



Review Body on Senior Salaries

REPORT No. 77

Thirty-Third Report on Senior Salaries 2011

Chairman: Bill Cockburn, CBE TD



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Presented to Parliament by the Prime Minister
by Command of Her Majesty

March 2011

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Foreword

Review Body on Senior Salaries

The Review Body on Top Salaries (TSRB) was appointed in May 1971 and renamed the Review Body on Senior Salaries (SSRB) in July 1993, with revised terms of reference. The terms of reference were revised again in 1998 as a consequence of the Government's Comprehensive Spending Review, in 2001 to allow the devolved bodies direct access to the Review Body's advice and in 2007 to add certain NHS managers to the remit.

The terms of reference are:

The Review Body on Senior Salaries provides independent advice to the Prime Minister, the Lord Chancellor, the Secretary of State for Defence and the Secretary of State for Health on the remuneration of holders of judicial office; senior civil servants; senior officers of the armed forces; very senior managers in the NHS¹; and other such public appointments as may from time to time be specified.

The Review Body also advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances; on Peers' allowances; and on the pay, pensions and allowances of Ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975. If asked to do so by the Presiding Officer and the First Minister of the Scottish Parliament jointly; or by the Speaker of the Northern Ireland Assembly; or by the Presiding Officer of the National Assembly for Wales; or by the Mayor of London and the Chair of the Greater London Assembly jointly; the Review Body also from time to time advises those bodies on the pay, pensions and allowances of their members and office holders.

In reaching its recommendations, the Review Body is to have regard to the following considerations:

the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities;

regional/local variations in labour markets and their effects on the recruitment and retention of staff;

Government policies for improving the public services including the requirement on departments to meet the output targets for the delivery of departmental services;

the funds available to departments as set out in the Government's departmental expenditure limits; and

the Government's inflation target.

In making recommendations, the Review Body shall consider any factors that the Government and other witnesses may draw to its attention. In particular it shall have regard to:

differences in terms and conditions of employment between the public and private sector and between the remit groups, taking account of relative job security and the value of benefits in kind;

changes in national pay systems, including flexibility and the reward of success; and job weight in differentiating the remuneration of particular posts;

¹ NHS Very Senior Managers in England are chief executives, executive directors (except medical directors), and other senior managers with board level responsibility who report directly to the chief executive, in: Strategic Health Authorities, Special Health Authorities, Primary Care Trusts and Ambulance Trusts. The Health and Social Care Bill 2011 contains provisions on the abolition of the Strategic Health Authorities and Primary Care Trusts.

the need to maintain broad linkage between the remuneration of the three main remit groups, while allowing sufficient flexibility to take account of the circumstances of each group; and

the relevant legal obligations, including anti-discrimination legislation regarding age, gender, race, sexual orientation, religion and belief and disability.

The Review Body may make other recommendations as it sees fit:

to ensure that, as appropriate, the remuneration of the remit groups relates coherently to that of their subordinates, encourages efficiency and effectiveness, and takes account of the different management and organisational structures that may be in place from time to time;

to relate reward to performance where appropriate;

to maintain the confidence of those covered by the Review Body's remit that its recommendations have been properly and fairly determined; and

to ensure that the remuneration of those covered by the remit is consistent with the Government's equal opportunities policy.

The Review Body will take account of the evidence it receives about wider economic considerations and the affordability of its recommendations.

Members of the Review Body are:

Bill Cockburn, CBE, TD *Chairman*

Professor Richard Disney

Martin Fish²

Mike Langley²

Professor David Metcalf, CBE²

Sir Peter North, CBE, QC²

Professor Alasdair Smith

Christopher Stephens^{2,3}

Bruce Warman

Paul Williams

The Secretariat is provided by the Office of Manpower Economics.

² Members of the Judicial Sub-Committee, chaired by Sir Peter North

³ Until January 2011

Summary of recommendations

Senior officers in the armed forces

Recommendation 1: We recommend that the Ministry of Defence review the Performance Management and Pay System to define the objectives of performance-related pay in the senior military and consider whether the existing system can be improved.

The judiciary

Recommendation 2: We recommend the following changes:

- The role of Judge of the Upper Tribunal be moved from salary group 6.1 to salary group 5.
- The post of President of the Lands Chamber be given a salary lead over salary group 5.
- The post of Chairman of the Mental Health Review Tribunal for Wales be moved from salary group 6.2 to salary group 6.1.
- The role of salaried Chairman of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland and the role of salaried Employment Judge within the Tribunals Service be moved from salary group 7 to salary group 6.2.
- The post of Vice President of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland be given a salary lead over salary group 6.2.
- The post of Presiding District Judge (Magistrates Court) in Northern Ireland be moved from 108 per cent of salary group 7 to salary group 6.2.

Recommendation 3: We recommend that the post of County Court Judge in Northern Ireland continue to be placed in salary group 6.1 but that it be paid at the rate of salary group 5 while the non-jury trial provisions remain in force.

Recommendation 4: We recommend that the role of the Recorder of Belfast / Presiding County Court Judge in Northern Ireland be paid a salary lead over salary group 5 while County Court Judges continue to be paid at salary group 5.

Recommendation 5: We recommend that all salaried judicial office holders in the United Kingdom be covered by our recommendations in future.

Recommendation 6: We recommend that the salary lead and the allowance continue to be paid to existing group 7 judiciary in the London area who currently receive these payments, while they remain in post, but these payments should not apply to new appointments.

Recommendation 7: We recommend that management salary leads be standardised at 5 per cent. Judges who are currently paid a larger salary lead should continue to receive the larger lead while they remain in those roles.

Recommendation 8: We recommend that the issues of additional reward for fraud work and of an allowance for Resident Judges be considered by the Lord Chief Justice. We will consider further evidence on these issues as part of our next annual report.

Recommendation 9: We recommend that the proposed new salary structure be implemented once that is consistent with public sector pay policy.

Recommendation 10: We recommend that from 1 April 2011 newly appointed judges should be paid at the lower of the proposed new rate and the old rate for the salary group to which the post is now allocated from 1 April 2011. Those appointed to London posts in group 7 should not receive the London salary lead and allowance and salary leads for newly appointed judges should be 5 per cent.

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Chapter 1

Introduction and economic evidence

Introduction

- 1.1 Following the general election in May 2010, the Coalition Government announced, as part of its measures to tackle the budget deficit, a two-year pay freeze for all public sector workers paid more than £21,000 a year. We therefore make no general recommendations for pay increases for our remit groups this year. However, we were already engaged in a major review of the judicial pay structure and the new Government decided to allow that review to continue, although implementation of our recommendations for the judiciary may be affected by the overall pay freeze. We describe the review and our conclusions and recommendations in Chapter 4 below.
- 1.2 We make no pay recommendations this year for our other remit groups, namely the Senior Civil Service (SCS), senior military officers and certain senior managers (VSMs) in the NHS. We have therefore scaled down our evidence-taking and visits to our remit groups, as well as the length of our report this year (apart from the chapter on the judiciary). However, we have agreed with the Government departments concerned that we should continue to monitor those groups, both in order to detect any developments in recruitment, retention and motivation, and so that we are equipped to resume our normal work when the pay freeze ends. Thus we remain fully engaged with, and continue to gather and analyse key information about, the groups on whose pay we advise.

