

Exceptional Duty Payments

**This document outlines the Scottish Prison
Service Policy in relation to Exceptional
Duty Payments**

Published by Human Resources, Corporate Services

Published 15 September 2017

Unlocking Potential - Transforming Lives.

Policy Number:

HR0021/v001

Directorate Owners:

Corporate Services

Policy Scope:

All SPS Employees

Links to Other Policies:

Pay and Pensions

Pay Protection

Travel and Subsistence

Voluntary Industrial Relations Agreement

Approved by:

Head of Human Resources

Operations Directorate

Effective date:

15 September 2017

Review Date:

15 September 2020

Policy Content

1.0 Introduction	1
2.0 Aim	1
3.0 Scope	1
4.0 Definitions	2
5.0 Roles and Responsibilities	2
5.1 Authorised Person/Director of Operations	2
5.2 Human Resources	3
5.3 Employees Working Exceptional Duty	3
6.0 Principles of this Policy	3
6.1 Exceptional Duty Payments	3
<i>Pay Protection and Acting Up</i>	3
6.2 Travel and Subsistence	4
6.3 Exceptional Duty during scheduled Annual Leave or Rest Day	4
7.0 Part 1: Exigencies of the Service that Exclude National ICT Deployment	4
7.1 General	4
7.2 Declaration of an Exigency of the Service	5
7.3 Eligibility	5
7.4 Circumstances that Give Rise to Payments	5
7.5 Consultation with Employee Representatives	6
7.6 Provision of Report to Director of Operations	6
8.0 Part 2: National ICT Deployment	6
8.1 General	6
8.2 National ICT Deployment	7
8.3 Eligible Employees	7
8.4 Circumstances That May Give Rise to Payments	7
8.5 Provision of Report to Director of Operations	8

1.0 Introduction

The Scottish Prison Service (SPS) is required to ensure that it has a range of effective and efficient arrangements in place for responding to and managing operational emergencies at SPS establishments.

This policy sets out the arrangements in relation to payments to staff when responding to an exigency of the service in a range of circumstances. In most cases, such incidents can be managed from within the resources of the establishment in which the incident occurs (Part 1). However, in certain circumstances it is necessary to have arrangements in place which allow for the deployment of resources available at national level (Part 2).

For more information, refer to the [Exceptional Duties guidance](#).

2.0 Aim

The aim of this policy is to outline the level of authority required to agree and approve payments for exceptional duty, the circumstances in which exceptional duty payments can be authorised, and the means of applying for and receiving payment.

3.0 Scope

This policy applies to employees who, due to an exigency of the service or a level 3 incident, undertake exceptional duty.

Selection and deployment in these circumstances is based upon the immediate availability of required resources.

The terms of this policy constitute an updated collective agreement between SPS and the Trade Union Side (TUS), and supersedes any previous policies or collective agreements in relation to exceptional duty payments.

The agreement may be subject to formal review by SPS management and the TUS at national level. A review will be triggered by one of the parties in writing. Discussions between the parties will commence within three months of the written request for review being received.

The policy may be terminated by SPS management at any time, with a minimum of three months' notice. In the event of termination, SPS management and the TUS will enter into discussions within one month of the termination of the policy regarding

appropriate alternatives, provided either of the parties has indicated in writing to the other (within one month of notice of termination being received) their wish to do so.

4.0 Definitions

For simplification of this document, the following terms and definitions apply:

- **Exceptional duty** - an employee may undertake exceptional duty due to an exigency of the service (Part 1) or a level 3 incident (Part 2).
- **Emergency** - an immediate condition of operational emergency or a situation that could otherwise lead to an operational emergency.
- **Exigency of the service** - a situation that presents a significant risk to the delivery of basic standards of custody, order, or the essential care of prisoners within an establishment.
- **Level 3 incident** – incidents which require the setting up of a full (prison) command structure and which will require additional resources and back-up service to be deployed.

5.0 Roles and Responsibilities

5.1 Authorised Person/Director of Operations

It is the Authorised Person/Director of Operations responsibility to:

- declare that an exigency of the service exists;
- appropriately select and deploy resources to respond to and manage operational emergencies;
- ensure that the limits outlined in the Working Time Regulations are applied and adhered to;
- ensure the Authorised Person completes and submits a report to the Director of Operations that specifies the circumstances of the incident in a timely manner;
- authorise reimbursements and exceptional duty payments in accordance with this policy.

5.2 Human Resources

The HR function is responsible for the maintenance of the e-HR which is used for processing exceptional duty payments.

