

LEICESTERSHIRE

FIRE and RESCUE SERVICE

Status of Report: Public Agenda Item: 10

Meeting: Policy Committee
Date: 27th August 2014
Subject: Firefighters' Pension Schemes
Report by: The Chief Fire and Rescue Officer
Author: Trevor Peel (Director of Finance and Corporate Services) and Mark Andrew (Head of HR and Planning and Performance)
For: Decision

1. Purpose

The purpose of this report is two-fold:

1. to advise the Policy Committee of changes to the Firefighters' Pension Schemes concerning additional pension benefit provisions; and,
2. to invite the Committee to determine whether some additional payments should be deemed to be pensionable for consultation with the recognised representative bodies

for inclusion in an updated Administration of Pay Policy.

2. Executive Summary

- 2.1 An opportunity has been taken to update the Administration of Pay Policy to reflect the Firefighters' Pension Scheme (England) (Amendment) (No.2) Order 2013. The Policy now identifies those elements of pay that are pensionable and those that are not. In addition, the Senior Management Team (SMT) reviewed some additional payments where clarification is required on whether those payments should be pensionable or not for consultation with recognised bodies. These changes will subsequently be included in the updated Policy.

3. Report Detail

- 3.1 The Firefighters' Pension Scheme (England) (Amendment) (No.2) Order 2013 extended the additional pension benefit provisions so that they cover the following Additional Pension Benefit Payments (APB Payments):
- payments to reward additional skills and responsibilities outside the requirements of the firefighter member's duties under the contract of employment but which are within the wider functions of the job.

- any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role.
- any non-consolidated performance related payment.

Additional pension benefits in relation to APB Payments are calculated in the same way that Continual Professional Development (CPD) pension is calculated in relation to CPD payments using the revised APB Factors dated 2nd July 2014.

- 3.2 Employees and employers are required to pay pension contributions on APB Payments in accordance with the rules of the 1992 Firefighters' Pension Scheme (FPS) or the 2006 New Firefighters' Pension Scheme (NFPS), and these APB Contributions secure additional monetary benefits which come into payment at the same time as, and in addition to, FPS or NFPS benefits.
- 3.3 APB Contributions should be those paid over the 'additional pension benefit year', which is the same as the 'CPD year' - the period of 12 months beginning with 1st July in which a firefighter is in receipt of APB Payments. The conversion of APB Contributions to additional benefit should be carried out according to the member's age on the 1st July immediately following the CPD year. The same applies when a member retires or leaves service during the year.
- 3.4 These changes have been included in the revised Policy at **the Appendix**.
- 3.5 In a separate exercise following these changes SMT have undertaken a separate review of all allowances currently being paid and whether or not they are pensionable. Information has also been received from the Department for Communities and Local Government (DCLG) to assist in this process. The result of this work has been included in the revised Policy attached as **the Appendix**. There were a number of payments which needed to be clarified by SMT and these were:
- Temporary Promotions
 - Acting Up
 - Dog Allowance
 - Fire Protection out of hours
 - Training Allowance (8.9%).
- 3.6 All temporary promotions are classified as pensionable. However, under the rules for the new APB Payments SMT proposed that all future temporary promotions should be classified as an APB Payment.
- 3.7 All acting up payments for wholetime firefighters are currently pensionable whilst those for Retained Duty Staff are not. This is an anomalous position and would appear to be contrary to the Retained Fire Fighters equal treatment case. It was proposed by SMT that all acting up payments should be classified as an APB Payment.
- 3.8 The dog handler within the Technical Rescue team is currently paid a monthly allowance to reflect that the role is 24 hours a day; 365 days a year. However, this allowance is not currently deemed to be pensionable. It would appear that this is

due to the fact that it is optional for an Urban Search and Rescue Team to have rescue dogs and is not a requirement of Government funding. SMT proposed that such payments should be non-pensionable.

