



Equality and Human Rights Impact Assessment Publication Document

This template summarises the key decisions/actions taken in the EHRIA, and has been separated from the full EHRIA document for publication on the SPS external website in compliance with statutory requirements.

Background	
Title of the Policy	Long Service & Good Conduct Award
EHRIA Lead (role)	Rachel Parker
Date EHRIA completed	05/04/23
Review date and frequency	05/04/25
Is this a new or revised policy/practice?	New <input type="checkbox"/> Revised <input checked="" type="checkbox"/>

Scoping
<p>What are the aims of this policy/practice?</p> <p>The intended outcome is to reward loyalty and increase engagement and retention levels in the business by offering a competitive and comparable total reward package to staff. This may also help attract and retain talent within the business and align with equivalent civil service employers. Improved employment relations will be a further benefit.</p>
<p>WHO did you consult with?</p> <ul style="list-style-type: none"> • SPS Senior Management • TUS • PGA(S) • SPS Finance Team • Scottish Government Public Sector Pay Policy Team • Head of Equality, Diversity & Inclusion • HMPPS (Her Majesty Prison. Probationary Services) • Cabinet Office Honours Team (Civil Service) • Royal Mint (manufacturers of the non-operational medal)
<p>What did you learn?</p> <p>Long service awards (LSAs) remain one of the most popular benefits companies offer their employees. Latest research from the CIPD into reward strategies found that more than a third (36%) of organisations provide benefits that are tied to the amount of time an individual has worked for their employer. XpertHR surveyed 170 organisations, across multiple sectors and</p>

industries during April/May 2022 and 61.2% of these offered long service awards, and featured in the top 10 of most common benefits offered.

It is noted that a job for life is a rarity these days, with the average UK worker switching employment every 5 years (based on research by LV Insurance Group). The study showed, an average worker experiences six different job roles throughout their working life, requiring organisations to review their total reward packages as well as long service awards as a retention incentive.

HOW will this shape your policy/practice?

Consideration needs to be given to:

- any administrative time required to introduce
- the makeup of our workforce in terms of age and length of service and need for continued monitoring
- Continued dialogue with Trade Unions regarding total reward package for SPS employees
- ensuring consistency of application and publishing transparency within the process
- that length-of-service criteria must be applied to all staff, not just certain staff in certain circumstances

What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice?

The Equality Act 2010 makes it unlawful for employers to discriminate against employees on the grounds of age, unless they can show objective justification for their actions. For example, any benefit offered to employees that is made wholly or partly dependent on a minimum period of service over 5 years can potentially be age-discriminatory against younger employees, if the employer cannot show that the service requirement fulfils a business need, e.g. a proportionate means of achieving a legitimate business aim.

The Employment statutory code of practice states that the test of "fulfilling a business need" is "less onerous than the general test for objective justification for indirect discrimination", but that "an employer would still need evidence to support a reasonable belief that ... [it] did fulfil a business need.

Rolls Royce plc v Unite the Union [2009] IRLR 49 HC. In a case decided under the repealed Employment Equality (Age) Regulations 2006 (SI 2006/1031), the High Court was satisfied that points awarded under a length of service criterion that formed part of a redundancy selection matrix constituted a "benefit" within reg.32 that was justified in relation to workers with more than five years' service. The Court of Appeal upheld the High Court decision that the criterion was lawful under the age discrimination legislation.

In November 2018, SPS became a signatory to the Fair Work Agreement between Scottish Ministers and the Recognised Civil Service Trade Unions. The overarching principle of fair work is effective voice, opportunity, security, fulfilment and respect. Employee recognition is a key feature of fair work.

The Non-Operational LSCG Award is a Civil Service Award and therefore Government approved, i.e. not exclusive to SPS. It is not a bespoke scheme to SPS, but something as an Executive

Agency of the Scottish Government we have access to and required to abide by the same qualifying criteria/principles.

HMPPS (our England/Wales Prison Service equivalent) already offer the operational LSGC medal AND the non-operational Civil Service award. Our organisations are direct comparator and aligning our reward/recognition package with HMSS would present a positive step.

We have sought feedback from our Trade Union partners who are supportive and formally requested that non-operational employees receive comparable access to an equivalent long service award based on employee feedback.

In terms of staff monitoring figures regarding length of service:

- More than a third (34%) of SPS staff have more than 20 years' service
- The average length of service for an SPS employee is 14.5 years; for males it is 16.99 years and females 9.94 years.
- The average length of service for current operational staff is 15.37 years, compared with 11.57 for non-operational colleagues, demonstrating that operational colleagues typically tend to have a longer length of service, however whether this is attributed to having the LSGC is unknown.
- The average length of service for operational leavers since January 2019 is 18.17 years, compared with 8.26 years for non-operational colleagues. Again signalling that operational colleagues typically tend to have a longer length of service, however whether this is attributed to having the LSGC is unknown.
- Of the 535 non-operational leavers since January 2019, 71.6% had less than 10 years' service; 12.9% had 10-19 years' service and 15.5% had accrued more than 20 years' service at the point of leaving.
- Of the 925 operational leavers since January 2019, 39.8% had less than 10 years' service; 9.4% had 10-19 years' service, and 50.8% had accrued more than 20 years' service at the point of leaving
- The SPS employee age profile ranges from 18 – 73 years and percentage split as follows:
 - 16-24 years old = 3.2%
 - 25-34 years old = 24.1%
 - 35-49 years old = 28.1%
 - 50+ years old = 44.6%

It is critical that SPS are able to retain experienced staff due to the complex nature of the prison work and to maintain safety and security and deliver on improvements across the service. This is evidenced by the fact our average length of service is 14.5 years, which based on the aforementioned research is not typical. Whilst a longer length of service exists for operational colleagues and thus receiving the LSGC medal, non-operational colleagues are still averaging at 11.57 years and 15.5% of non-operational leavers had more than 20 years' service, suggesting there is still an audience for expanding the award which could help towards retaining more non-operational staff.

