



PUBLIC SECTOR PAY POLICY FOR SENIOR APPOINTMENTS 2018-19

TECHNICAL GUIDE

for the remuneration of

CHIEF EXECUTIVES
(of NDPBs, Public Corporations
and other Scottish public bodies)

NHS Executives

CHAIRS & MEMBERS

February 2018

CONTENTS

| | <u>Page</u> |
|--|-------------|
| 1. INTRODUCTION | 3 |
| Background..... | 3 |
| When is approval required? | 3 |
| What are the respective roles and responsibilities in the approval process? | 4 |
| When should proposals be submitted for approval? | 6 |
| What form should proposals take? | 6 |
| To whom should I send proposals? | 6 |
| 2. KEY PAY POLICY PARAMETERS FOR 2018-19 | 7 |
| What are the pay policy parameters for Chief Executives in 2018-19?..... | 7 |
| What are the arrangements for changing settlement dates for Chief Executives? | 7 |
| What are the arrangements for non-consolidated performance-related payments (bonuses) for Chief Executives?..... | 7 |
| What about offering any commitment to No Compulsory Redundancy? ... | 7 |
| What are the pay policy parameters for Chairs and Members? | 8 |
| 3. CHIEF EXECUTIVES: FRAMEWORK | 9 |
| Who is it for?..... | 9 |
| What is the Scottish Chief Executive Pay Framework? | 9 |
| What needs to be taken into account when developing a remuneration package for a Chief Executive? | 11 |
| What should the business case contain?..... | 11 |
| What elements need to be considered when developing a remuneration package for a Chief Executive? | 12 |
| What factors must you consider when setting the salary? | 16 |
| Are you still required to achieve a 10 per cent reduction in the remuneration package? | 16 |
| What about temporary Chief Executives?..... | 16 |
| What to do if you want to vary a new remuneration package after it has been approved?..... | 17 |
| Do you have to seek approval for the terms in a new contract? | 17 |
| How is a Chief Executive to be paid? | 17 |
| What to do if a Chief Executive is considering a public appointment or Non-Executive Directorship? | 18 |
| 4. CHIEF EXECUTIVES: APPROVAL | 19 |
| What must you do to seek approval of proposals? | 19 |
| Who is going to approve your remuneration proposals?..... | 19 |
| Process for Approval | 20 |
| How long should any approval take? | 21 |
| What might happen if the Pay Policy for Senior Appointments is not followed?..... | 22 |
| 5. CHAIRS AND MEMBERS: FRAMEWORK..... | 23 |
| Who is it for?..... | 23 |
| What is the background to the policy for Chairs and Members?..... | 23 |
| What is a daily fee and what is it for? | 23 |
| What is the Daily Fee Framework?..... | 25 |
| How to determine the daily fee of a Chair or Member of a public body? .. | 27 |

| | |
|---|-----------|
| What should a business case contain?..... | 27 |
| What about offering a pension? | 28 |
| How are Chairs and Members to be paid?..... | 28 |
| What about expenses? | 29 |
| What about other tax matters?..... | 29 |
| What to do when making a public appointment where the individual is already a senior employee of another public body?..... | 29 |
| 6. CHAIRS AND MEMBERS: APPROVAL | 31 |
| What must you do to seek approval of proposals? | 31 |
| Who is going to approve your remuneration proposals?..... | 31 |
| How long should the process take? | 33 |
| What might happen if the Pay Policy for Senior Appointments is not followed?..... | 33 |
| 7. GLOSSARY..... | 34 |
| 8. ABBREVIATIONS | 37 |
| 9. CHIEF EXECUTIVE PAY & DAILY FEE FRAMEWORKS – A QUICK REFERENCE..... | 38 |

1. INTRODUCTION

Background

1.1 The Scottish Government's **Public Sector Pay Policy for Senior Appointments 2018-19** sets out the Scottish Government's pay policy on the remuneration of senior appointments to a wide range of Scottish public bodies for the period April 2018 to March 2019. This **Technical Guide** supports the Pay Policy for Senior Appointments and sets out the procedures which must be followed and the approval process for remuneration proposals relating to:

- **Chief Executives¹ of Non-Departmental Public Bodies (NDPBs), Public Corporations** and other Scottish public bodies (in respect of any proposed changes to: salary, pay range, non-consolidated performance payment (bonus) and other non-salary rewards, etc.)
- **NHS Scotland Executive and Senior Management posts** - referred to in this policy as "NHS Executives". This group of staff is covered by way of a collective pay proposal: individual appointments, remuneration and terms and conditions are made in line with the Scottish Government's health policy
- The daily fees paid to all public appointments (**Chairs and Members**) to Scottish public bodies; Non-Executive Directors of the Scottish Government and its Agencies and Associated Departments; Chairs and Board Members of NHS Bodies; appointments to Tribunals, Appeals Boards, Advisory Committees and Inquiries, and short-life and other *ad hoc* working groups, etc. under the auspices of the Scottish Ministers (in respect of any proposed changes to: daily fee rates; annual uplifts and reviews; and any pension arrangements, etc.)

1.2 The pay of those staff below Senior Civil Service level in the Scottish Government, its Agencies and Associated Departments; and below Chief Executive level in NDPBs and Public Corporations, is expected to be covered by the staff pay remit, which is subject to the Scottish Government's annual Pay Policy for Staff Pay Remits and available at:

www.gov.scot/Topics/Government/public-sector-pay/staff-pay

When is approval required?

1.3 Scottish Government approval is required in relation to any change in the remuneration of senior appointments (annual increases; or before the creation of any new post or appointment; and before implementing any change to the remuneration of Chief Executives, Chairs or Members). If no

¹ The Chief Executives of David MacBrayne Ltd., Quality Meat Scotland and the Scottish Futures Trust are not covered by this policy, although the Chairs and Members of those bodies are. This pay policy also covers the Chief Executive and Directors of Scottish Water insofar as the Board are expected to follow the principles of the pay policy, except in relation to non-consolidated performance related payments. Such payments are only made if Scottish Water outperforms the demanding efficiency targets that are set by its independent economic regulator.

change in the remuneration of a Chief Executive, Chair or Members is proposed, you are asked simply to notify the Finance Pay Policy team.

What are the respective roles and responsibilities in the approval process?

1.4 The roles and responsibilities of the various parties involved in the approval process for persons covered by this Technical Guide are as follows:

Chair / Board (of public body) – where relevant

- Must comply with the Pay Policy for Senior Appointments
- Must ensure the public body's Remuneration Committee (where applicable) is aware of and complies with the Pay Policy for Senior Appointments
- When necessary, develop remuneration proposals for their Chief Executive on any new or reviewed remuneration package (salary, pay range, progression, non-salary rewards, etc.) which comply with the Pay Policy for Senior Appointments and ensure Scottish Government approval is obtained prior to advertising, agreeing or implementing such proposals
- Submits proposals for Scottish Government approval to the Finance Pay Policy team, copied to the relevant Sponsor Team

Sponsor Team or equivalent (Scottish Government)

- Must comply with the Pay Policy for Senior Appointments
- Must ensure every public body they sponsor is aware of the Pay Policy for Senior Appointments. If a new Chair is appointed the Sponsor Team should inform them of and provide them with the latest copy of the Pay Policy and Technical Guide
- Along with the Finance Pay Policy team, considers remuneration proposals
- Submits any proposals to uplift, introduce or review daily fees payable to Chairs and Members of public bodies they sponsor to the Finance Pay Policy team
- Considers and confirms the affordability and sustainability of all remuneration proposals, in conjunction with the relevant Finance Business Partner
- Having confirmed the affordability and sustainability of the remuneration proposals, seeks formal approval for the proposals

When considering new appointments, takes into account the guidance on the Acceptance and Remuneration of Public Appointments / Non-Executive Directorships by Senior Staff of Public Bodies:

www.gov.scot/Resource/0043/00438216.pdf

- When making new appointments, ensures that payment arrangements comply with the Tax Planning and Tax Avoidance section of the Scottish Public Finance Manual:

www.gov.scot/Topics/Government/Finance/spfm/taxavoidance

Sponsor Director or equivalent (Scottish Government)

- Must ensure every public body they sponsor is aware of the Pay Policy for Senior Appointments
- Encourage timely submission of proposals and liaise, where necessary, with the sponsor body when any delay becomes apparent
- Where appropriate (as set out in the tables in the respective sections below), approve proposals individually or jointly with the Director for Financial Strategy ('the senior officials') or refers proposals to the Remuneration Group
- For reviews of remuneration proposals seeks Remuneration Group's approval

