issue identified in terms of equality.

The findings from Equality Impact Assessment support Ministerial decisions taken on the 2020-21 pay policy. We are satisfied that the analysis is based on the latest available information. Where it has been possible, information has been collected for the Scottish population, the public sector workforce and for those public bodies directly covered by the 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 are to:

- 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, and sustainable and, through the targeting of resources, delivers value for money in exchange for workforce flexibilities.
- To reflect real life circumstances, protect those on lower incomes, continue the journey towards pay restoration and recognise recruitment and retention concerns.

(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 2020-21 pay policy can be seen to continue to protect all lower paid workers from the worst effects of the years of pay restraint and help reduce the impact of the consequential pay erosion. Furthermore as there is a higher representation of women, disabled people, those from a minority ethnic group and those from the younger age group in this group, the approach taken in the pay policy will help provide such individuals with a positive benefit as well as work towards reducing the gender pay gap and overall income inequality.

The policy sets the overarching framework for delivering Ministers' key priorities on pay. It is for public bodies to make individual choices on the impact of the policy on their own circumstance taking into account affordability, 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 indicate 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 of £25,000. 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 targeted low pay increases proposed for 2020-21 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 providing a guaranteed cash underpin for those earning £25,000 or less will directly benefit just under 30 per cent of lower paid public sector employees many who will have one or more protected characteristic. Furthermore the policy will continue to allow employers the flexibility to use paybill savings to address locally identified pay or grading inequalities.

From the information provided for the wider public sector, there is nothing to suggest that setting a guaranteed cash underpin for those earning under £25,000 will result in any staff being adversely affected and in fact will benefit around a third of such staff, many of whom will have one or more protected characteristic.

The pay policy allows some 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.

In addition to the set basic pay increases and to recognise issues identified by stakeholders, it is proposed that the 2020-21 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, reflecting the guaranteed cash underpin is an intrinsic element of the policy and the £36,500 threshold has been removed, that the total amount of paybill savings to address pay inequalities be reduced from the 1 per cent paybill cap applied in 2019-20. For 2020-21, it is proposed employers will be able to use the flexibilities to apply higher increases where there is identified pay inequalities such including market erosion. 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.

While the policy actively targets those earning £25,000 or less and guarantees a fixed percentage basic award for those earning between £25,000 and £80,000 it does not prevent employers using the paybill flexibilities to apply higher increase to address identified and evidenced inequalities. Therefore it is possible for employers across the public sector 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 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.

One fifth of employees covered by the pay policy works 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. Around one in ten of those staff who work part-time earn a full-time equivalent salary of more than £25,000 but as their take-home pay is below £25,000 they will not be eligible for the guaranteed cash underpin. However it is noted that their take-home hourly rate will be higher than the equivalent for full-time employee on the same take-home pay. 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. However the proposed approach to provide a guaranteed basic award for such employees reduces the impact.

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 2020-21 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 £80,000 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 £80,000 is mitigated by the aim of the policy 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 the 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 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 2020-21 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 reflect real life circumstances, protect those on lower incomes, continue the journey towards pay restoration and recognise recruitment and retention concerns.

The pay policy is intended to help protect jobs of everyone subject to the pay policy. The guaranteed cash underpin for those earning £25,000 or less will help reverse the impact on the real incomes of those staff subject to the public sector pay policy. The above inflation basic award for those earning between £25,000 and £80,000 will also benefit employees, particularly those middle earners who have faced the greatest detriment as a result of increases to employees National Insurance and pension contributions.

The Scottish Government's commitment, for staff under its direct control, to supporting payment of the real Living Wage and the guaranteed cash underpin for those earning £25,000 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 2020-21 policy continues to provide public bodies with the flexibility to use paybill savings to address evidenced equality issues.

It is concluded from our assessment the measures proposed in the 2020-21 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 2020-21 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 the risk of any indirect discrimination, as a result of capping the pay for higher earners, can be justified by the overarching aims of the pay policy to ensure fairness by working to reducing poverty; the gender pay gap as well as overall income inequality, 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 Equality Impact Assessment to ensure that their pay proposals do not create any direct, indirect or negative impact for their staff 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.



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