5.3 Employees Working Exceptional Duty

Employees working exceptional duty should ensure that:

- claims are accurate and submitted timeously;
- any errors are noted and HR is notified;
- excessive hours are not worked and their own health and safety (H&S), and the H&S of others in their care, is not compromised.

6.0 Principles of this Policy

6.1 Exceptional Duty Payments

SPS recognises the need to reward operational employees who have been required to temporarily suspend normal working in order to respond to operational emergencies.

Payments are therefore made in recognition of exceptional duty where an exigency of the service or a level 3 incident has been declared.

Any exceptional duty payments due are made on an agreed hourly rate basis. The value of these hourly rates of payment are determined by reference to the [published agreed rate](#).

For employees who undertake exceptional duty on a day that they were rostered to work, payment shall be made for exceptional duty which is in excess of the total amount of time rostered to work. Time worked for which exceptional duty payments are made are not reckonable towards the calculation of contracted time worked and do not accrue time off in lieu (TOIL).

Pay Protection and Acting Up

For employees in receipt of [pay protection](#), any exceptional duty payments made will be at the agreed hourly rate for their substantive pay band and not their protected pay band.

Employees eligible for exceptional duty payments who undertake a role which is above their substantive pay band will be eligible to claim exceptional duty payments calculated as due at the agreed hourly rate for the pay band that relates to the duties undertaken.

6.2 Travel and Subsistence

If an employee is not on duty and is called to attend the establishment to undertake exceptional duty, the time required to travel to the establishment shall be reckonable against the eligibility for payment rules, and the employee may claim for travel costs as set out within the [Travel and Subsistence policy](#).

In exceptional circumstances, the individual shall be reimbursed if overnight accommodation is required near the establishment.

6.3 Exceptional Duty during scheduled Annual Leave or Rest Day

All employees undertaking exceptional duty who are required to attend work on a day that would have otherwise been authorised annual leave or a rest day will receive payment at the agreed hourly rate with regard to the amount of exceptional duty undertaken.

Cancellation or interruption of holidays should only be considered in exceptional circumstances and must be avoided wherever possible.

However, in cases where an employee has to cancel or return early from a holiday away from home, which has already been paid for, the employee may be eligible for full compensation. If an individual is required to attend work to undertake exceptional duty and they must, as a consequence, cancel entirely a holiday for which the employee concerned has already paid, and which had not been insured against cancellation, the authorised person, or Director of Operations (or nominee) in National Incident Command Team (National ICT) cases, will arrange for full compensation. The full value of the annual leave originally authorised will be credited to the employee's annual leave balance in addition to any exceptional duty payments due.

7.0 Part 1: Exigencies of the Service that Exclude National ICT Deployment

7.1 General

Most 'exigency of the service' cases can be managed from within the resources of the establishment in which the incident occurs. However, there may be situations where operational employees are, with very short notice, required to devote themselves exceptionally to their duty.

7.2 Declaration of an Exigency of the Service

The declaration of an exigency of the service and authorisation of exceptional duty payments, as per Part 1 of this policy, rests with the following individuals in the order of authority set out below:

1. The Governor in Charge (or their nominee);
2. The Head of Operations (or their nominee);
3. The Duty Governor/Manager having gained prior authority from the Director of Operations (or their nominee).

These individuals are referred to as “authorised persons”.

If any of the situations apply, as defined in the definition section, as an exigency of the service, the authorised person may declare that an exigency of the service exists in relation to the whole establishment, or part of the establishment. Such a declaration should be recorded on the [Exigency of the Service Declaration Form](#).

7.3 Eligibility

Operational employees in pay bands C to E will be eligible for exceptional duty payments.

Managers in pay bands F to I, as senior employees, are expected to attend on an “all hours required” basis to ensure that essential services are maintained and are therefore not eligible for exceptional duty payments. Nonetheless, they may qualify for benefits under the [travel and subsistence](#) arrangements.

7.4 Circumstances that Give Rise to Payments

The identification of the specific circumstances under which exceptional duty payments may be made will be adjudged by the authorised person who is in a position to make a reasoned judgement on the day.

Eligible employees will qualify for payment if the following conditions are met:

- The authorised person has declared an exigency of the service; **and**
- The employee was advised on the day the declaration was made to undertake exceptional duty with no prior notice being given;

And either:

- Due to the exigency of the service, the employee works for more time in total than they were rostered to work on that day; **or**
- Due to the exigency of the service, the employee is required to attend work on a rest day; **or**

- Exceptionally, the employee is required to attend work due to an exigency of the service and this occurs during a period of authorised annual leave.