Finance Business Partner (Scottish Government)

- Considers and provides comment to Sponsor Teams on the affordability and sustainability of remuneration proposals

Finance Pay Policy team (Scottish Government)

- Provides advice to public bodies; Sponsor Teams and Sponsor Directors; the Remuneration Group; and relevant Ministers on the Pay Policy for Senior Appointments
- Rates proposals in line with the Pay Policy for Senior Appointments (and provides feedback on the rating given); provides advice to the Director for Financial Strategy and the Remuneration Group

Remuneration Group (Scottish Government)

- Chaired by a Non-Executive Director of the Scottish Government and meets regularly throughout the year. Details of membership and meeting dates are set out on the Scottish Government's Public Sector Pay webpages:

www.gov.scot/Topics/Government/public-sector-pay/RemunerationGroup

- Considers and approves any significant new or reviewed remuneration proposals for Chief Executives, Chairs and Members or refers proposals and provides advice to Ministers for approval
- Also considers governance issues in relation to remuneration for public bodies covered by this policy. Remit includes making sure a consistent approach is taken to approval of pay remits for both staff and senior appointments

Relevant Portfolio Minister and Cabinet Secretary for Finance and the Constitution

- Jointly consider and make decisions on remuneration proposals for Chief Executives, Chairs and Members referred to them by the Remuneration Group
- If Ministerial approval is required, submissions must be sent to the relevant portfolio Minister and the Cabinet Secretary for Finance and the Constitution

When should proposals be submitted for approval?

1.5 Any proposals should be submitted as soon as is practicable; in advance of or within the financial year to which they relate; and, where applicable, prior to any advertisement. Sufficient time for approval should be allowed. The dates of meetings are available here:

www.gov.scot/Topics/Government/public-sector-pay/RemunerationGroup

What form should proposals take?

1.6 If proposals are simply the annual uplift in line with pay policy, then the relevant template for Chief Executives or Chairs and Members is all that is required to be submitted. If, however, proposals entail a change in remuneration (for example, following a review) or remuneration relating to a new appointment, then they should include a business case from the public body and will require approval by senior officials (if wholly in line with Pay Policy) or the Remuneration Group in line with the respective process outlined in Sections 4 and 6.

To whom should I send proposals?

1.7 Proposals for approval should be submitted initially to the Finance Pay Policy team and, where relevant, copied to the appropriate Sponsor Team. The Finance Pay Policy team is happy to provide advice and assistance and will provide feedback on proposals once submitted for approval. They can also help in making sure any supporting business case includes all of the necessary information prior to submitting proposals.

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2. KEY PAY POLICY PARAMETERS FOR 2018-19

What are the pay policy parameters for Chief Executives in 2018-19?

2.1 For those Chief Executives currently **earning less than £80,000**, a **2 per cent basic award** may be made. For those **earning £80,000 or more**, the basic award is limited to a **maximum of £1,600**.

2.2 For Chief Executives on pay ranges, there is discretion for employers to reach their own decision about pay **progression**, where the individual is eligible, but this is limited to a **maximum of 1.5 per cent**.

2.3 In calculating any award, the expectation is that progression, where eligible, will be considered first prior to applying the basic award. The level of basic award should take into account the levels of basic award and progression proposed for other senior members of staff within the public body.

2.4 Any increase in pay must not exceed the maximum of the Chief Executive's pay range nor the ceiling of the relevant Band in the Chief Executive Pay Framework.

2.5 In line with other staff, an employer may make a non-consolidated payments amounting to no more than 1 per cent of salary for Chief Executives already on the maximum of their pay range (and who no longer benefit from progression) or those on spot rates. However, this would require similar provision to be made for other staff across the pay remit.

What are the arrangements for changing settlement dates for Chief Executives?

2.6 If the settlement date for staff in the public body (for payment of the basic award) is being moved to 1 April 2018, then it is permissible for the settlement date for payment of the basic award for the Chief Executive to be aligned with this. If staff in the public body already have a 1 April settlement date, then the Chief Executive's settlement date for paying the basic award can be aligned with this.

What are the arrangements for non-consolidated performance-related payments (bonuses) for Chief Executives?

2.7 The suspension of **non-consolidated performance-related payments (bonuses) continues during 2018-19**. This approach allows public bodies to maximise the resources available to them to address lower pay and fair pay issues.

What about offering any commitment to No Compulsory Redundancy?

2.8 The Chief Executive can be offered a commitment to No Compulsory Redundancy on the same basis as that offered to staff in the public body.

What are the pay policy parameters for Chairs and Members?

2.9 An equivalent £80,000 per annum threshold also applies to the daily fees for Chairs and Members of Scottish public bodies: **those who are paid less than £307 per day** (this equates to £80,000 per annum) **can receive a 2 per cent increase; those receiving £307 or more are limited to a maximum increase of £6 per day.**

2.10 There is an expectation that daily fee pay proposals for Chairs and Members will cover one year only.

2.11 Where a Chair or Member is already paid a daily fee in whole pound amounts, the proposed daily fee may be rounded (under standard accountancy practices) to the nearest whole pound. Where such rounding results in an increase in a daily fee of less than 2 per cent, then the post may move to being paid daily fees on the basis of pounds and pence. This arrangement would not be applicable to those earning £307 or more as a round figure of £6 is being added.

2.12 No daily fee (including any pension contribution) should exceed the relevant ceiling in the Daily Fee Framework, except where the daily fees were agreed previously by Ministers at levels above the ceiling.

3. CHIEF EXECUTIVES: FRAMEWORK

Who is it for?

3.1 Sections 3 and 4 of this Technical Guide apply to Chief Executives and, in exceptional circumstances (and only with prior approval), Directors who are not covered by the public body's pay remit. Any proposals to appoint a temporary or interim Chief Executive is also subject to this policy (see sections 3.47 to 3.50).

3.2 Approval will also be required if any changes to a public body's staff handbook are being proposed which will have the effect of amending or revising any aspect of those elements of a Chief Executive's reward package covered by the Pay Policy for Senior Appointments.

3.3 This Section also applies to the appointment of a Chief Executive to new public body; the appointment of a new Chief Executive to an existing body; and when a review of an existing Chief Executive's remuneration package is being undertaken (including, for example, the introduction of or changes to non-pay rewards, such as a car, etc. or revisions to pension arrangements (for example: increases in employer's contributions) where these are not mandatory).

3.4 While it is normally good practice to review the remuneration arrangements on a regular basis, the Scottish Government would not expect a review of the Chief Executive's remuneration package to be undertaken unless there has been a significant change in the role and responsibility of the post.

3.5 The fact that a Chief Executive may have reached the maximum of the existing pay range or has fallen behind the market is not sufficient justification to review the pay range. Nor should the existing remuneration be used solely as the basis for establishing the new minimum of a proposed pay range.

3.6 The extent to which an appointment requires actual Ministerial approval is dependent on the legislative arrangements for that particular public body. However, **in all cases, Scottish Government approval of the proposed remuneration package is required before the post is advertised; contracts agreed; or the appointment is made.** Potential remuneration packages should not be discussed with prospective candidates until Scottish Government approval has been given.

What is the Scottish Chief Executive Pay Framework?

3.7 In order to ensure consistency and fairness between the remuneration of senior staff employed in Scottish Government Agencies and Associated Departments, who are civil servants (and members of the Senior Civil Service) and that for Chief Executives in public bodies covered by the Pay Policy for Senior Appointments, the salary and pay range of a Chief Executive must fall within the **Scottish Chief Executive Pay Framework**. While there is an

element of read-across between the Scottish Chief Executive Pay Framework and the Senior Civil Service Pay Framework, Chief Executives of NDPBs and Public Corporations are not civil servants and are neither subject to the Senior Civil Service Pay Framework nor its operation.

3.8 The Scottish Chief Executive Pay Framework is uplifted reflecting the pay thresholds in 2018-19 as follows:

Scottish Chief Executive Pay Framework 2018-19 (base pay)

| Pay Band | Minimum | Maximum | Ceiling |
|-----------------|----------------|----------------|----------------|
| 3 | £107,221 | £147,284 | £218,150 |
| 2 | £87,866 | £126,472 | £170,698 |
| 1A | £71,752 | £105,752 | £135,734 |
| 1 | £61,775 | £95,254 | £124,131 |

3.9 The Scottish Chief Executive Pay Framework operates on the basis of **base pay** with salary and pay ranges excluding any **non-consolidated performance payment (bonus)**, pension and the cash value of any non-salary rewards. Some evaluation systems also refer to **total cash** reward which might include a non-consolidated performance payment or bonus, pension and the cash value of any other non-salary rewards, but this should not be used in determining the market median for this purpose. However, the business case may set out differences in pension contributions, etc. if this is considered relevant.