- 3.9 Whilst there have been no payments yet made for Fire Protection out of hours cover there will be issues arising if and when they are. There are 11 staff affected two of whom are members of the Local Government Pension Scheme (LGPS) the other nine are firefighters. The default position of the LGPS is that all allowances are pensionable whereas the default position of the Firefighters' Scheme is that they are not. SMT have proposed that these payments should be pensionable.
- 3.10 A training allowance of 8.9% is paid to all operational staff at the Training Department. This includes one member of staff in the LGPS. The payment is deemed to be pensionable for staff as they are transferred to training on a permanent basis. There were different interpretations in the past and one informal grievance has been raised in this area. SMT proposed that these payments should be classified as an APB Payment and asked the Director of Finance and Corporate Services to resolve the grievance accordingly once this position had been ratified by Policy Committee.

4. Report Implications / Impact

4.1 *Legal (including crime and disorder)*

These are contained in the main body of the report.

4.2 *Financial (including value for money, benefits and efficiencies)*

The cost of all allowances are contained within the relevant team's budgets.

4.3 *Risk (including corporate and operational, health and safety and any impact on the continuity of service delivery)*

Where the administration of pay policy does not provide clarity on this issue the CFA may be subject to grievance applications and equal pay claims.

4.4 *Staff, Service Users and Stakeholders (including the Equality Impact Assessment)*

The outstanding grievance was placed on the agenda for Staff Consultation Forum on 5th June 2014 by the Fire Brigades Union.

4.5 *Environmental*

There are no environmental issues arising out of this report.

4.6 *Impact upon Our Plan Objectives*

The payment of relevant allowances directly affects Objective 6 (staff with the right skills, behaviour and attitudes to provide an excellent service) and Objective 4 (Efficiency and provision of a value for money service)

5. Recommendations

The Policy Committee is asked to:

- a) Note the changes made by the Firefighters' Pension Scheme (England) (Amendment) (No.2) Order 2013 to additional pension benefits.
- b) Determine for the purposes of consultation with the recognised Representative Bodies whether payments for Temporary Promotions, Acting Up, Dog Handler's Allowance, Fire Protection Out of Hours Working and the Training Allowance should be pensionable or not.

6. Background Papers

- a) Pay Policy (SMT Report – 12th May 2014)
- b) Administration of Pay Policy (SMT Report - 23rd June 2014)
- c) DCLG e-mail dated 2nd July 2014 - Revised APB factors

7. Appendix

Administration of Pay Policy

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FIRE and RESCUE SERVICE

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HUMAN RESOURCES

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LEICESTERSHIRE FIRE AND RESCUE SERVICE

ADMINISTRATION OF PAY POLICY

INTRODUCTION

- 1 Section 38 (1) of the Localism Act 2011 requires Leicestershire Fire and Rescue Service to produce a senior officers pay policy statement for the financial year 1 April 2012 – 31 March 2013 and for each financial year thereafter. The statement is published each year and is currently titled the Pay Policy Statement 2014 – 15.
- 2 This additional policy will apply to all other employees who are employed under the conditions of service of the following bodies:
 - National Joint Council for Local Authorities' Fire Services' Scheme of Conditions of Service (Grey Book)
 - National Joint Council for Local Government Services (Green Book)
- 3 The policy will also apply to temporary employees.

AGENCY WORKERS

- 4 The relevant sections of this policy will apply to agency workers as defined in the Agency Workers Regulations 2011.

SECTION ONE

OPERATIONAL STAFF GREY BOOK CONDITIONS

- 5 The pay and grading structure for operational staff is negotiated in accordance with the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service (Grey Book).
- 6 Any agreed cost of living award by the National Joint Council for Local Authority Fire and Rescue Services Scheme of Conditions of Service (Grey Book) are payable from the 1st July each year.

ADDITIONAL RESPONSIBILITY ALLOWANCES

- 7 An operational employee may be paid an allowance or allowances to reward additional skills and responsibilities that are applied and maintained outside the requirements of the role but within the job function.
- 8 Payments will be based on the requirements of the Leicestershire Fire and Rescue Service's Integrated Risk Management Plan and may include payment for skills' shortages where these are directly applicable to the delivery of the Integrated Risk Management Plan.
- 9 The maximum payable to any individual employee will be determined locally. Additional responsibility payments may be withdrawn following reasonable notice from the Leicestershire Fire and Rescue Service.

WORKPLACE TRAINERS

- 10 Operational employees who are Workplace Trainers will receive a non-pensionable allowance of £44.09 per month. (Rate at July 2013).