The Government's response to our last report

- 1.3 In our last report⁴ we recommended no general pay increases for our remit groups but we proposed that:
- restructuring of the senior military pay scales already under way should be completed, and in addition that the bottom point of the 2-star officers' pay scale should be deleted to ensure an adequate increase on promotion to that rank; and
 - the lowest paid SCS members and VSMs should receive affordable increases to start to tackle the problems caused by inadequate pay differentials with their immediate subordinates.
- 1.4 All these recommendations were aimed at essentially the same problem: inadequate differentials between the lowest paid members of our remit groups and those who report directly to them. The last Government accepted the recommendation for the senior military but not those for the SCS and VSMs. We are pleased that the restructuring of the senior military pay system, which we first proposed three years ago, has been successfully completed. We believe it will ensure pay increases for all those officers promoted to 2-star rank proportionate to their increased responsibilities. However, we were surprised and disappointed that the Government did not follow the same logic for all three groups but rejected our recommendations aimed at beginning to deal with real problems in the SCS and VSM pay systems. It would have cost only a very small proportion of the paybill to start to address those problems. Instead the Government's rejection of our recommendation for the SCS and VSMs has made matters worse, since NHS staff on Agenda for Change scales received increases of 2.25 per cent last year and civil servants below the SCS in some departments also received increases, so SCS and VSM differentials have been further eroded.

⁴ Review Body on Senior Salaries, *Thirty-Second Report on Senior Salaries 2010*, Cm 7804. TSO, 2010. Available at: http://www.ome.uk.com/SSRB_Reports.aspx (accessed on 15 February 2011).

Effects of the Government pay freeze

- 1.5 The Government's two-year pay freeze comes immediately after a year in which, in line with our own recommendations, our remit groups received no general increase. We came to those recommendations after considering all the evidence, in particular the economic situation and the pressure on public finances. As we said in our last report, the stark reality at that time was that the nation had suffered a drop of some 6 per cent in GDP and our remit groups could not be immune from the consequences of a recession which had seen many people in the private sector losing their jobs or suffering cuts in their real income.
- 1.6 However, many workers in the public sector did not suffer a pay freeze in 2010. Although the then Government failed to implement the third year of the pay settlement it had adopted for the SCS in 2008, it honoured the third year of deals for other groups such as most NHS workers, school teachers and the police. That is why, as shown in Figure 1.4 below, overall public sector earnings, even excluding the substantially state-owned banks, increased faster than those in the private sector in 2010. The last Government argued that our remit groups should have their pay frozen because they were among the highest paid public sector workers but some of those who received increases last year, for example police superintendents and higher ranks, many head teachers and those on the top levels of the Agenda for Change NHS scales, are paid more than those at the bottom of the SCS and VSM pay ranges.
- 1.7 Our remit groups are now subject to a three-year pay freeze which began in April 2010 and is due to last until April 2013, while most other public sector workers will be subject only to a two-year freeze. Clearly, therefore, our remit groups will suffer both a real terms fall in their incomes and a relative decline compared to other public sector workers. The size of that fall will depend on the rate of inflation over the three years: we outline current forecasts below.
- 1.8 The pay freeze will not affect all our remit groups equally. For the judiciary, unlike our other remit groups, the freeze means exactly what it says since they are all paid on spot rates with no performance-related element of pay. For the SCS, the pay freeze means that there will be no increases in base pay for the three-year period, but SCS members remain eligible for non-consolidated, performance-related payments. However, the Government has announced that in future a maximum of 25 per cent of SCS members will receive such payments, compared with 65 per cent in 2010. Moreover, the proportion of the paybill available for non-consolidated payments has been reduced from 8.6 per cent in 2008 and 2009 to 5 per cent in 2010. Thus effectively there has been a cut of 3.6 per cent in the paybill per head for the SCS and this will be reflected in average pay, even if a minority of SCS members still receive non-consolidated performance payments at or above the levels paid in recent years.
- 1.9 The senior military have performance-related increments. Officers have hitherto been awarded an increase of one or two incremental steps depending on their performance, and unsatisfactory performers received no increase although it has been extremely rare for officers other than those at the top of the scales to receive no increment. Only around a tenth received a double increment. The MoD applied this system again in 2010, but advise us that it has been decided to suspend double increments during the pay freeze. Since fewer than 10 per cent of officers are at the top of their pay scales, most can expect to receive an increment even during the pay freeze.
- 1.10 VSMs are effectively also paid spot rates, so will have no base pay increases during the pay freeze, but 5 per cent of the paybill is available for non-consolidated performance-related payments. Such payments represent up to 7 per cent of salary for individuals whose performance is assessed as outstanding or exceeding expectations, except in those organisations which have failed to meet their financial targets where no bonuses are paid.

- 1.11 The pay freeze comes on top of other changes which are likely to have adverse effects on morale in some or all of our remit groups. The Coalition Government's proposals for reorganising the NHS mean both Strategic Health Authorities and Primary Care Trusts, where most VSMs work, will be abolished. Thus many VSMs will be made redundant, though some may find work in the new GP-led commissioning organisations. For the SCS, we have already referred to the last Government's decision not to implement the third year of the pay deal which it had itself proposed for the SCS. The last Government had also announced the intention to cut SCS numbers by 20 per cent over three years beginning in 2010. The Coalition Government's Spending Review means that there will be substantial reductions in civil service numbers during the next three years. This will inevitably involve a reduction in SCS numbers although the current Government does not appear to have a target for the size of the SCS. In addition the Government has reduced the level of benefits for civil servants who are made voluntarily or compulsorily redundant.
- 1.12 Similarly, the Government has announced a reduction of 17,000 posts in the armed forces and this will have consequences for senior military posts. Other terms and conditions have been eroded. For example the entitlement to first class rail travel has been withdrawn from both the senior military and the SCS.

Pensions

- 1.13 Our remit groups' pensions will be affected by the Government's decision, announced in the Budget of June 2010, that public sector pensions will be uprated by the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) from April 2011. According to the Office for National Statistics⁵ the average annual rate of CPI inflation since 1989 has been 2.7 per cent. Over the same period the average annual rate of RPI inflation has been 3.38 per cent, so the change can be expected to reduce the value of pensions in payment by nearly 0.7 per cent a year on average. It will also reduce the rate of revaluation in the career average 'nuvos' pensions scheme in which most civil servants appointed since 30 July 2007 are enrolled.
- 1.14 The Independent Public Service Pensions Commission, chaired by Lord Hutton, published an interim report on 7 October 2010 and is due to publish its final report in March 2011. We do not know what the final recommendations will be, but it is likely that they will result in a reduction in the value of at least some of our remit groups' pensions, for example because of increased contributions, reduced benefits, changes in the method and rate of accrual, increased pension age, or some combination of these. The Pensions Bill 2011, which received its first reading on 12 January 2011, makes provision, among other things, for judges to be required to make contributions for their pensions. The level of those contributions will be fixed in Regulations. At present judges contribute only for widows'/widowers' and dependants' benefits.
- 1.15 As we have often pointed out, pensions are an important part of our remit groups' total reward, so we shall wish to look closely at any changes to the respective pension schemes once the Government has finalised them.