3.10 The salary and pay range of a Chief Executive is expected to lie within the minimum and maximum of the relevant **Pay Band** in the Scottish Chief Executive Pay Framework. The business case in support of proposals must include clear and convincing market evidence to support the proposed pay range. In exceptional circumstances the business case may include proposals for a maximum which extends beyond the maximum in the relevant Pay Band but only where there is robust market evidence in support of this. In all cases, the proposed pay range maximum must be within the **ceiling** of the relevant Pay Band within the Scottish Chief Executive Pay Framework and is expected to remain so. The minimum, maximum nor ceiling of the Pay Band in the Pay Framework should not be taken as the Chief Executive's pay range.

3.11 The pay policy expectation is that a Chief Executive should be remunerated by way of a **pay range** (allowing individuals to progress, through the delivery of agreed objectives and by gaining experience, towards the maximum of the pay range which should reflect the **market rate for the job**). This is principally for two reasons. First, it provides that annual pay rises are, in part, based on performance; and secondly, provides a further incentive for a Chief Executive to perform well as they increase their knowledge and experience of the role. Only in exceptional circumstances would the appointment of a new Chief Executive on a spot rate be considered for approval (which reflects the market rate for the job).

What needs to be taken into account when developing a remuneration package for a Chief Executive?

3.12 The following sections are relevant where a new Chief Executive post is being created or where a review is being undertaken for an existing Chief Executive post (whether a change of incumbent or not).

What should the business case contain?

3.13 When developing a remuneration package for a Chief Executive, the following elements must be considered and covered in the **business case**, along with supporting evidence:

| Element | Points to cover in business case |
|--|---|
| Job evaluation score | Job evaluation system used, date and results; date of increase in role / responsibility (where relevant) While the evaluation report need not be part of the Business Case, the Finance Pay Policy team will still require sight of it |
| Comparator labour market | Relevancy and justification of labour market selected; comparator organisations used; median of salaries in that labour market, date of sample |
| Determination of Pay Band in Chief Executive Pay Framework | Advice from the Finance Pay Policy team if new appointment or changes to the public body itself |
| Proposed pay range | Minima and maxima; further justification required if this exceeds the maximum in the Framework; must be less than the ceiling in the Framework |
| Internal referencing with the senior management team | Set out the pay differential over senior management team; if differences are proposed set out justification / rationale |
| Progression methodology | Set out proposals, taking into account equalities obligations; anticipated journey time, etc. Journey times cannot be guaranteed and spine points should not be explicit in any pay range |
| Proposed starting salary | Must be within lower quartile, or clear justification for higher starting point |
| (For new appointments to existing posts) consideration of the required 10 per cent reduction in remuneration package over outgoing | Confirmation this has been achieved or justification as to why not |
| Pension | Details and confirmation in line with other staff |
| Bonus arrangement? | Presumption against |
| Car (or related allowance)? | Presumption against. Details and justification |
| Life insurance or other health benefits? | Presumption against. Details, justification or confirmation in line with other staff |
| Relocation expenses? | Details and confirmation in line with other staff |
| Value for money | Comment required |
| Affordability and sustainability | Confirmation required |

What elements need to be considered when developing a remuneration package for a Chief Executive?

3.14 There are a number of elements to consider as part of a remuneration package for a Chief Executive, but the first steps entail:

- Determining the Pay Band in the Scottish Chief Executive Pay Framework
- Identification of the relevant labour market (to determine the range maximum and setting of the pay range)

Job evaluation and determining the Pay Band

3.15 In order to determine the appropriate Pay Band in the Scottish Chief Executive Pay Framework you first need to establish the weight of the Chief Executive post. A formal job **evaluation** of the role and responsibilities of the Chief Executive post should be undertaken. The outcome of the job evaluation should provide an evaluation score which will inform which Pay Band in the Scottish Chief Executive Pay Framework the post might sit.

3.16 Normally, the job evaluation will be carried out by the public body, though where this is not possible the Scottish Government may be able to assist. In such circumstances, advice should be sought from the Finance Pay Policy team. If you are considering engaging external contractors to carry out this work, then the expectation is that you will notify your Sponsor Team and the Finance Pay Policy team of your intention beforehand.

3.17 The Finance Pay Policy team must be consulted in determining the identification of the appropriate Pay Band and approval will include the Pay Band as well as the remuneration. Note: it is not the proposed salary, proposed pay range or current Banding of the body (in relation to the Chair and Members Daily Fee Framework) that determines the Chief Executive's Pay Band in the Scottish Chief Executive Pay Framework, but the job weight evaluation score of the role and responsibility of the Chief Executive post.

Identification of the relevant labour market (to determine the range maximum and setting of the pay range)

3.18 Normally this would be the **Scottish public sector labour market** which includes Scottish public body Chief Executives in the same Pay Band. The Finance Pay Policy team can provide a list of comparable Chief Executives of Scottish public bodies and remuneration information.

3.19 Public bodies may provide additional evidence where the labour market, from which the Chief Executive might be recruited, is wider in scope than the Scottish public sector labour market. In such circumstances, a public body must explain the appropriateness and relevance of that market data. Market comparisons should be made on the basis of similarly weighted posts. Before gathering such information, public bodies should discuss the scope of

the proposed labour market with the Finance Pay Policy team. Normally, market data would exclude London-based posts.

3.20 The pay policy expectation is that the maximum of the proposed pay range should be no greater than the **median** of base pay of similarly weighted posts in the **relevant labour market**.

3.21 The public body should then develop proposals for a pay range for the Chief Executive within the relevant Pay Band, taking into account the operation of Scottish Chief Executive Pay Framework. The pay policy expectation is that the proposed pay range for the Chief Executive should lie within the minimum and maximum of the relevant Pay Band in the Scottish Chief Executive Pay Framework, taking in to account other factors such as the relevant labour market and the job weight and salary of other senior staff within the public body. It is not expected for the minimum and maximum (or ceiling) of the proposed pay range to be simply the minimum and maximum of that Pay Band in that Framework.

3.22 Where the proposed pay range maximum is above the maximum of the relevant Pay Band in the Scottish Chief Executive Pay Framework, the business case will need to set out the case for offering remuneration at such a level and this must be supported by market evidence, including a note of any recruitment and retention aspects. The proposed pay range should not exceed the ceiling of the relevant Pay Band in the Framework.

The method of progression

3.23 Under the Pay Policy for Senior Appointments, future basic awards and progression cannot be guaranteed. When developing remuneration proposals it should be noted that no commitment to levels of future annual increases (basic award or progression) should be given. Future annual increases will remain subject to the Pay Policy for Senior Appointments in place at that time and will require Scottish Government approval.

3.24 No contractual obligation or expectation to annual increases should be created nor implied: spine points should not be a feature of any pay range as progression to such points cannot be guaranteed. Public bodies must ensure any contractual documentation is clear in this regard and the Finance Pay Policy team must be consulted on the remuneration clauses in draft contracts or letters of appointment (see section 3.52).

3.25 A public body must outline the approach to progression and **journey time** anticipated in determining the proposed pay range and demonstrate how this is affordable and sustainable in future.

Equalities legislation

3.26 Public bodies must take into account their obligations under equalities legislation when determining a pay range for the Chief Executive and must include confirmation of this when submitting any proposals for approval.

Internal referencing with the public body's senior management team

3.27 When developing pay range proposals, the public body must consider the relationship and pay differentials between the remuneration of the Chief Executive and members of the senior management team (or the most senior level of Director below the Chief Executive).

Non-consolidated performance payments (bonuses)

3.28 All non-consolidated performance payments continue to be suspended in 2018-19. In addition, **there is a presumption against provision for non-consolidated performance payments in any new Chief Executive contracts or following a review.**

Pension arrangements

3.29 The pay policy expectation is that the pension arrangements for the Chief Executive should be in line with those for other staff of the public body.

3.30 Any proposal to offer employer's pension contributions in relation to a Chief Executive post, beyond those required under the pension scheme, in order to increase the benefit for the postholder would require approval by the Remuneration Group.

3.31 **There is a presumption against making payments to individuals in lieu of employer pension contributions, where they have withdrawn from or opted not to join the company pension scheme, whether as a result of annual or lifetime limits or for other reasons.** All payments to individuals must comply with the Tax Planning and Tax Avoidance section of the Scottish Public Finance Manual:

www.gov.scot/Topics/Government/Finance/spfm/taxavoidance

Non-salary rewards (car, insurance, relocation expenses, etc.)