TRAINING ALLOWANCE

- 11 Operational employees whose role is within the Training and Development Department will receive an 8.9% training allowance and is an Additional Pension Benefit Payment ("APB Payment").

FIRE PROTECTION OUT OF HOURS PAYMENT

- 12 Operational employees who undertake Fire Prevention work out of hours will receive a pensionable allowance of £2,903.40 per year. (Rate at July 2013).
- 13 When employees are called out they will be paid at their substantive rate depending on their role.

OVERTIME

- 14 All overtime payments are non-pensionable.

FLEXIBLE DUTY ALLOWANCE

- 15 All payments are pensionable.

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CONTINUAL PROFESSIONAL DEVELOPMENT (CPD) PAYMENTS

16 CPD will be paid in accordance with the policy and is an APB Payment.

DAY CREWING PLUS (DCP) ALLOWANCE

17 DCP payments are fully pensionable.

TEMPORARY PROMOTION/ACTING UP

18 All temporary promotions and acting up payments are APB Payments

DOG HANDLER'S ALLOWANCE

19 The dog handler's allowance is non-pensionable.

SECTION TWO

SUPPORT STAFF GREEN BOOK CONDITIONS

20 The pay and grading structure for support staff is negotiated in accordance with the provisions of the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service (Green Book).

21 Any agreed cost of living award agreed by the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service (Green Book) are payable from the 1st April each year.

GRADING

22 As part of the Single Status Agreement, under the National Joint Council for Local Government Services, Pay and Conditions of Service, the Leicestershire Fire and Rescue Service was required to review the local pay and grading structures for all support staff employees.

23 The purpose of the review was to ensure that they complied with Equal Pay legislation and also to bring them into line with salaries of posts within the operational establishment.

24 In October 2003, the support staff organisational structures were reviewed within the Service and at the same time all permanent support staff posts below Heads of Department were evaluated using the National Joint Council for Local Government Job Evaluation Scheme. (Refer to Service Procedures Human Resources – The Local Government NJC Job Evaluation Scheme, a copy of which is available for reference on SharePoint.)

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- 25 Following this review a new pay and grading structure was formulated and implemented, the basis of which was by means of using local grades within the existing National Joint Council for Local Government Services spinal column points 11 – 49 range. See **Appendix A**.
- 26 The grading structure allows for an individual to progress to the maximum point of their grade subject to satisfactory performance. This will allow for two increments per year within 5 years from their date of appointment. However, there are mechanisms in place for individuals to be awarded accelerated increments where they demonstrate performance beyond expectations. See paragraphs 41 - 43 -below.
- 27 There are provisions for dealing with grading issues under the Job Evaluation Scheme. It is the responsibility of management to identify changes in duties, which are significant and would warrant a re-assessment. This could be either additional duties or duties lost. (See Service Procedures Human Resources – Support Staff Review Group and Re-grading Procedure a copy of which is available for reference on SharePoint.)
- 28 All posts that are evaluated under the Job Evaluation Scheme will be allocated a points score. The points score will be assessed to see where it falls within the grading structure. This will be given a link grade and linked to the lower grade. For example, where the points score falls within Grade E the grading for the post will be graded D/E.
- 29 Where the post is downgraded, the individual’s salary will be protected for a period of three years in accordance with the section on Protection of Earnings – see paragraphs 57 – 69 below.

FIRECARE ADVISORS

- 30 Firecare Advisors will receive an allowance of £41.67 per month which is non pensionable under the Firefighters’ Pension Scheme, but those in receipt can opt to pay Local Government Pension Scheme contributions (Rate at July 2013).

OUT OF HOURS PAYMENTS INFORMATION TECHNOLOGY

- 31 Information Technology Technicians will be required to provide out of hours cover for which a 20% pensionable payment will be made.

OUT OF HOURS PAYMENTS WORKSHOPS

- 32 Vehicle Technicians will be required to provide out of hours cover for which a 20% pensionable payment will be made.

FIRE PROTECTION OUT OF HOURS PAYMENT

- 33 Support Staff who undertake Fire Prevention work out of hours will receive a pensionable allowance of £2,903.40 per year. (Rate at July 2013).
- 34 When employees are called out they will be paid at their substantive rate depending on their role.