Hutton Review of Fair Pay

- 1.16 The Coalition Government asked Will Hutton to make recommendations to the Government by March 2011 on promoting pay fairness in the public sector by tackling disparities between the lowest and highest paid in public sector organisations. We submitted evidence to Will Hutton in August 2010 and he published an interim report in December⁶. That report contains a great deal of useful information and dispels some myths, notably about public sector pay. It recognises that the very highest earners in

⁵ Department for Work and Pensions, *Impact of the move to CPI for Occupational Pensions*, 11 February 2011, available at <http://www.dwp.gov.uk/docs/cpi-private-pensions-consultation-ia.pdf>

⁶ Hutton, W. *Hutton Review of Fair Pay in the public sector: interim report*. December 2010. Available at: http://www.hm-treasury.gov.uk/d/hutton_interim_report.pdf (accessed on 15 February 2011)

both the public and private sectors have mostly seen their pay increasing much faster than that of other workers. However, in the civil service and military, the pay of the lowest paid has increased faster than that of the most senior people between 2001 and 2008⁷. The interim report discusses the desirability of imposing a maximum multiple on senior pay, such that the highest paid person in an organisation would not normally be allowed to earn more than a specified multiple of what the lowest paid worker in that organisation receives. We do not see the benefit of a simple multiple, which could have arbitrary effects, although it would probably not affect our remit groups in practice unless the multiple were to be set at a very low level. We await the final report with interest.

Recruitment, retention and motivation

1.17 In our view the most important element in our terms of reference, listed in the Foreword to this report, is “the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities”. In previous reports we have repeatedly stressed the vital roles played by our remit groups and have warned the Government of the risks of taking them for granted. We do not wish to engage in special pleading on their behalf, but it would run counter to the national interest if our remit groups were no longer able to recruit and retain sufficient people of high quality to carry out their important tasks. For this reason we shall continue to monitor all of the groups on the basis of evidence from departments, the groups themselves and their representative bodies where they exist, to enable us to continue reporting annually. Problems of recruitment, retention and motivation can take years to become apparent. If the gap between the remuneration of our remit groups and that in the wider public and private sectors continues to grow, it could have serious consequences for the quality of leadership in those groups.

Comprehensive Spending Review

1.18 On 22 November 2010 the Government announced the outcome of its Comprehensive Spending Review which set spending budgets for each Government department until 2014-15. The Government’s goal is to balance the cyclically-adjusted annual budget by 2015-16 and it intends to achieve 80 per cent of the planned deficit reduction through cuts in spending, with the balance coming from increased taxation. Departmental programme and administration budgets are planned to decline by 8.3 per cent overall between 2010-11 and 2014-15, but there are wide variations between individual departments. Some, such as the Treasury and the Department for Communities and Local Government will see reductions of 30 per cent or more over that period, while a few, notably the Department for International Development, will have real increases in their budgets. Clearly those departments with reduced budgets will need to cut their workforces. The Office for Budget Responsibility’s latest forecast⁸ is that what it terms “general government employment” is likely to fall by 330,000 over the spending review period.

The economic context

1.19 The UK economy moved out of recession in the final quarter of 2009 – see figure 1.1. Although the latest figures show GDP decreased 0.6 per cent (quarter on quarter) in the last quarter of 2010, the Office for Budget Responsibility (OBR) forecasts year on year growth of 2.1 per cent for 2011⁹, broadly in line with independent forecasts that give an average prediction of 1.9 per cent growth.¹⁰

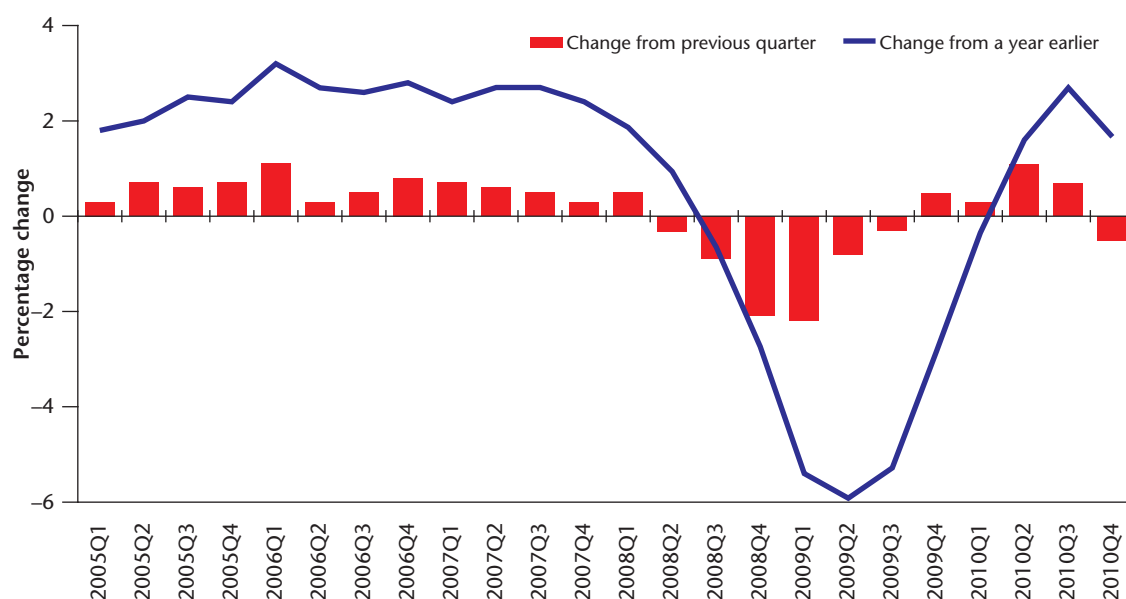
⁷ *ibid*, Chart 2.j, p 46

⁸ Office for Budget Responsibility, *Economic and Fiscal Outlook: November 2010*, Cm 7979. TSO, 2010. Available at: http://budgetresponsibility.independent.gov.uk/d/econ_fiscal_outlook_291110.pdf (accessed on 15 February 2011).

⁹ *ibid*

¹⁰ HM Treasury. *Forecast for the UK economy: a comparison of independent forecasts*. February 2011. Available at: <http://www.hm-treasury.gov.uk/d/201102forecomp.pdf> (accessed on 16 February 2011).

Figure 1.1: Growth of GDP at market prices, 2005 to 2010 (at 2006 prices, seasonally adjusted).