3.32 There may be a number of additional elements to the remuneration package offered to a Chief Executive over and above base pay. These are referred to as **non-salary rewards**. Where other staff employed by the public body benefit from such rewards, the arrangements which are to apply to the Chief Executive should be in line with these. Details of any such rewards must be included with any remuneration proposals when seeking Scottish Government approval.

Cars

3.33 **There is a presumption against the provision of a car** (or related allowance).

3.34 However, where a Chief Executive is required to travel extensively as part of their duties, it may be cost effective to make arrangements regarding a dedicated car (for example; lease car, car allowance, etc.). In all cases, the

provision or introduction of a car (or related allowance) will require Scottish Government approval. **Approval will be given only where a clear financial benefit and a business need can be demonstrated.**

3.35 Where a public body already has an agreed scheme for the provision of cars (or related allowance) for staff, any proposed arrangement should be in line with that scheme. Otherwise, a public body must set out in the business case comparison of costings and implications of personal tax and insurance costs, that supports the proposed arrangement. This should also include other options considered, for example; a pool car and the arrangements in place for other staff.

Life insurance and other health benefits

3.36 There is a presumption against the provision of life cover or private medical plans, etc.

3.37 However, in the rare circumstances where a public body offers its staff life cover or a private medical plan or similar, the Chief Executive should be eligible to become a member of the scheme. In such circumstances, public bodies must still provide details of the scheme when seeking Scottish Government approval of the remuneration proposals. In the absence of any existing scheme, **approval will not normally be given for such arrangements.** Please discuss any other life cover / health related proposals with the Finance Pay Policy team.

Relocation expenses

3.38 Eligibility for and the levels of relocation expenses should be in line with those for other staff of the public body. In the absence of such a scheme, relocation expenses should be in line with that for the Scottish Government. Exceptionally, relocation expenses beyond such arrangements may be paid but only where this is necessary to secure the best candidate. In such circumstances, public bodies must consult the Finance Pay Policy team before reaching agreement with the incoming Chief Executive.

Value for money

3.39 The remuneration (pay range, salary and any other financial and non-salary rewards) must demonstrably provide value for money in the use of public resources and be no more than is necessary to attract, retain and motivate able staff, on a sustainable basis, to deliver public functions.

Affordability and sustainability

3.40 Long-term affordability of the proposals is important and the public body must confirm it considers the proposals are affordable and sustainable. Proposals are expected to be affordable within existing resources. However, where additional resources are required, these must be set out clearly. In all cases, the Sponsor Team must confirm the affordability and sustainability of

proposals, seeking the views of the relevant Finance Business Partner where appropriate.

What factors must you consider when setting the salary?

3.41 A public body must indicate the anticipated starting salary. The starting salary may be at any level between the minimum and 25 per cent (the lowest **quartile**) of the approved pay range. If the proposed starting salary is beyond the lowest quartile then the public body should set out in its business case the proposed salary and why such a salary is considered necessary.

3.42 Where a review is being proposed for an incumbent Chief Executive reflecting a significant change in the role and responsibility of that post (perhaps following a merger of bodies or additional responsibilities as a result of legislation, etc.), then the **assimilation point** on the proposed pay range should take into account the Chief Executive's experience in that higher-weighted role (from the point when the significant change in the role and responsibility of that post commenced).

Are you still required to achieve a 10 per cent reduction in the remuneration package?

3.43 Since 2010, the Pay Policy for Senior Appointments has included the expectation that the remuneration of a new Chief Executive appointment will be at least 10 per cent lower than that of the outgoing Chief Executive. **This expectation is predicated on the ability to fill the post with a suitable candidate having regard to external market levels, value for money and recruitment and retention issues.**

3.44 The whole remuneration package (salary, pay range, non-consolidated performance payment and any other non-salary rewards) should be considered as part of this expectation. This may be achieved by removing any existing bonus arrangement. Some of this reduction may be achieved simply by appointing a new Chief Executive on a salary less than that of the outgoing.

3.45 There may be a case to apply a lesser reduction where there is evidence the role of the Chief Executive post has increased significantly; where the post was reviewed recently; or where the outgoing Chief Executive had only been in post for a short period of time. Such issues should be discussed with the Finance Pay Policy team in the first instance.

3.46 The business case and submission for approval must clearly set out how this reduction is to be achieved or why a lesser reduction is being sought.

What about temporary Chief Executives?

3.47 Any proposals to appoint a temporary, interim or acting Chief Executive (for example, a member of staff on temporary promotion) must first be discussed with the Finance Pay Policy team prior to implementing such an

arrangement. The Finance Pay Policy team can advise on remuneration arrangements for such appointments and whether approval might be required.

3.48 If the proposed temporary Chief Executive is to be an internal candidate, then the proposed salary should be based on the public body's existing temporary responsibility allowance or temporary promotion scheme. If there is no temporary responsibility allowance / temporary promotion scheme in place, the arrangement should mirror that for Scottish Government staff.

3.49 Should a fixed-term appointment be considered appropriate, then the approval process for new appointments, as outlined earlier in this section, should be followed and approval by the relevant senior officials or the Remuneration Group will be required. The business case will need to set out the term and period of notice on termination and whether any compensation on termination may be payable. The relevant Finance Business Partner will still be required to confirm the value for money aspects of the proposal.

3.50 Remuneration arrangements for temporary Chief Executive may differ to those for the outgoing Chief Executive and should not necessarily have a bearing on those of any future permanent Chief Executive.

What to do if you want to vary a new remuneration package after it has been approved?

3.51 If, during negotiations with a prospective candidate, consideration is given to a remuneration package that differs from the one approved, **a public body must seek the advice of the Finance Pay Policy team before any agreement is reached.** The Finance Pay Policy team will advise whether approval by the relevant senior officials or the Remuneration Group will be required. No commitment should be given to the prospective candidate until appropriate Scottish Government approval has been obtained. Sufficient time should be built in to the recruitment process to accommodate such an eventuality.

Do you have to seek approval for the terms in a new contract?

3.52 It is a requirement of approval that **a public body must consult the Finance Pay Policy team on the remuneration clauses in the draft contract before it is agreed.** The public body must take particular care to ensure the letter of appointment does not give rise to any contractual expectation which goes beyond that in any contract or the remuneration package as agreed by the Remuneration Group.

How is a Chief Executive to be paid?

3.53 Chief Executives are expected to be **paid through payroll with tax deducted at source** in the same way as other employees. Payments must comply with the Tax Planning and Tax Avoidance section of the Scottish Public Finance Manual:

www.gov.scot/Topics/Government/Finance/spfm/taxavoidance

What to do if a Chief Executive is considering a public appointment or Non-Executive Directorship?

3.54 If a Chief Executive (or other senior employee) of a body covered by the Scottish Government Public Sector Pay Policy is considering accepting a public appointment or Non-Executive Directorship in addition to their existing role, then factors to be taken into account by the Chair / Board and Sponsor Team of the employing body include: conflict of interest; time commitment; and remuneration. Such matters, including (where relevant) the need to liaise with the Sponsor Team of the public body to which the individual might be appointed, are outlined in more detail in the *Public Bodies Information Update 109* which is available on the Scottish Government website at:

www.gov.scot/Topics/Government/public-sector-pay/additionalinfo

4. CHIEF EXECUTIVES: APPROVAL

What must you do to seek approval of proposals?

4.1 The relevant Scottish Government approval must be obtained prior to implementing any pay proposals and prior to advertising, negotiating a remuneration package or appointing a Chief Executive. Please ensure sufficient time to obtain this is built into any timetable.

4.2 Where **no change** is proposed, the public body simply confirms details of the current remuneration package on the Chief Executive template and submits that to the Finance Pay Policy team, copied to the Sponsor Team.

4.3 If proposals are simply to apply the **annual uplift** in line with Pay Policy, then a completed Chief Executive template, signed-off by the Chair of the public body should be sent to the Finance Pay Policy team, copied to the Sponsor Team. The approval approach being taken under the Pay Policy for Staff Pay Remits by the public body (fast-tracked, streamlined, full remit) bears no relation to how the pay proposals for the Chief Executive are approved and these should follow the steps outlined in this guide.

4.4 Any proposals that go beyond that, will need to provide further information in line with Section 3.

Who is going to approve your remuneration proposals?