INCREMENTS

- 35 For employees on Green Book conditions one increment will be paid in April and another in October subject to satisfactory performance.
- 36 Employees who are on a probationary period will not receive an increment until this has been completed. This will either be paid in April or October depending on when the probation period has finished. In some cases an employee on a fixed term contract may have a shorter probationary period.
- 37 Increments will be withheld if performance is not meeting expectations.

OVERTIME

- 38 All overtime payments are pensionable.

TEMPORARY PROMOTION/ACTING UP SUPPORT STAFF ONLY

- 39 Employees who have been temporarily promoted will receive increments. The exact terms of remuneration will be discussed and agreed and provided to the employee in writing. Where an employee has not reached the top of their associated grade in their substantive role, they will be paid at the scale point at which they would have reached had they not been temporarily promoted. This will be the point at which they return after the temporary promotion has ended.
- 40 This would include a temporary change of job description and salary scale in the case where a member of staff undertakes a different role that has an agreed job description and salary scale, as in the case of filling the absence of another member of staff. The full difference or percentage may be appropriate for part duties.

ACCELERATED INCREMENTS

- 41 In exceptional circumstances, where staff are clearly demonstrating performance beyond normal expectations, then managers will be able to consider accelerated progression through the pay scale.
- 42 This increment will only be awarded from the date of the manager's request and no more than one increment will be awarded within a twelve month period.
- 43 However, this will only be implemented following consultation with the relevant Director, the Head of Human Resources, Planning and Performance and the Director of Finance and Corporate Services . This will ensure that a consistent approach is maintained at all times.

HONORARIUM/ACTING UP PAYMENT SUPPORT STAFF ONLY

- 44 There will be occasions when it is fair and equitable to consider if an employee should be considered for additional financial reward outside of their agreed salary grade which will be pensionable.
- 45 Honorariums will only be considered if the job description and salary grade are not in question, and an additional payment is being considered on the grounds of higher level additional temporary work not normally associated with the post; or some other substantial reason which cannot be addressed by permanent changes to the job description or salary scale.
- 46 However, this will only be implemented following consultation with the relevant Director, the Head of Human Resources, Planning and Performance and the Director of Finance and Corporate Services. This will ensure that a consistent approach is maintained at all times.

SALARY – MARKET PAY SUPPLEMENTS

INTRODUCTION

- 47 A market pay supplement will be used when it is necessary to increase salary levels for recruitment purposes. The addition of a market pay supplement is only to be used in exceptional circumstances and in accordance with this policy.

PROCEDURE

- 48 It is suggested that, before a pay supplement is added to the agreed job evaluated grade and pay; the post should have been advertised already externally on two occasions.

- 49 If, following re-advertisement, a market supplement is being considered, it should require the agreement of Senior Management Team (SMT). Prior to SMT reaching a decision they must receive a detailed report setting out:
- Dates of advertising and re-advertising, the media used and the response rates (number of enquirers, number and quality of applicants and the quality of any shortlisted applicants).
 - An assessment of the person specification that had been used to determine whether this could be amended in any way to aid recruitment without the need for a pay supplement.
 - Details of comparative remuneration packages with relevant neighbouring employers.
 - Implications for existing employees in similar posts.
- 50 In general, because of the Equal Pay legislation, employers are advised to build in regular review periods so that the need for the market supplement can be reviewed and taken away, if necessary. In practice this is counter productive as it acts as a disincentive to recruitment if the potential applicant is informed that the pay supplement could be removed at any time the organisation feels it is no longer necessary.

SUPPORT STAFF EMPLOYEES – STARTING SALARY OF NEW APPOINTMENTS

INTRODUCTION

- 51 It is important that any new external appointments do not start at a higher incremental point than those already in the Service, unless this can be justified through greater previous experience, greater qualifications which the job requires or some other defensible reason. The procedure set out in paragraphs 52 - 56 below should be followed in these circumstances.