Source: Office for National Statistics

Inflation

1.20 Inflation has increased from the historic lows of 2009 – see figure 1.2. The Consumer Prices Index (CPI) went from a low of 1.1 per cent in September 2009 to a peak of 3.7 per cent in April 2010. The rate was slightly lower over the next eight months, although remaining over a percentage point above target, before reaching the higher value of 4.0 per cent in January 2011. The Retail Prices Index (RPI) followed a similar pattern, rising after eight months of negative inflation during March to October 2009 to reach a high of 5.3 per cent in April 2010, then falling back slightly the remainder of 2010 before reaching 5.1 per cent in January 2011. The Governor of the Bank of England wrote to the Chancellor in February 2011 commenting on the likely rate of inflation for the next few months and beyond stating:

“Inflation is likely to continue to pick up to somewhere between 4% and 5% over the next few months, appreciably higher than when I last wrote to you. That primarily reflects further pass through from recent increases in world commodity and energy prices. The [Monetary Policy Committee’s] central judgement, under the assumption that Bank Rate increases in line with market expectations, remains that, as the temporary effects of the factors listed above wane, inflation will fall back so that it is about as likely to be above the target as below it two to three years ahead. The MPC judges that attempting to bring inflation back to the target quickly risks generating undesirable volatility in output and would increase the chances of undershooting the target in the medium term.”¹¹

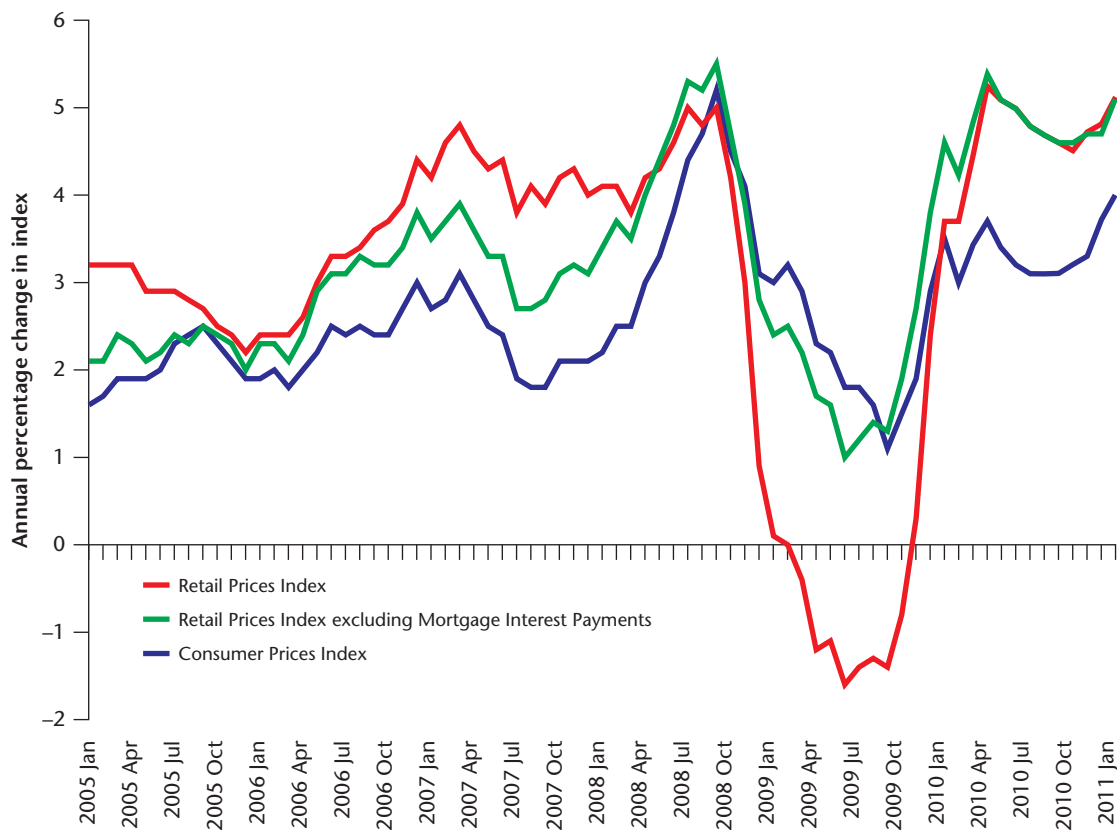
This message is repeated in the Bank of England’s *Inflation report: February 2011*.¹² Independent forecasts for the last quarter of 2011 give an average prediction of 3.2 per cent for CPI and 4.0 per cent for RPI.¹³

¹¹ The letter is available at: <http://www.bankofengland.co.uk/monetarypolicy/pdf/cpiletter110215.pdf> (accessed on 15 February 2011).

¹² Bank of England. *Inflation Report: February 2011*. Available at: <http://www.bankofengland.co.uk/publications/inflationreport/ir11feb.pdf> (accessed on 16 February 2011).

¹³ HM Treasury. *Forecast for the UK economy: a comparison of independent forecasts*. February 2011. Available at: <http://www.hm-treasury.gov.uk/d/201102forecomp.pdf> (accessed on 16 February 2011).

Figure 1.2: Annual change in consumer prices indices, January 2005 to January 2011



Source: Office for National Statistics

Pay settlements

1.21 Median pay settlements¹⁴ rose above the 2 per cent level in the last quarter of 2010 for the first time since the start of 2009. The Incomes Data Services (IDS) measure was 2.2 per cent in December. Settlements in early 2011 may increase to reflect the current high inflation rate, but the median figure is not forecast to rise above 2.5 per cent. The median, however, disguises the fluctuating proportion of pay freezes. Nearly half of all settlements in the autumn of 2009 were pay freezes, but the proportion has now fallen to under a quarter. In 2009, pay freezes were overwhelmingly in the private sector but now they are increasingly in the public sector.