4.5 The Finance Pay Policy team will assess all remuneration proposals and rate them as **Green**, **Amber** or **Red**. This rating does not determine the approval route, it simply reflects the extent to which they comply with Pay Policy. The approval route will depend on the circumstances of your proposals as set out in the following table:

Chief Executives – approval route

| Current or new Chief Executive | Pay proposal | Approval (in all cases, affordability must be confirmed by the Sponsor Team) |
|--|--|--|
| <i>As part of this process the Sponsor Director / Deputy Director should indicate they are satisfied with the Chief Executive's performance.</i> | Annual increase (in line with Pay Policy) | Sponsor Director / Deputy Director once the Finance Pay Policy team have 'signed-off' the proposals |
| | Current and previous annual increases (in line with Pay Policy) | Sponsor Director / Deputy Director once the Finance Pay Policy team have 'signed-off' the proposals |
| | Change to any other aspect of current remuneration package (other than in line with existing staff T&Cs) | Senior Officials (who may refer to the Remuneration Group). |

| Current or new Chief Executive | Pay proposal | Approval (in all cases, affordability must be confirmed by the Sponsor Team) |
|--|---|--|
| Existing body / appointment of interim or temporary Chief Executive (Note: the 10% reduction is not required to be met for a temporary post) | In line with public body's own or Scottish Government arrangements for temporary promotion or temporary responsibility supplement | Sponsor Team once the Finance Pay Policy team have 'signed-off' the proposals |
| | A different arrangement to the above | Senior Officials (who may refer to the Remuneration Group) |
| Existing body / appointment of new Chief Executive (no review undertaken) | Using existing pay range <ul style="list-style-type: none"> • Starting salary within the lower quartile of range • 10% reduction obtained • No other changes in remuneration package over that of outgoing | Sponsor Director / Deputy Director once the Finance Pay Policy team have 'signed-off' the proposals |
| | Using existing pay range but <ul style="list-style-type: none"> • Starting salary is not within the lower quartile of range or • 10% reduction cannot be obtained or • There are other changes in remuneration package over that of outgoing and/or other than in line with existing staff T&Cs | Senior Officials (who may refer to the Remuneration Group) |
| Existing body / review of Chief Executive | All proposals (whether incumbent or prior to new appointment) | Remuneration Group |
| Chief Executive appointment to <u>new</u> body | All proposals | Remuneration Group |

Process for Approval

4.6 Where the proposed annual award is wholly in line with Pay Policy and the Sponsor Team has confirmed affordability, the proposals will be 'signed-off' by the **Finance Pay Policy team**. Where a progression increase is proposed, if the Sponsor Director (or Deputy Director, if they have a closer working knowledge of the Chief Executive) is content with performance and the progression is therefore justified, the proposals are then deemed to be approved and the Sponsor Team should notify the public body. This notification should be copied to the Finance Pay Policy team. Any increase

should not be implemented until this notification has been received. The Finance Pay Policy team will also notify the Remuneration Group at the next meeting.

4.7 For those proposals which are to be considered for **approval by senior officials**, the Sponsor Team should send the template and a short note to senior officials (the Sponsor Director or Deputy Director and the Director of Financial Strategy on a 1., 2. basis) after they have confirmed affordability. For their part in the approval, the Sponsor Director is required to confirm to the Director for Financial Strategy that they are content with the proposals (including performance, if relevant). The Director of Financial Strategy will then confirm formal approval. Either Director has the option of referring the proposals to the Remuneration Group. Once approved, the Sponsor Team will notify the public body. This notification should be copied to the Finance Pay Policy team. Any increase should not be implemented until this notification has been received. The Finance Pay Policy team will also notify the Remuneration Group at the next meeting.

4.8 Any proposals for a new Chief Executive appointment to a new body or a review of an incumbent Chief Executive's remuneration package must be **approved by the Remuneration Group**.

4.9 The relevant senior official is responsible for putting forward the submission for any proposals which are required to be considered by the Remuneration Group. This submission must include details of the proposals, supporting business case and a confirmation of affordability. The Finance Pay Policy team should also be asked to contribute advice to this submission. The Remuneration Group will either approve the proposals or they may refer the approval to Ministers where they consider there is likely to be significant Ministerial interest.

4.10 If proposals are rated by the Finance Pay Policy team as **Red**, then the proposals **cannot be approved**, even by the Remuneration Group (as they are outwith Pay Policy). The public body must review any such proposals, following advice from the Finance Pay Policy team. If the proposals have already been implemented, then a submission must be provided by the Sponsor Director to the Remuneration Group together with an explanation for why this has occurred.

How long should any approval take?

4.11 Allow for up to five working days for consideration by the Finance Pay Policy team. If the issue is complex and is likely to take longer, then the Finance Pay Policy team will advise the sponsor body and Sponsor Team.

4.12 If the proposals are referred to the Remuneration Group, then these are normally considered at the next available Remuneration Group meeting. Dates of meetings are set out on the Scottish Government Public Sector Pay webpages:

www.gov.scot/Topics/Government/public-sector-pay/RemunerationGroup

4.13 Under exceptional circumstances, some items may be taken in correspondence. The Remuneration Group may refer some items to Ministers. Where the latter occurs, the minute from the Chair of the Remuneration Group must be annexed to the submission to Ministers. Any submission to Ministers must go to the Cabinet Secretary for Finance and the Constitution as well as the Portfolio Minister. Referral to Ministers will require further time.

What might happen if the Pay Policy for Senior Appointments is not followed?

4.14 If any payments are made without approval being obtained, this could result in punitive action being taken by the Scottish Government, such as the recovery of any overpayments, the capping of future increases or a governance review of the public body.

5. CHAIRS AND MEMBERS: FRAMEWORK

Who is it for?

5.1 Sections 5 and 6 of this Technical Guide apply to all public appointments to NDPBs and Public Corporations; Non-Executive Directors of the Scottish Government and its Agencies and Associated Departments; Chairs and Board Members of NHS Bodies; appointments to Tribunals, Appeals Boards, Advisory Committees and Inquiries, Reviews and short-life and ad hoc working groups, etc. under the auspices of the Scottish Ministers (in respect of any proposed changes to: daily fee rates, reviews and any pension arrangements, etc.). Terminology may vary: the Chair may be known as a Convener, President or such like; and Members may sometimes be named with reference to their qualifications (such as Legal or Medical Members, etc.).

5.2 This section applies equally to the introduction of remuneration for Chairs and Members of Scottish public bodies or where an annual uplift, review or change to that remuneration is proposed.

What is the background to the policy for Chairs and Members?

5.3 Chairs and Members are public appointments, but not all are remunerated. Public appointees such as Chairs and Members benefit personally in a number of non-financial ways, for example: in the enhancement or application of professional expertise; general networking and personal development; or the opportunity to contribute to policy-making in an area of personal interest. The **main objective in offering remuneration for such posts is to increase diversity**. Remuneration may be proposed where it is particularly important for bodies to have representation on their board from as wide and diverse a range of candidates as possible or where there is specific need for Members to be drawn from otherwise under-represented groups.

5.4 Where a post is remunerated, it should be noted that **any remuneration payable is not intended to meet in full the market rate that could be commanded by the individuals concerned**.

What is a daily fee and what is it for?

5.5 Where Ministers have agreed the Chair or Members should be remunerated, then this is by a **daily fee**. **The remuneration of Chairs and Members must always be based on a daily fee rate** as this is the most appropriate and flexible arrangement which allows for payments to reflect the time commitment. This may be expressed in terms of daily, half-day or hourly rates for calculating payments, but **changes to the number of days worked should not result in changes to the level of daily fee paid**. The cost of any remuneration is met from the public body's existing administration costs.

5.6 If a daily fee is paid to Chairs and Members, then the payment should reflect the time commitment involved. The daily fee should take into account provision for reasonable time spent by individuals in undertaking their agreed duties effectively, though there must be clear prior agreement on which activities are to be remunerated. A daily fee (or proportion thereof) can therefore cover activities other than attendance at board meetings, functions or events and for example can include time spent preparing for meetings, time travelling to and from meetings, etc.

5.7 The daily fee and the related activities covered by it should be agreed between the public body and the Sponsor Team, recorded formally and embodied in the letters of appointment issued to the Chair and Members. The agreement must abide by the general requirements of the Pay Policy for Senior Appointments and may be reviewed from time to time or at the request of the public body or Sponsor Team. There must also be a formal and proportionate arrangement in place for the claiming of daily fees which should be subject to audit by the public body.