Employees based at an establishment at which no exigency of the service has been declared, but who are required to attend a different establishment where such has been declared in order to deal with the exigency of the service, will also qualify for payment if the circumstances described above apply to them.

7.5 Consultation with Employee Representatives

Prior to declaring an exigency of the service, the authorised person shall, with the exception of the circumstances of an immediate condition of operational emergency, consult with local representatives of the appropriate recognised Trade Union(s) to discuss the operational issues being faced. Governors in Charge have the duty of making final determination in relation to declaring an exigency of the service.

The declaration of an exigency of the service may or may not require the temporary suspension of the status quo in relation to any existing dispute being processed within the Voluntary Industrial Relations Agreement. Temporary suspension of the status quo is subject to separate process within the [Voluntary Industrial Relations Agreement](#).

7.6 Provision of Report to Director of Operations

On the day following any decision to award exceptional duty payments, the authorised person will complete an [Exigency of the Service Follow Up Report](#) and send this to the Director of Operations.

Funding for payments must be found by the budget holder from within existing resources.

8.0 Part 2: National ICT Deployment

8.1 General

The purpose of Part 2 of this policy is to translate how the principles of this policy apply specifically in relation to the context of National ICT deployment.

Where it is determined that the scale or nature of an incident means that it cannot be effectively managed from within the resources of the establishment concerned, it is necessary to have in place arrangements which allow for the deployment of resources available at national level.

SPS, therefore, has a National ICT structure in place which is comprised of teams within which individuals hold specific roles. Each team is trained to effectively manage a range of situations.

A list of the roles of which a National ICT is currently comprised is held by Operations Directorate.

8.2 National ICT Deployment

National ICT deployment is concerned with deployment out with the employee's role and home establishment. Exceptions apply where the Director of Operations (or nominee) declares a level 3 incident and exceptionally elects to appoint local employees to undertake National ICT roles rather than deploy resources from other establishments to those roles.

This exception also applies to roles within the HQ Control Room which are, in the main, undertaken by employees employed in HQ. In the event that the Director of Operations (or nominee) declares a level 3 incident, local employees appointed to any of the roles identified above may qualify for payments under Part 2 of this policy.

8.3 Eligible Employees

All National ICT members employed, up to and including pay band I, who undertake a National ICT role and where the qualifying conditions are met, will be eligible for the benefits set out within this part of the policy.

In cases where non-operational employees in pay bands B to E have been deployed to undertake a National ICT shift, the provisions of Part 2 of the policy supersede any other contractual arrangements for recognising additional hours worked.

8.4 Circumstances That May Give Rise to Payments

Employees qualify for a payment if the following conditions are met:

- The Director of Operations (or nominee) declares a level 3 incident and invokes the National ICT arrangements; **and**
- The employee is appointed to a National ICT role and is deployed to attend the incident by the Director of Operations (or nominee) in the capacity of their designated National ICT role; **or**
- As a local employee is appointed to a National ICT role in accordance with the circumstances set out above and is deployed to attend the incident by the Director of Operations (or nominee) in the capacity of their designated National ICT role.

And either

- Due to a deployment to undertake a National ICT shift, they attend an incident and work for more time in total than they were rostered to work on that day; **or**
- Due to a deployment to undertake a National ICT shift, they attend an incident on a rest day; **or**
- Exceptionally, if due to a deployment to undertake a National ICT shift, they attend an incident during a period of authorised annual leave.

The commencement of a National ICT shift is taken to be when the employee attends the incident and commences to undertake the duties of their designated National ICT role including any specified requirement for handover duty.

A National ICT shift is generally scheduled to cover a 12 hour period.

8.5 Provision of Report to Director of Operations

When a decision to award exceptional duty payments under Part 2 of this policy has been taken, the Divisional Head of Operations (or nominee) will complete a [National ICT Incident Report](#) and submit this to the Director of Operations one day after the incident has concluded.

Funding for payments must be found by the budget holder of the employee's home establishment from within existing resources.

Further Information:

The SPS recognises that from time to time employees may have questions or concerns relating to Exceptional Duty Payments. In certain situations employees' rights and obligations regarding Exceptional Duty Payments may change. In these circumstances the SPS will abide by any statutory obligations.

The SPS wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.

Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging for employees.

In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format please contact Human Resources.

Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing business and legislative requirements.

Human Resources Policy and Guidance in SPS

SPS policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Civil
Service
Management
Code



UK Legislation



EU
Legislation



ACAS



CIPD Best
Practice