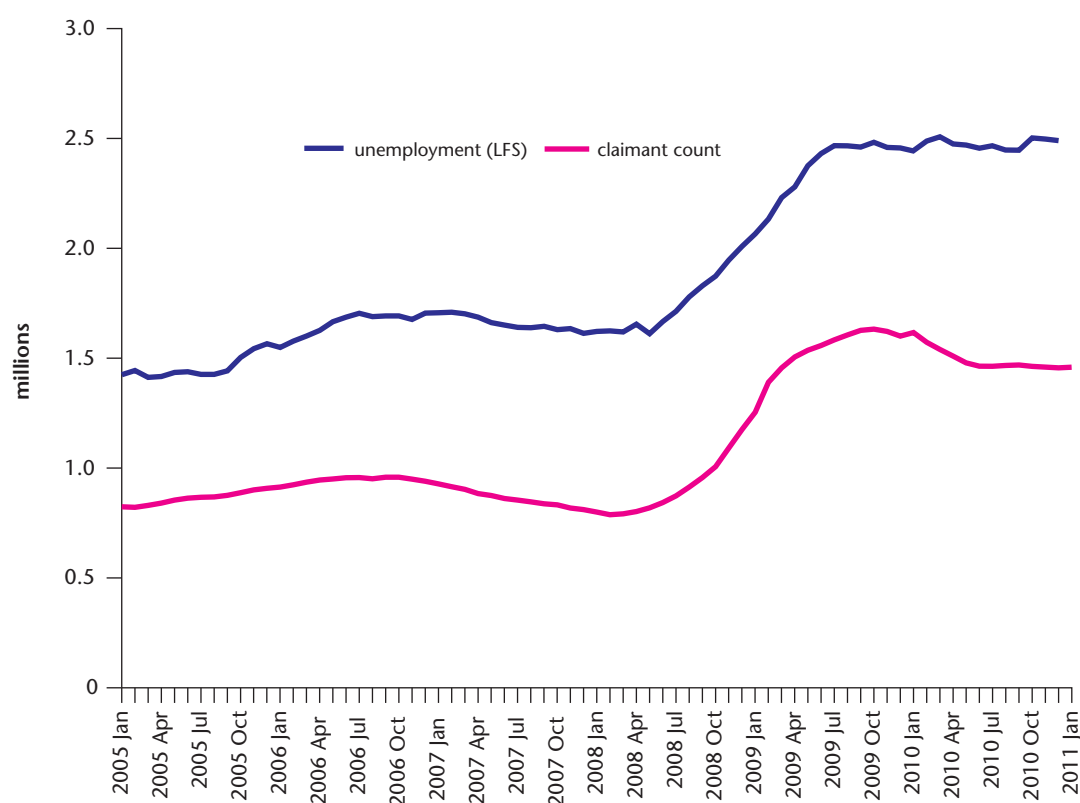
Unemployment

1.22 The level of unemployment measured by the Labour Force Survey (LFS) increased by 44,000 in the three months to December 2010, and by 40,000 on the year, to 2.49 million (7.9 per cent), see Figure 1.3. The claimant count was at 1.46 million in January 2011, down 157,100 from a year earlier. The claimant count rate was at 4.5 per cent in January, down 0.5 percentage points from a year earlier. This measure of unemployment has shown a different pattern to the LFS measure over the last year, peaking at 1.63 million October 2009 then falling consistently until June 2010, since when it has stayed broadly stable while the LFS figure is broadly unchanged since mid 2009. The OBR forecasts that the LFS unemployment rate¹⁵ will rise slightly as growth slows in 2011, peaking at 8.1 per cent before falling back again from 2012. The claimant count is also expected to increase in the short term.

¹⁴ Settlements include both the pay rises that are collectively bargained between unions and employers and also non-negotiated pay awards. Pay settlement figures do not capture money paid out as bonuses or lump sums, nor the effects of any pay restructuring implemented outside of the annual pay review.

¹⁵ This is the definition used by the Labour Force Survey.

Figure 1.3: Unemployment: Labour Force Survey and the claimant count, January 2005 to January 2011



Source: Office for National Statistics

Earnings

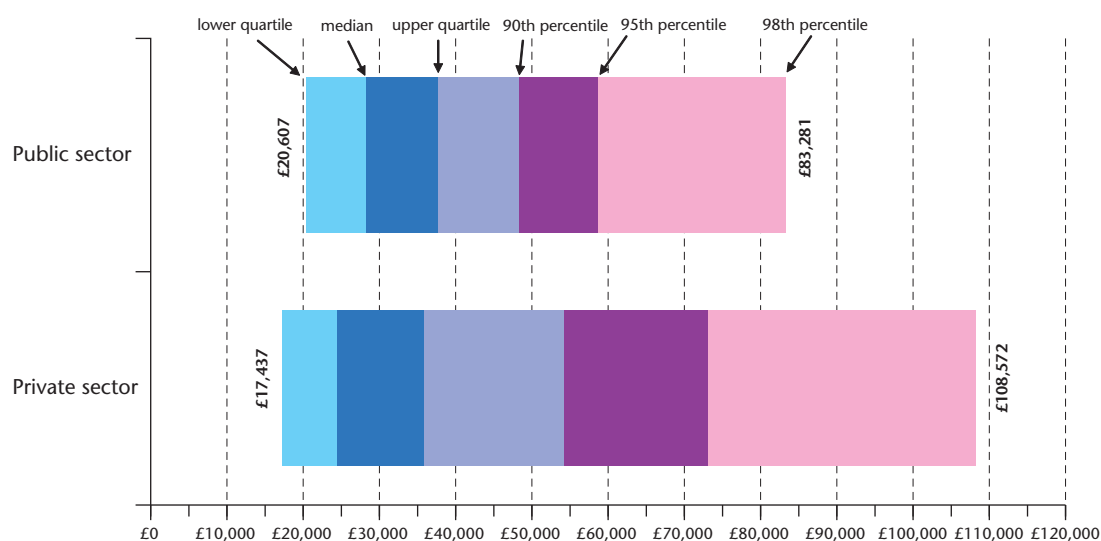
1.23 The Average Weekly Earnings (AWE) series replaced the Average Earnings Index (AEI) as the headline measure of earnings growth in the economy from January 2010.¹⁶ Private sector average earnings grew by 1.7 per cent in the three months to December 2010, compared to 2.4 per cent in the public sector. The latter includes the substantially state-owned banks – if they are excluded then public sector average earnings growth was 2.3 per cent. Private sector average earnings growth was flat or negative for a year from February 2009 to January 2010, reaching a low of -4.0 per cent in the three months to March 2009. It did not recover until the end of the 2009-10 financial year when bonus payments were pushed through before the new tax regime came into effect, but then fell back, almost to zero in the middle of 2010 before rising again. By contrast, public sector average earnings growth had been fairly consistent at around 3 to 4 per cent since 2007 but it has been below 3 per cent since June 2010. The OBR forecasts whole economy average earnings growth to remain relatively subdued in the near term, consistent with ongoing spare capacity in the labour market, and rise gradually from 2.2 per cent in 2011 to 4.4 per cent by 2014 as productivity recovers. The Treasury's average of independent forecasts expects slightly higher average earnings growth in 2011, at 2.6 per cent.¹⁷

¹⁶ The AWE is considered by the Office for National Statistics (ONS) to be a more accurate and reliable measure of earnings growth. The AWE was developed in response to criticisms of the AEI, after substantial and unannounced revisions to the series in 1998 called into question an MPC decision to raise interest rates, based on the original data. Both the AEI and the AWE use the same data source, the Monthly Wages and Salaries Survey, a survey of around 9,000 businesses across the economy. The main difference between the two is that the AEI uses fixed employment weights when aggregating the average wage for each industry. In the AWE, the weights are recalculated each month, so that the measure captures the changing industrial structure of employment during the year.

¹⁷ HM Treasury. *Forecast for the UK economy: a comparison of independent forecasts*. February 2011. Available at: <http://www.hm-treasury.gov.uk/d/201102forecomp.pdf> (accessed on 16 February 2011).