5.8 In relation to fees, letters of appointment may refer to a monthly or annual amount, as long as it is based on the approved daily fee multiplied by the 'contracted' number of days worked per month / year. The contracted number of days is the number of days stated in the letter of appointment expected to be worked (per month / year) as a result of the appointment.

5.9 It may be more convenient to remunerate Chairs and Members monthly (sometimes the fees are expressed as an annual amount), but problems may arise if the person works more or less than the contracted number of days.

5.10 If the remuneration is paid monthly, at a fixed amount based on a contracted number of days per month and the Chair or Member commits more days per month, then the Sponsor Team may recompense them for this.

5.11 Conversely, if the remuneration is paid monthly, at a fixed amount based, say, a contracted four days a month, but a Chair or Member spends, say, only two days a month in relation to their appointment, then clearly the Sponsor Team should review such an arrangement.

5.12 If a public body or Sponsor Team fixes the (monthly or annual) remuneration irrespective of the number of days actually worked and Chairs or Members feel they are not being remunerated sufficiently for their time commitment, then this is not necessarily an issue about the level of the daily fee but possibly more about being recompensed appropriately for their time commitment. This would therefore be a budgetary matter for the Sponsor Team rather than a daily fee issue for the Finance Pay Policy team – **it is not in itself justification for increasing the daily fee but rather a matter of reviewing the time commitment.** Changes to the number of days worked should not result in a change to the level of the daily fee paid or the effective daily fee received (if the remuneration is expressed monthly or annually) although it will change the overall monthly or annual remuneration received.

5.13 Chairs and Members are **not employees** of the public body nor of the Scottish Government (and likewise are **not paid a salary**). As such, they do not qualify for the rights and entitlements that are normally associated with the status of 'employees'. Public bodies and Sponsor Teams should therefore exercise care when drafting letters of appointment or advertisements to avoid references to salary or employment, or give an impression of such, as this may create expectations of other benefits (such as annual leave, sick pay, redundancy, etc.). Chairs and Members can still be an "employee for tax purposes" when daily fee payments are paid through payroll.

What is the Daily Fee Framework?

5.14 To ensure consistency and comparability across public bodies, a number of remuneration bands have been developed within the **Daily Fee Framework**. Appropriate rates of remuneration should be determined within this Framework. Each public body is allocated to one of the bands by reference to the significance of the body - based on its size (staff numbers) and the resources managed (budget / grant), as well as consideration of its likely public profile.

5.15 In general, Band 1 bodies include a small number of the most significant Scottish NDPBs and Public Corporations; Band 2 includes the majority of Executive NDPBs; Band 3 includes the smaller NDPBs, advisory bodies and other short-life and ad hoc groups, etc.

5.16 The 'Tribunal' band within the Chair and Members Daily Fee Framework covers the daily fees for **Scottish Tribunal NDPBs** and other tribunal-type bodies (where approval of the Remuneration Group has been obtained to allocate to this band). The expectation is that Tribunal members would be allocated in the following way:

- Chair of the public body – Tribunal Chair band
- Specialist Members (for example: those required to have professional qualifications or specialist knowledge, such as Legal and Medical Members) – Tribunal Member band
- Non-Executive Board Members of public body and Layperson Members – Band 1 Member band

5.17 A member of a Tribunal who acts as a convener of a tribunal hearing may receive a higher daily fee than other members so long as that daily fee remains within the appropriate Member band in the Daily Fee Framework.

5.18 Tribunal bands in this section currently apply to the devolved tribunals. Those tribunals which are to be transferred in to the 'Scottish Tribunals' - as created by the Tribunals (Scotland) Act 2014 - will undergo an independent role evaluation. As such, the Pay Policy specifically for those tribunals may be subject to change.

5.19 The Chairs and Members Daily Fee Framework for 2018-19 is as follows:

Chairs & Members Daily Fee Framework 2018-19 (gross daily fees)

| Chairs | | | |
|-----------------------------------|------------------|----------------|----------------|
| Banding | Daily Fee | | |
| | Minimum | Maximum | Ceiling |
| Tribunal | £323 | £544 | £694 |
| Band 1 | £321 | £481 | £538 |
| Band 2 | £207 | £355 | £424 |
| Band 3 | £142 | £223 | £306 |
| Members | | | |
| Banding | Daily Fee | | |
| | Minimum | Maximum | Ceiling |
| Tribunal (specialist skills only) | £249 | £373 | £493 |
| Band 1 | £228 | £343 | £436 |
| Band 2 | £174 | £256 | £325 |
| Band 3 | £93 | £180 | £259 |

5.20 Each band consist of a **minimum**, **maximum** and a **ceiling**. There are different rates for Chairs and Members reflecting the different levels of responsibility. **The pay policy expectation is that a daily fee should lie within the minimum and maximum of the relevant band in the Daily Fee Framework.** The daily fee should only exceed the maximum if it is demonstrated that this is required to recruit or retain Chairs and/or Members with the necessary skills, knowledge, experience or calibre for the role they are to undertake. **Daily fees are limited to and must not exceed the ceiling of the relevant Band.**

5.21 The daily fee rates in the Framework are considered **gross daily fees** in that they must include any contribution made by the public body towards any pension (if offered). A daily fee must not be increased to cover the Chair or Member's own contributions to any pension (see sections 5.34 to 5.37).

5.22 It is usual practice for the daily fee for a Chair to be set at a higher level than the daily fee for Members, in recognition of the additional responsibilities placed upon Chairs. There are no rules as to how high the level of differential between the Chair and Members' daily fees should be. Where there is a Deputy Chair, their daily fee would usually be somewhere between that for the Chair and Members. The main exception to this is where the Deputy Chair was required to have specialist skills, then they would fall within the relevant Members band.

5.23 When a new public body is being established, the Sponsor Team must discuss with the Finance Pay Policy team which of the bands in the Daily Fee Framework might be appropriate for the body. The Finance Pay Policy team should also be consulted if a case is being made to move a public body to a different band in the Daily Fee Framework.

5.24 Advice on the banding of a public body or which band applies to the Chair, Deputy Chair or Members should be sought from the Finance Pay Policy team.

How to determine the daily fee of a Chair or Member of a public body?

5.25 **The first consideration should be whether there is any need to pay a daily fee.** In addition to the Scottish Government policy to reduce the number of public appointees, it is also the policy to consider reducing, where possible, the daily fees paid to Chairs and Members. It is therefore open to the Sponsor Team to decide whether a payment need be made (apart from expenses) or to set a level of remuneration below the minimum of the band.

5.26 If it is considered a daily fee is required, Sponsor Teams need to consider the appropriate level of fee, taking into account the pay policy expectations and the Daily Fee Framework. When determining the proposed daily fee, the daily fees paid to Chairs and Members of Scottish public bodies in the same band should be considered in the first instance (the Finance Pay Policy team can provide assistance and information on daily fees paid). Only if it is anticipated the Chair or Members will be recruited from further afield should the levels of remuneration offered elsewhere be considered.

5.27 When considering daily fee proposals for Scottish public bodies, it is reasonable to consider rates paid to Chairs and Members of comparable bodies in England and Wales undertaking similar duties. Historically, a MSP salary was 87.5 per cent of that of a MP but this linkage no longer applies. However, it is still the expectation that the daily fees for Scottish Chairs and Members undertaking similar duties should continue to reflect a similar proportionate reduction unless a strong justification for doing otherwise is presented.

What should a business case contain?

5.28 Proposals for setting or reviewing a daily fee must be supported by a business case which should include:

- the need for paying a daily fee and/or reasons for introducing or reviewing it, which should include diversity and recruitment / retention issues
- the proposed daily fee, taking into account the pay policy expectations around the Daily Fee Framework (minimum, maximum and ceiling of the relevant band)
- the remuneration of Chairs and Members of similar public bodies in Scotland and elsewhere (where relevant)
- (for Chairs) the remuneration of the last occupant of the post
- (for Members) the remuneration of other Members and the differential with the Chair's daily fee

- the ancillary activities expected to be covered by the daily fee (for example: preparation time and travel time, etc.)
- affordability and sustainability

5.29 Apart from annual uplifts, the level of daily fee for existing Chairs and Members is not expected to require adjustment during the period of appointment. However, where there are significant recruitment or retention difficulties; or a significant change in the role and responsibility; proposals to review the existing daily fee rates may be submitted to senior officials or the Remuneration Group, dependent on the extent to which the proposals remain in line with Pay Policy.

What about offering a pension?

5.30 Given the relatively short terms of appointment, the limited number of days on which appointees actually serve on bodies and the generally non-executive nature of their duties, approval is not usually given to offering pension arrangements to Chairs or Members.