At a time when reward budgets are tight and employers are struggling to keep pace with soaring inflation and challenging labour market, SPS is becoming increasingly aware of the need to offer a wider choice of benefits that can make the difference between attracting or retaining key employees and losing them.

On this basis, seniority in service within SPS is viewed as a legitimate tool for retaining and rewarding experienced staff and maintaining workforce stability. The above staffing data and feedback from the Trade Unions suggests the LSGC could assist in encouraging loyalty, increasing motivation or rewarding experience.

<p>Impact</p> <p>Will the impact and outcomes of the new/revised policy/practice:</p>	
<p>Contribute to eliminating discrimination, harassment and victimisation?</p> <p>E.g.</p> <ul style="list-style-type: none"> • Raise awareness of our SPS vision and values for equality and diversity • Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity 	<p>POSITIVE:</p> <p>It will contribute to eliminating discrimination, harassment, victimisation <input type="checkbox"/></p>
	<p>NO EFFECT:</p> <p>It will have no effect on discrimination, harassment and victimisation <input type="checkbox"/></p>
	<p>NEGATIVE:</p> <p>It will make discrimination, harassment and victimisation worse <input type="checkbox"/></p>
<p>Advance equality of opportunity between those who share a protected characteristic and those who do not?</p> <p>E.g.</p> <ul style="list-style-type: none"> • Remove or minimise disadvantage • Meet the needs of equality groups that are different from the needs of others participation in public life 	<p>POSITIVE:</p> <p>It will advance equality of opportunity <input checked="" type="checkbox"/></p>
	<p>NO EFFECT:</p> <p>It will have no effect on equality of opportunity <input type="checkbox"/></p>
	<p>NEGATIVE:</p> <p>It will reduce equality of opportunity <input type="checkbox"/></p>
<p>Foster good relations between those who share a protected characteristic and those who do not? E.g.</p> <ul style="list-style-type: none"> • Tackle prejudice • Promote understanding 	<p>POSITIVE:</p> <p>It will foster good relations <input checked="" type="checkbox"/></p>
	<p>NO EFFECT:</p> <p>It will have no effect on good relations <input type="checkbox"/></p>
	<p>NEGATIVE:</p> <p>It will cause good relations to deteriorate <input type="checkbox"/></p>
<p>Ensure Human Rights Compliance?</p>	<p>It will uphold human rights articles. <input type="checkbox"/></p>
	<p>It will breach human rights articles. <input type="checkbox"/></p>

Please summarise the results of the Equality & Human Rights Impact Assessment, including the likely impact of the proposed policy/practice advancing equality and human rights.

<p>Positive Impacts</p> <p>Protected characteristics affected:</p> <ul style="list-style-type: none"> • Due to the consistency of approach now being applied to those colleagues with 20 years' service, ensures staff are recognised in a consistent manner and treated equally with operational colleagues. • Expanding to all staff groups will also foster good relations with our Trade Unions members and those affected with/without protected characteristics.

<p>Positive Impacts</p> <ul style="list-style-type: none"> As this is a Civil Service Award, qualifying service outside SPS will be transferrable, therefore new non-operational recruits to SPS can transfer their service and receive the award in SPS when previously not be eligible, i.e. the calculation of the 20 years will start from the date of first appointment to a post within the Civil Service, not necessarily SPS.

Negative Impacts
 Protected characteristics affected:

Whilst the 20-year award is already in place for operational colleagues, extending to non-operational colleagues may disadvantage some protected characteristics, as detailed below.

Impact	Mitigation
Age: Younger employees will not have access to the same award, until they reach the requisite service, whilst older employees may already have substantial service built up.	This is somewhat mitigated that previous Civil Service tenure will count and not just SPS.
Gender: Female employee may take employment breaks and therefore unable to fulfil the eligibility criteria at the earliest opportunity	The guidance will allow for aggregated service.
Maternity: Employment Breaks following maternity leave may make it harder to fulfil the eligibility criteria at the earliest.	The guidance will allow for aggregated service

Recommended course of action	
Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.	<input type="checkbox"/>
Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.	<input type="checkbox"/>
Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).	<input checked="" type="checkbox"/>
Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.	<input type="checkbox"/>

Summary of Outcome decision and Recommendations

The policy will now be applicable to all employees and adheres to the Civil Service rules. The policy makes all reasonable provision to ensure equality of access to all qualifying employees.

Summary of Outcome decision and Recommendations

Where potential disadvantage exists (age related), this is objectively justified as a means to recognise, reward and retain experienced colleagues. Section 9 (para 10) of the Equality Act allows for employers to make an age related exception "...if it reasonably appears to an employer that the way in which he uses length of service to award benefits will fulfil a business need of his undertaking. For example, by encouraging the loyalty or motivation, or rewarding the experience, of some or all of his workers.

SPS will monitor the impact of introducing the award, for example via turnover reports, to ascertain any negative/positive outcomes, as this would give legitimate data evidence for any challenge.

Next steps

Monitor staffing profile in terms of age and length of service, as well as ensuring LSGC awards are recorded to ensure consistency of application one year after introduction (April 2024).

If you require this document in an alternative format, please contact SPSEqualityandDiversityTeam@sps.pnn.gov.uk