1.24 The simple division of the economy into public and private sector masks differences in the structures of the two sectors, as shown by Figure 1.4 below. As we have pointed out before, pay in the public sector is compressed: at the bottom of the distribution public sector workers are paid more than those in the private sector, in part because the former have, on average, higher qualifications than those in the private sector, as they provide services that are skill-intensive (health, education etc.).¹⁸ At the top of the distribution, however, the situation is reversed and pay is significantly higher in the private sector. Between 2004-05 and 2009-10, annual pay for the 95th percentile and the 98th percentile of the whole economy increased by slightly more than SCS pay. The increases for the five year period are 15 per cent for the 95th percentile and 13 per cent for the 98th percentile compared with 10 per cent for pay band 1 in the SCS and 11 per cent for pay band 2 in the SCS.¹⁹

Figure 1.4: Distribution of full-time gross employee pay in the public and private sectors 2009-10, United Kingdom



Source: Office for National Statistics, Annual Survey of Hours and Earnings 2010

Key issues for our remit groups

1.25 The recession was a particularly difficult period for the private sector. The next few years during which the Government imposes measures to bring the budget deficit back under control will be at least as difficult for the public sector. We see our role during this period as making sure that the impact of those measures on our remit groups remains fair and does not damage their effectiveness. As the Institute for Fiscal Studies said in its Green Budget²⁰:

“Reducing public sector pay is a natural first option [for cutting public spending] given that earnings in the private sector have been hit by the recession. But it is not a magic bullet. Reducing public sector pay by too much over too prolonged a period might lead to a fall in the average skill level of public sector employees, making it more difficult to provide efficiently public services of the desired quality.”

1.26 The key issues for our remit groups include the following:

- Members of our remit groups tell us that they feel Governments take them for granted and do not treat them fairly.

¹⁸ The Institute for Fiscal Studies. *The IFS Green Budget: February 2010 (p219)*. Available at: <http://www.ifs.org.uk/budgets/gb2010/gb2010.pdf> (accessed on 16 February 2011).

¹⁹ These data come from the annual survey of hours and earnings from the Office for National Statistics.

²⁰ The IFS Green Budget February 2011, available at <http://www.ifs.org.uk/publications/5460>

- The pay freeze is due to last two years for most public sector workers but three years for our groups, so the impact on them could be more severe.
- The gap between the remuneration of our remit groups and that for comparable posts in the wider public and private sectors is likely to widen further, and the pay overlap at the bottom of the SCS and VSM pay structures has increased.
- Other terms and conditions, notably pensions, job security and promotion opportunities, are reducing so overall reward and perceived benefits are likely to decline relative to comparable private sector workers.

It will therefore be essential for the Government to show by its actions, once we emerge from the pay freeze and when the economy has returned to growth, that it is treating our groups fairly in order to continue recruiting and retaining talented leaders for key public services.

Chapter 2

The Senior Civil Service

Introduction

- 2.1 In our thirty-second report²¹ we recommended no general increase in base pay for the Senior Civil Service (SCS) but we did recommend that the Pay Band 1 minimum be increased to £61,500, to begin to eliminate the overlap between civil servants in grades 6 and 7 and the SCS in Pay Band 1. In addition, we recommended that the budget for non-consolidated performance related payments remain at 8.6 per cent of the Senior Civil Service paybill in 2010-11. The Government rejected our recommendation to increase the Pay Band 1 minimum and reduced the budget for non-consolidated, performance-related payments to a maximum of 5 per cent of the SCS paybill.
- 2.2 We make no recommendations on rates of pay for 2011-12 because, as discussed in Chapter 1, the Government has announced a two-year pay freeze for all public servants paid more than £21,000 a year. Instead we consider the latest evidence on this remit group.

The SCS remit group

- 2.3 Our remit covers all members of the SCS in Great Britain, which currently numbers 4,353. As table 2.1 shows, the size of the SCS has increased each year for many years and while the rate of growth has slowed considerably, the SCS has grown by more than 800 since 2002. Our last report commented that the Government had plans to cut the cost of the SCS paybill by £100 million over three years. Since then there has been a Comprehensive Spending Review which resulted in significant cuts to departmental budgets. Departments are in the process of deciding their staff numbers, including SCS members, in the light of reduced budgets. This process is likely to lead to a significant reduction in SCS numbers.

Table 2.1: Total SCS staff in post, 2002 - 2010

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010
SCS in post	3,507	3,700	3,893	3,906	4,031	4,075	4,212	4,271	4,353
% change on previous year	5.3	5.5	5.2	0.3	3.2	1.1	3.4	1.4	1.9

Source: Cabinet Office

Workforce and reward strategy

- 2.4 In our 2010 report we urged the Government to complete the work envisaged in the Normington report, which analysed workforce planning and reward strategy. The Cabinet Office has been developing proposals for a new SCS reward structure to support a new workforce strategy for the SCS. However, we understand that the proposals worked up since the Normington report will be reconsidered in the light of the new Government's policies and the Comprehensive Spending Review. Departments are in the process of setting their priorities and reducing and restructuring their workforces in the light of their spending allocations and this will inevitably affect the size and composition of the SCS. We look forward to working with the Cabinet Office and the trade unions to help develop a revised SCS reward structure which will deal with the problems of the current system, as confirmed by the Normington review, and underpin the emerging workforce strategy.

²¹ Review Body on Senior Salaries, *Thirty-Second Report on Senior Salaries 2010*, Cm 7804. TSO, 2010. Available at http://www.ome.uk.com/SSRB_Reports.aspx (accessed on 15 February 2011).

The SCS pay system

2.5 The SCS is divided into three main pay bands below the level of Permanent Secretary, numbered 1 to 3 in ascending order of seniority. There is also an additional pay band, 1A, which lies between 1 and 2 and is used by a few departments, mainly where there are unusually large management spans or for some specialist posts. Table 2.2 sets out the current pay range for each salary band, together with the number of staff in post at each level.

Table 2.2: SCS staff in bands and pay ranges, 2010

Pay band	No. in band	Pay range	Median salary	Mid-point of range
Permanent Secretaries	41	£141,800 - £277,300	£163,200	£209,550
3	169	£101,500 - £208,100	£133,000	£154,800
2	749	£82,900 - £162,500	£100,000	£122,700
1A	175	£67,600 - £128,900	£84,078	£98,250
1	3,096	£58,200 - £117,800	£73,421	£88,000
Total	4,230		£77,629	

Sources: Cabinet Office, OME

Note: The above total of SCS members is lower than the total staff currently in post (4,353). The difference consists of SCS members in non-standard pay bands and with non-standard contracts, e.g. those paid at NHS rates.

2.6 Members of the SCS are normally eligible for annual, consolidated increases in base pay, subject to performance. Since we recommended no increase for the year 2010-2011 and the Government has imposed a pay freeze for the next two years, SCS members have not received any base pay increases since 2009 and will not do so before the end of the pay freeze. Prior to 2010, pay increases were linked to the performance assessment system: those with the highest ratings received the largest increases while the lowest ranking performers received no increase. Senior civil servants are ranked on their performance within their management units and allocated to one of four performance groups. The Cabinet Office issues a target distribution for the performance groups. Since 2008 this has been: Group One (highest performance): 25 per cent; Group Two: 40 per cent; Group Three: 25 – 30 per cent; and Group Four (lowest): 5 – 10 per cent. The Cabinet Office advises us that the SCS performance appraisal system is currently being revised and a new system will be in place from April 2011, but we have not yet received details.