5.31 However, in exceptional circumstances, pension arrangements may be considered, but the approval of the Remuneration Group must be obtained before proposals are implemented. Any such proposals must be supported by a business case which clearly demonstrates why offering a pension is necessary, the detail of the proposed pension arrangements (as they are not employees, Chairs and Members may not be eligible to join the public body's pension scheme and a bespoke scheme may have to be set up) as well as confirmation of affordability.

5.32 Where it is approved that a pension may be offered, the level of daily fee must not be increased to cover the individual's resulting pension contributions (section 5.21). The daily fees in the Daily Fee Framework are gross in that they include any contribution made by the public body towards any pension. So in the rare circumstance where a pension is provided, the daily fee figure used when considering the Daily Fee Framework should be the 'net' daily fee receivable by the individual plus the amount of contribution made by the public body towards the pension.

5.33 Where pension arrangements are a result of previous practice, Sponsor Teams and public bodies must not assume this is justification for their continuation. Each case must be reconsidered on its merits prior to each appointment round.

How are Chairs and Members to be paid?

5.34 Daily fee payments made to Chairs and Members must comply with the Tax Planning and Tax Avoidance section of the Scottish Public Finance Manual:

www.gov.scot/Topics/Government/Finance/spfm/taxavoidance

5.35 In line with the Scottish Public Finance Manual, all appointees must be paid through a payroll system with tax deducted at source. Where there is no payroll system in place, then the Scottish Government payroll system may be available for use. For further information, please email Scottish Government HR (Payroll): HR.Help@gov.scot. As daily fees are not usually pensionable, public bodies and Sponsor Teams are reminded the payroll system used should ensure no employer's pension contributions are made.

5.36 Where the Chair or Member is employed elsewhere and their main employer allows such duties within work time, then it may be appropriate to reimburse the employer for the time commitment, rather than the individual receiving a daily fee. In such circumstances the daily fee may be paid direct to the employer. When such an arrangement is being considered and the Chair or Member is a partner of, or shareholder in the 'employer' or is 'employed' through a private service company, then you must contact the Finance Pay Policy team for advice before any payment is made.

What about expenses?

5.37 Expenses may be paid to Chairs and Members. The basic principle is no Chair or Member should be out of pocket as a result of expenses arising from their appointment, provided such costs are considered reasonable.

5.38 Chairs and Members may be reimbursed for the reasonable costs of travel and, when appropriate, accommodation associated with their public duties. To ensure consistency across public bodies, Chairs' and Members' travel expenses should be paid at standard Scottish Government travel rates and have regard to the Scottish Government's Travel Management policy on air and rail travel.

What about other tax matters?

5.39 Responsibility for ensuring compliance with all relevant HM Revenue and Customs requirements concerning any payments made to Chairs and Members lies with the public body itself. Individual Chairs and Members must also satisfy themselves as to their own tax liabilities resulting from their appointment.

5.40 In certain circumstances, where an individual has been making sufficient National Insurance contributions to be considered to be an "employed earner" and meets other applicable qualifying criteria, they may be entitled to statutory family-related pay (for example, Statutory Maternity Pay).

What to do when making a public appointment where the individual is already a senior employee of another public body?

5.41 Issues to be considered by Sponsor Teams prior to the appointment of a Chair or Member where the individual is already a Chief Executive (or other senior employee) of another public body covered by the Scottish Government Public Sector Pay Policy includes conflict of interest; time commitment; and

remuneration. Such matters, including (where relevant) the need to liaise with the Sponsor Team of the public body to which the individual might be appointed, are outlined in more detail in the *Public Bodies Information Update 109* which is available as a downloadable document on the Scottish Government website at:

www.gov.scot/Topics/Government/public-sector-pay/additionalinfo

6. CHAIRS AND MEMBERS: APPROVAL

What must you do to seek approval of proposals?

6.1 The relevant Scottish Government approval prior to implementing any proposals to:

- make any annual uplift
- change to the banding of a body
- introduce, review or change the remuneration package, for example:
 - the daily fee
 - other matters, such as pension arrangements

6.2 Where **no change** is proposed, confirmation of details of the current daily fees is all that is required to be submitted to the Finance Pay Policy team.

6.3 If proposals are simply the **annual uplift** in line with Pay Policy, then a Chairs and Members template should be either completed by the Sponsor Team and sent to the Finance Pay Policy team; or, completed by the public body and sent to the Finance Pay Policy team, copied to the Sponsor Team. The approval approach being taken under the Pay Policy for Staff Pay Remits by the public body (fast-tracked, streamlined, full remit) bears no relation to how the daily fee proposals for the Chair and Members are approved and these should follow the steps outlined in this guide.

6.4 For proposals that go beyond that, further information will be required. For example, if proposals entail a change in remuneration or banding (for example, following a review) or the introduction of a benefit (for example: pension or car) then a supporting business case will need to be prepared. For appointments to a new body, details of the proposals and supporting business case would be prepared by the Sponsor Team.

Who is going to approve your remuneration proposals?

6.5 The Finance Pay Policy team will assess all daily fee proposals and rate them as **Green**, **Amber** or **Red**. This rating does not determine the approval route, it simply reflects the extent to which the proposals comply with Pay Policy. The approval route will depend on the circumstances of your proposals as set out in the following table:

Chair and Members – approval route

| Current or new Chair or Member | Daily fee proposal | Approval (in all cases, affordability must be confirmed by the Sponsor Team) |
|---|---|--|
| Existing body | Annual increase (in line with Pay Policy) | Sponsor Team once the Finance Pay Policy team have 'signed-off' the proposals |
| | Current and previous annual increases (in line with Pay Policy) | Sponsor Team once the Finance Pay Policy team have 'signed-off' the proposals |
| | Change to any other aspect of current remuneration package (e.g. introduction of car, pension, etc.) | Remuneration Group |
| Existing body - review of banding or daily fee rates | Setting Banding and daily fees – in line with Pay Policy expectations | Senior Officials (who may refer to the Remuneration Group) or Remuneration Group |
| | Setting Banding and daily fees – goes beyond Pay Policy expectations (i.e. above maximum in Framework / profile used to justify a higher banding) | Remuneration Group |
| New body | Setting Banding and daily fees – in line with Pay Policy expectations | Senior Officials (who may refer to the Remuneration Group) |
| | Setting Banding and daily fees – goes beyond Pay Policy expectations (i.e. above maximum in Framework / profile used to justify a higher banding) | Remuneration Group |

6.6 Where the proposed **annual award** is wholly in line with Pay Policy (and rated as **Green** by the Finance Pay Policy team), provided affordability has been confirmed by the Sponsor Team, the proposals will be 'signed off' by the Finance Pay Policy team. The Sponsor Team will then notify the public body / the public appointee(s). Any increase should not be implemented until this notification has been received.

6.7 Proposals for the **introduction of or changes to banding and daily fees** for existing or new bodies, where these are wholly in line with Pay Policy (and rated **Green** by the Finance Pay Policy team), may be approved by senior officials. For those which are to be considered for approval by senior officials, once the Sponsor Team has confirmed affordability, the Sponsor Team should send the template and short note to senior officials (the Sponsor Director or Deputy Director and Director of Financial Strategy on a 1., 2. basis). For their part in the approval, the Sponsor Director is required to confirm they are content with and support the proposals. The Director for Financial Strategy will then confirm formal approval. Either Director has the option of referring the proposals to the Remuneration Group. Once approved,

the Sponsor Team will notify the public body / the public appointee(s). Any increases or changes should not be implemented until this notification has been received. The Finance Pay Policy team will also notify the Remuneration Group at the next meeting.

6.8 More significant changes, such as the introduction of a benefit (for example: pension or car) and rated **Amber** by the Finance Pay Policy team will require consideration by the Remuneration Group. The Sponsor Director is responsible for putting forward the submission for any proposals which are required to be considered by the Remuneration Group. This submission must include details of the proposals, supporting business case and a confirmation of affordability. The Finance Pay Policy team should also be asked to contribute advice to this submission. The Remuneration Group will either approve the proposals or they may refer the approval to Ministers where they consider there is likely to be significant Ministerial interest. Once approved, the Sponsor Team will notify the public body / the public appointee(s). Any increases or changes should not be implemented until this notification has been received.

6.9 If proposals are rated by the Finance Pay Policy team as **Red**, then the proposals cannot be approved, even by the Remuneration Group (as they are outwith Pay Policy). The public body (or sponsor team) must review any such proposals, following advice from the Finance Pay Policy team.