PROCEDURE

- 52 Any successful candidate for a support staff employee post cannot be offered a salary beyond the minimum point on the scale until the process set out in Paragraph 46 has been completed.
- 53 Where an appointing manager wishes to make a case for a higher starting salary they will submit, with the assistance of Human Resources, a written report to their Director setting out:
- the proposed starting salary;

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- the existing salary points of the existing employees in the same posts in the Section. (This information to be supplied by Human Resources);
 - the precise reasons to justify the higher starting salary. (See Paragraph 54);
 - the comments of the Head of Human Resources or their representative on the proposal.
- 54 The prime reasons for justifying a higher starting salary than the minimum point will be:
- greater relevant experience than the internal employees;
 - greater relevant qualifications than the internal employees;
 - internal employees in similar posts being already on points beyond the minimum point allowing the new recruit to be placed on the same or lower point than the existing internal employee;
 - In exceptional cases the Director may have to consider a higher starting point because of recruitment difficulties. However, the manager seeking the higher starting salary for this vacancy will have to produce supporting written evidence to show that the post could not be filled at the minimum starting salary. (Reference is made to Salary – Market Pay Supplements – see paragraphs 47 – 50 above).
- 55 It will be necessary for the advert to quote the salary range and indicate that the starting salary will be at the minimum point of the scale.
- 56 As internal candidates from the support staff Review move up the incremental scales it will be possible to adjust this policy.

PROTECTION OF EARNINGS

INTRODUCTION

- 57 Leicestershire Fire & Rescue Service is committed to making sure employees have continuity of employment.
- 58 A policy protecting earnings helps redeployment by balancing the needs of the Service and employees. The purpose of the procedure below is to actively seek to return the employee to their previous grade of pay within the protection period.

SCOPE

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- 59 This policy applies to all permanent staff employed by Leicestershire Fire and Rescue Service except where:
- employees redeployed under the Fire & Rescue Service capability procedure due to the lack of skill, ability or aptitude;
 - employees who decide themselves to apply for, or remain in, lower graded or part time jobs;
 - employees redeployed due to misconduct
- 60 If an employee feels aggrieved about the application of this policy they have the right to use the Service's Grievance Procedure. (See Service Procedures Human Resources – Grievance Procedure & Guidance.)

WHAT PROTECTION MEANS

- 61 When an employee not on a fixed term contract is redeployed, their earnings, as defined in paragraph 64 will remain protected for a period of three years. Employees will receive national pay awards and, where appropriate, incremental progression on their protected salary.
- 62 When a protected position becomes vacant, it will automatically revert to the substantive grade.
- 63 Any employee on a fixed term contract will be protected as laid out in paragraph 61 but for no longer than the remaining part of their contract.

DEFINITION OF PAY

- 64 The Service tries, wherever possible, to maintain an employee's earnings following redeployment. Earnings will be calculated before and after redeployment by using these elements:
- monthly salary plus;
 - guaranteed minimum bonus, or average bonus over the previous 13 weeks plus contractual overtime;
 - any regular additional contractual payments.

All other elements of pay are excluded for the purposes of protection.

- 65 Where an employee works variable hours, and needs protection following redeployment outside their original employee group, the average hours worked over the previous 13 weeks will be used to form the basis of their protection. In cases where weekly earnings can vary, a representative

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period should be selected. This would normally be a 13 week period prior to transfer, unless this would not be a representative period for calculating average earnings.

66 It is only earnings that are protected and not any other conditions of service. Conditions that relate to individual posts such as telephone rental or essential car allowance will be dealt with on an individual basis.

67 The Leicestershire Council Council's Pension Section will give advice on the pension implications of a protected salary.

CIRCUMSTANCES IN WHICH PROTECTION OF EARNINGS APPLY

68 This policy applies when redeployment to another job with lower gross earnings occurs due to:

- departmental reorganisation or restructuring;
- redundancy
- downgraded as a result of job evaluation
- medical capability

69 In the case of redeployment due to an industrial injury, protection will be applied by making an injury allowance which is equivalent to the potential reduction in the employee's net pay.

SECTION THREE

PAY ADMINISTRATION MATTERS

METHOD AND DATE OF PAYMENT

BANK CREDIT TRANSFERS

70 Salaries are paid by bank credit transfer on the last banking day of each month.

CHEQUES

71 Where circumstances necessitate payment by cheque, cheques are encashable on the last working day of the month.

CALCULATION OF SALARIES (ANNUAL SALARY PAID MONTHLY)

MONTHLY SALARY

- 72 For each calendar month payment shall be one twelfth of the annual salary.