Table 2.3: SCS performance group distribution by pay band, 2010

Pay band	Performance group %				
	One	Two	Three	Four	
	<i>Target distribution</i>	<i>25</i>	<i>40</i>	<i>25-30</i>	<i>5-10</i>
3	32.9	50.7	14.4	2.1	
2	26.6	47.2	23.2	3.0	
1A	21.2	44.8	30.9	3.0	
1	23.4	43.0	30.0	3.6	
All SCS	24.3	44.1	28.2	3.4	

Source: Cabinet Office

2.7 In last year's report we noted that the tendency for individuals in the higher pay bands to be more likely to be placed in one of the two top performance groups had become less marked. However, the reporting year 2009-10 has seen a return to the trend of more senior SCS members being more likely to be in the top two performance groups. In 2009-10 84 per cent of Pay Band 3 members were placed in one of the top two groups, compared to 79 per cent in 2008-09; while 66 per cent of Pay Band 1 and 74 per cent of Pay Band 2 were placed in the top two groups in the latest year.

Variable pay

2.8 Members of the SCS are also eligible for non-consolidated, non-pensionable, performance-related payments. These payments are used to recognise and reward performance against in-year objectives, and departments can distribute both individual and corporate awards. When the system of variable pay awards was first introduced, the Government said it envisaged that the proportion of the SCS paybill allocated to these payments would rise gradually to 10 per cent by 2008. This target was not reached, in part because of our concerns about whether the system was operating objectively and fairly. Last year we recommended that the 'pot' for non-consolidated payments should remain at 8.6 per cent of paybill, in accordance with the Government's proposal. However, the Government subsequently decided to limit the payments to a maximum of 5 per cent of the paybill and in the event only 4.7 per cent was used.

Dual market

2.9 We have been concerned about the disparity in pay between those internally promoted to the SCS and external hires. The Cabinet Office's information states that this year this disparity between median salaries, whilst still large, has closed, from around £19,000 to £16,000, for people appointed to Pay Band 1. However, the data provided also shows that the disparity has increased for people appointed to Pay Band 3, from £19,000 to £23,000.

Table 2.4: SCS median salary by pay band and origin, 2010

Pay band	Median salary – internally promoted	Median salary – external recruits	Difference between external recruits and internally promoted %
3	£125,000	£148,000	18.4
2	£90,000	£120,000	33.3
1A	£75,286	-	-
1	£68,742	£85,000	23.7

Source: Cabinet Office

Note: Figures suppressed when the number of individuals is below five.

2.10 The Civil Service Commissioners report annually²² on the results of recruitment exercises which they chair for senior positions in the SCS. 'Senior positions' are those at Permanent Secretary, Pay Band 3 or Pay Band 2 where the competitions are open to applicants outside the civil service, and Top 200 positions where eligibility is restricted to existing civil servants. Table 2.5 shows the relative proportions of those recruited to senior positions in the SCS from the civil service, the wider public sector or the private sector. Table 2.6 shows the starting salaries of those appointed from the civil service, wider public sector and the private sector, to Pay Band 2 of the SCS. Last year a significant proportion of appointees to senior SCS positions (41 per cent) came from the private sector.

²² Civil Service Commissioners, *Annual Report 2009-10*. Available at: <http://www.cscannualreport.info/web-app/plugins/spaw2/uploads/files/2009-10-CSC-Annual-Report-Web-Version.pdf> (accessed on 15 February 2011).

Table 2.5: Origin of appointments to senior positions¹ in the SCS, 2004-05 to 2009-10

Year	Civil service	Wider public sector	Private sector	Total
2004-05	37 (41%)	17 (19%)	37 (41%)	91
2005-06	42 (38%)	30 (27%)	39 (35%)	111
2006-07	35 (39%)	20 (22%)	35 (39%)	90
2007-08	43 (41%)	24 (23%)	38 (36%)	105
2008-09	62 (63%)	13 (13%)	23 (23%)	98
2009-10	32 (43%)	12 (16%)	30 (41%)	74

Source: Civil Service Commissioners

¹ 'Senior positions' are those at Permanent Secretary, Pay Band 3 or Pay Band 2 where the competitions are open to applicants outside the civil service, and Top 200 positions where eligibility is restricted to existing civil servants.

Note: Percentages may not sum to 100 due to rounding

Table 2.6: Starting pay of appointees to SCS Pay Band 2 by origin, 2004-05 to 2009-10

Year	Civil service	Wider public sector	Private sector
2004-05	£92,000	£101,500	£106,100
2005-06	£100,900	£112,600	£111,500
2006-07	£98,900	£118,900	£128,500
2007-08	£102,000	£131,800	£130,600
2008-09	£108,800	£115,700	£115,400
2009-10	£106,400	£129,800	£125,600

Source: Civil Service Commissioners

2.11 The Cabinet Office said that external hires are recruited on salaries lower than the median in the private sector which it believes suggests that the SCS continues to get good value for money from external recruits.

Equal pay

2.12 The Equal Pay Act enshrines the right of men and women to equal pay for work of equal value. In the UK in 2010, women's full time hourly earnings were 10.2 per cent lower than men's, on average²³. The difference in median pay between men and women in the SCS was 5.1 per cent in 2010, compared to 4.8 per cent the year before. Information from the Cabinet Office notes that women received slightly higher average pay awards than men in Pay Bands 1 and 2, while in Pay Bands 1A and 3 the opposite was the case.

2.13 In our last report we commented on the risk that recruiting externally will tend to increase the SCS pay gap, because men recruited to the SCS from outside the civil service had starting salaries significantly higher than women recruits. The Cabinet Office information shows that the pay gap between male and female external hires has dropped to 10.1 per cent, compared to 11.3 per cent last year, see table 2.7. This is a slight improvement but it remains the case that external recruitment appears to be causing the SCS pay gap to worsen. **We should welcome an explanation of why male external recruits are, on average, paid more than female recruits.**

²³ ONS: <http://www.statistics.gov.uk/cci/nugget.asp?id=167> (accessed on 15 February 2011).

Table 2.7: Difference between median starting salaries of men and women in the SCS, 2008-09 and 2009-10

Route to post	Female median 2009-10	Male median 2009-10	Difference (as % of male median)	Female median 2008-09	Male median 2008-09	Difference (as % of male median)
Internal	£73,480	£73,480	0.0%	£71,087	£72,169	1.5%
External	£85,000	£94,500	10.1%	£86,550	£97,593	11.3%

Sources: Cabinet Office, Office of Manpower Economics

Diversity

2.14 Table 2.8 shows that the Government is making good progress towards meeting its diversity targets for the SCS. The aim is to reach the main targets by 2013, with a 'stretch target' of achieving them by 2011.