How long should the process take?

6.10 Allow for up to five working days for consideration by the Finance Pay Policy team. If the issue is complex and is likely to take longer, then the Finance Pay Policy team will discuss this with the sponsor body and Sponsor Team. Allow for up to a week for proposals to be considered by relevant senior officials.

6.11 If the proposals are referred to the Remuneration Group, then these are normally considered at the next available Remuneration Group meeting - the dates of which are set out on the Scottish Government Public Sector Pay webpages:

www.gov.scot/Topics/Government/public-sector-pay/RemunerationGroup

6.12 Under exceptional circumstances, some items may be able to be taken in correspondence. Referral to Ministers will require further time.

What might happen if the Pay Policy for Senior Appointments is not followed?

6.13 Where daily fees have been introduced without approval or increased beyond that for which approval had been obtained previously, the Sponsor Director will be required to explain the matter to the Remuneration Group. Such actions could result in punitive action being taken by the Scottish Government, such as the recovery of any overpayments, the capping of future increases or a governance review of the public body.

7. GLOSSARY

Assimilation point: The position of a salary on a proposed pay range which reflects the number of years' experience of a Chief Executive at the current weight of post.

Banding: The category (1, 2, 3 or Tribunal band) within the Daily Fee Framework to which a public body is allocated for the purposes of assessing daily fees. There is not necessarily any relationship between the pay band of a Chief Executive and the banding of the body to which they are appointed.

Base pay: The annual salary excluding the monetary value of any non-consolidated performance payment (bonus), pension and other non-salary rewards, etc. Also known as 'basic pay'.

Basic award: Normally, the increase available to Chief Executives on spot rates and one element (the other being 'progression') of the award to Chief Executives on pay ranges. It is usually the inflation or cost of living element of the pay award, sometimes referred to as 'revalorisation'.

Bonus: See non-consolidated performance payment.

Business case: The document which contains evidence and information in support of the proposals you are making.

Ceiling: The absolute limit for salary / pay range maxima in the Scottish Chief Executive Pay Framework or for a daily fee in the Daily Fee Framework.

Consolidated: Pay which is taken into account for pension purposes.

Daily fee: The amount a Chair or Member is remunerated per day. This can be expressed as an annual sum, but changes to the number of days worked should not result in a change to the daily fee. The fee may be paid in a half-day or hourly amounts.

Daily Fee Framework: The Framework within which the daily fee of a Chair or Member of a Scottish public body is expected to sit. It contains minima, maxima and ceilings for four bands of public bodies.

Gross daily fee: The daily fee inclusive of any pension contribution made by the public body.

Journey time: The time (in years) taken by a Chief Executive on a pay range to move (subject to satisfactory performance) from the minimum to the maximum of that pay range.

Market median: The middle point of comparator salaries in the relevant market for similarly weighted posts.

Market rate: The market median in the relevant market for similarly weighted posts.

Maximum / Maxima: The highest point on pay range(s), sometimes known as the rate for the job. Staff are not normally paid above the maximum of their pay range. There should also be arrangements to move such staff onto their pay range maxima within a defined time scale.

Median: The middle point in a series.

Minimum / Minima: The lowest point on pay range(s). Staff are not normally paid below the minima of their pay range.

Non-Consolidated Performance Payment (bonus): The non-consolidated, non-pensionable performance-based element in the remuneration package for some Chief Executives. There is a presumption against the introduction of a non-consolidated performance payment arrangement. In exceptional circumstances, where a non-consolidated performance payment arrangement is considered necessary, the pay policy expectation is that the maximum potential non-consolidated performance payment will be no more than 10 per cent of base pay in the appraisal year to which performance relates. Non-consolidated performance payments are retrospective and can only be determined after the performance year has concluded – therefore a payment offered in one year will reflect exceptional performance in the previous performance year and so on. As they are a payment in the year following the performance year, they are subject to the Pay Policy for Senior Appointments for the payment year and **not** the performance year.

NHS Executives: In respect of this Technical Guide, NHS Scotland Executives and Senior Management posts in Grades D to I only. NHS Scotland Executives and Senior Management posts in Grades A to C remain covered by the Pay Policy for Staff Pay Remits.

Non-salary Rewards: Remuneration other than pay, for example, car, health insurance, etc.

Pay Band: The category (1, 1A, 2 or 3) within the Scottish Chief Executive Pay Framework to which a Chief Executives is allocated following a job evaluation exercise. It reflects equivalent Senior Civil Service bands.

Pay Range: The pay scale for a Chief Executive with a minimum and a maximum and through which they progress as they develop in knowledge, skills, experience and performance. It is not normal for staff to be paid at a level either below the pay range minimum or above the pay range maximum. The pay range is not simply the minimum to maximum (or ceiling) in the Chief Executive Pay Framework

Progression: The movement a Chief Executive may make up a pay range to the maximum, subject to satisfactory performance. Progression is subject to satisfactory performance but is **not** guaranteed (unless a multi-year agreement pay arrangement has been approved).

Quartile: In relation to a pay range: 25 per cent of a pay range, for example, the lowest quartile will be the pay range from the minimum to a point 25 per cent up that pay range.

Relevant labour market: The labour market that reflects the relevant comparators for the particular post. It consists of the market from which the Chief Executive, Chair or Member(s) might be recruited. This would normally be expected to be the Scottish public sector labour market in the first instance.

Scottish Chief Executive Pay Framework: The framework of minima, maxima and ceilings within which the pay of a Chief Executive of a Scottish public body sits.

Settlement date: The date on which any review of salary would normally be

implemented.

Spot rate: A single salary figure which reflects the market rate for that post.

Submission: The paper to the Remuneration Group which seeks approval for proposed increases and changes in remuneration. Submissions to the Remuneration Group must issue from the relevant Sponsor Director. The Sponsor Director may delegate this responsibility to a Deputy Director in specific circumstances where the Deputy Director has a closer working relationship with the public body or when annual leave commitments would result in submissions missing the Remuneration Group deadlines.

Total Cash / Total Reward: All rewards available to a Chief Executive, including base pay, performance related pay, non-consolidated performance payments (bonuses) and employee benefits, such as flexible working, training and development opportunities.

8. ABBREVIATIONS

Abbreviations commonly used in dialogue between public bodies / Sponsor Teams and the Finance Pay Policy team

| | |
|----------------|--|
| CE | Chief Executive |
| CEO | Chief Executive Officer |
| DFM | Deputy First Minister |
| FM | First Minister |
| FPP | Finance Pay Policy |
| HMRC | HM Revenue and Customs |
| MSFM | Management Statement and Financial Memorandum |
| NDPB | Non-Departmental Public Body |
| NI | National Insurance |
| NICs | National Insurance contributions |
| NEDs | Non-Executive Directors |
| PACE | Public Appointments Centre of Expertise |
| PBU | Public Bodies Unit |
| PSPP | Public Sector Pay Policy |
| RG | Remuneration Group |
| SCS | Senior Civil Service |
| SG | Scottish Government |
| SMP | Statutory Maternity Pay |
| SPFM | Scottish Public Finance Manual |
| SSRB | Senior Salaries Review Body |
| TRS | temporary responsibility supplement (or allowance) |
| T&S | travel and subsistence |

9. CHIEF EXECUTIVE PAY & DAILY FEE FRAMEWORKS – A QUICK REFERENCE

Scottish Chief Executive Pay Framework 2018-19 (base pay)

| Pay Band | Minimum | Maximum | Ceiling |
|----------|----------|----------|----------|
| 3 | £107,221 | £147,284 | £218,150 |
| 2 | £87,866 | £126,472 | £170,698 |
| 1A | £71,752 | £105,752 | £135,734 |
| 1 | £61,775 | £95,254 | £124,131 |

Chairs & Members Daily Fee Framework 2018-19 (gross daily fees)

| Chairs | | | |
|-----------------------------------|-----------|---------|---------|
| Banding | Daily Fee | | |
| | Minimum | Maximum | Ceiling |
| Tribunal | £323 | £544 | £694 |
| Band 1 | £321 | £481 | £538 |
| Band 2 | £207 | £355 | £424 |
| Band 3 | £142 | £223 | £306 |
| Members | | | |
| Banding | Daily Fee | | |
| | Minimum | Maximum | Ceiling |
| Tribunal (specialist skills only) | £249 | £373 | £493 |
| Band 1 | £228 | £343 | £436 |
| Band 2 | £174 | £256 | £325 |
| Band 3 | £93 | £180 | £259 |

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