APPORTIONMENT OF PART MONTH FOR NEW EMPLOYEES

- 73 One day's salary shall be calculated by dividing the monthly sum by the number of days in the particular month. Payment will be made for the number of days in the month (including Saturdays and Sundays) from the commencement to the end of the month.
- 74 Employees working either less than 5 days per week or variable daily hours shall be paid for the actual hours worked times the hourly rate.

APPORTIONMENT OF PART MONTH FOR EMPLOYEES LEAVING

- 75 One day's salary shall be calculated by dividing the monthly sum by the number of days in the particular month. Payment will be made for the number of days in the month (including Saturdays and Sundays) from the first day of the month to the last working day. Payment will be made for any Saturday and/or Sunday and statutory and general national holidays that immediately follow the last day of work unless the employee take up their new employment on any one of those days when payment will be made up to the day prior to their commencement in their new job.
- 76 Employees working either less than 5 days per week or variable daily hours shall be paid for the actual hours worked times the hourly rate.

APPORTIONMENT FOR ODD DAYS

- 77 This paragraph shall apply to deductions of salary in respect of unpaid leave. It will also apply to payment of salary in respect of accrued holiday pay due on leaving agreed under Annual Leave. (See Service Procedures Human Resources – Annual Leave, paragraphs 8 and 9.)
- 78 Where the total number of working days in any one month is not more than four, one day's pay is calculated by dividing the monthly sum by the number of days in the particular month.
- 79 Where the total number of working days in any one month exceeds five days, there shall be added two days (to take into account Saturday and Sunday) for each unit of five days, e.g. in 12 working days there are 2 units of 5 days therefore the apportionment calculation is $12 + 4 = 16$.
- 80 When employees apply for and are granted other leave without pay for periods of one month or less payment will be made for Public Holidays if they occur within the period.

EMPLOYEES TERMINATING EMPLOYMENT

- 81 When an employee leaves on a Friday, payment for the following Saturday and Sunday and any statutory holiday immediately following, is made.

OVERTIME RETURNS

- 82 Overtime claim forms should be completed for each calendar month. Following authorisation, they should be forwarded to the Finance Section at Service Headquarters as quickly as possible and not later than the fifth working day of the following month, to ensure payment with that month's salary.

DIRECT DEDUCTIONS FOR SALARIES

- 83 Where direct deductions are to be made from an employee's salary, the person concerned should be informed by Human Resources at the earliest opportunity and should be able to discuss any problems, which the deduction is likely to cause with the Finance Section, Service Headquarters, before it is made.
- 84 Circumstances where such deductions are necessary usually occur where an employee is leaving and has signed a written undertaking to repay the Service monies, e.g. having a salary sacrifice outstanding at the time of leaving, or leaving within the two year period after completing a training course which the Service has paid for.

ALLEGED OVERPAYMENTS

- 85 When an employee is said, by the Service, to have been overpaid, the following measures will be taken by the Finance Department before any recovery of the 'overpayment' is started:
- (a) Employees will be provided with a proper letter of explanation, detailing the overpayment.
 - (b) Employees will be given a sufficient amount of time to consult their Trade Union for advice.
 - (c) In the case of any continued misunderstanding or confusion, the employee will be afforded an interview with someone who can provide a full explanation.
 - (d) Where the employee agrees to repay any monies they should have a proper opportunity to negotiate the method and period over which such repayment is to be made. Where negotiations are not successful, no

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repayment will be enacted for at least one month after the decision has been communicated to the employee, in writing.

- (e) When employees contact their own department or the Finance Department at Service Headquarters, the officer dealing with the enquiry should identify him/herself to the employee concerned. Employees who put their requests in writing will receive written responses.

MONITORING AND REVIEW

- 86 This policy will be monitored and reviewed on an annual basis by the Head of Human Resources, Planning and Performance.
- 87 An analysis of changes to grade, temporary payments and overpayments will be undertaken with any relevant findings reported to Senior Management Team. This will not include operational acting up.
- 88 An update on any such payments will be made at each SMT.

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**APPENDIX A
SUPPORT STAFF SALARY SCALES**

Grade	Spinal Point
A	11
B	12
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C	15
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D	20
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