Table 2.8: Diversity in the SCS, 2006-2010

Measure	April 2006	April 2007	April 2008	March 2009	March 2010	2013 Target
% of women in SCS	30.4	32.1	32.6	34.3	35.2	39
% of top management ¹ posts held by women	26.3	27.5	25.5	27.2	28.8	34
% of SCS from ethnic minority backgrounds	3.1	3.2	3.6	4.0	4.2	5
% of SCS with disabilities	2.8	2.8	3.1	3.2	3.4	5

Source: <http://www.civilservice.gov.uk/about/resources/monitoring.aspx>

1 A top management post is defined as any post at Director level (Pay Band 2) or above

Age discrimination

2.15 As in previous years, the Cabinet Office's information included data on the breakdown by age of the numbers of SCS members placed in each performance group, and the numbers receiving non-consolidated performance-related payments. The figures, reproduced in part as table 2.9, suggest that younger members of the SCS continue to be more likely to be placed in performance group one and to receive non-consolidated payments. In last year's report we commented on this and urged departments to monitor closely data on age and performance but we have received no further information on this subject.

Table 2.9: SCS median salary, performance group one markings and percentage receiving non-consolidated, performance-related payments by age, 2009-10

Age	Median salary	% of age band in performance group one	% of age band receiving non-consolidated payment
<30	£60,770	40	50
30-34	£64,748	38	60
35-39	£70,546	36	68
40-44	£73,619	25	64
45-49	£77,614	27	62
50-54	£80,000	22	57
55-59	£82,658	17	51
60-64	£83,247	15	37
65+	£85,071	13	33

Sources: Cabinet Office, Office of Manpower Economics

Note: Percentages of age bands placed in performance group one are derived from totals which exclude those listed as 'not applicable' in Cabinet Office information.

Pensions and total reward

2.16 The value of annual pension benefit accrual to the average member of the SCS was estimated by Watson Wyatt to be around 22 per cent²⁴ of base salary, net of the employee contribution. The majority of SCS members are currently still in final salary arrangements (the Classic, Classic Plus and Premium schemes) which provide benefits in retirement linked to the best pensionable earnings received in the three years before leaving the civil service. The normal retirement age for these schemes is 60. The final salary schemes have all been closed to new entrants since 30 July 2007. Since that date, entrants to the civil service have mostly joined the 'nuvos' scheme, which offers a pension based on revalued career average earnings from a normal retirement age of 65. The value of the new scheme is slightly lower than the earlier schemes. The move to uprating of pensions by CPI is likely to have a greater effect on members of the nuvos scheme because revaluing their earnings each year by CPI rather than RPI will almost certainly result in significantly lower pensionable earnings at the point of retirement. As noted in Chapter 1, according to ONS figures since 1989 CPI has on average been nearly 0.7 per cent lower each year than RPI.

2.17 Pension provision is a valuable element of the total reward package in the SCS. This is particularly clear at a time when defined benefit schemes in the private sector are becoming increasingly rare for new hires, and are frequently being closed to future accrual even for established employees. Furthermore, the risk that benefits promised under private sector schemes will not actually be provided in full is higher than for public sector schemes and this arguably enhances the value of the latter beyond the nominal value of annual accrual. However, the Government's decision to use CPI rather than RPI for revaluing and indexing public sector pensions shows that benefits are not immune from reduction.

2.18 As noted in Chapter 1, the Independent Public Service Pensions Commission, chaired by Lord Hutton, is due to report shortly. The Commission's interim report highlighted the need for public servants to make a greater contribution if their pensions are to remain fair

²⁴ Based on pension benefits uprated by RPI. Public sector pensions will be uprated by CPI from 1 April 2011, which is likely to lower the value of pension benefits.

to taxpayers and employees, and affordable to the country. We await the publication of Lord Hutton’s final recommendations and the Government’s response before assessing how they are likely to impact on the total reward package for the SCS.

- 2.19 Total compensation for private sector employees at equivalent levels to the SCS consists not only of higher base pay but frequently includes a range of benefits, from bonus payments to company cars, most of which are not available to most civil servants. Both the information from the Cabinet Office on pay comparability cited above and the research²⁵ conducted for the Review Body on Doctors’ and Dentists’ Remuneration and us suggest that, even though civil service pension schemes are more valuable as a percentage of salary than those in the private sector, total reward (including benefits such as cars, health insurance and long-term incentives) is significantly higher overall in the private sector for jobs comparable to those in the SCS. Data provided by the Hay Group shows that SCS reward has fallen even further behind private sector pay in recent years. Table 2.10 shows the relative decline of SCS pay compared to the private sector.

Table 2.10: Median SCS base pay plus bonus as percentage of the private sector base pay plus bonus for jobs of comparable weight, 2007–2010

Pay band	2007 %	2008 %	2009 %	2010 %
3	50	42	41	37
2	57	56	52	49
1	84	85	80	74

Sources: Cabinet Office and Hay Group

Evidence

- 2.20 The Government provided statistical information on the SCS. The Cabinet Secretary and the unions also gave oral evidence. We did not receive evidence from the Civil Service Commissioners or members of the SCS as we are not making recommendations on pay rates this year.

Government

- 2.21 The Government’s information stated that no base pay awards will be made for the SCS during the pay freeze in 2011-12 and 2012-13 and the non-consolidated performance-related pay pot will remain at 5 per cent of paybill.
- 2.22 We understand that the reward process will operate as it did last year. This would involve the Cabinet Office instructing departments to use what are known as ‘recyclable savings’²⁶ (estimated at 0.8 per cent of the paybill – approximately £2.6 million) for exceptional repositioning of salaries where there is a clear misalignment between job weight or role and the current salary offered for that post. Again, we understand that departments will be instructed not to use these savings to fund general increases in base salaries.
- 2.23 The Civil Service Compensation Scheme for those made redundant has been revised. The new terms provide a month’s salary for every year of service, limited to 21 months’ pay for those leaving under voluntary terms and 12 months’ pay for compulsory redundancies. The Government expects to see increases in voluntary and compulsory redundancies and retirements as departments reduce their structures in response to budgetary constraints stipulated by the Spending Review.

²⁵ Towers Watson. *Research into total reward offered by comparator sectors*. Office of Manpower Economics, 2010. Available at: http://www.ome.uk.com/SSRB_Research_Papers.aspx (accessed on 15 February 2011).

²⁶ Recyclable savings are defined by the Cabinet Office as savings made to the paybill when higher paid members of staff leave, often through retirement, and are replaced by individuals on lower pay.

2.24 The Government intends to bring forward a new reward structure for the SCS and we had preliminary discussions with the Cabinet Secretary and his officials about such a system. However, given the current pay freeze, we agreed that there is now no urgency and it would be better to take time to develop a new system for the longer term. We should be pleased to help the Government in this task, drawing on our wide experience of senior pay.

Unions

2.25 In oral evidence, the FDA and Prospect commented that the Government's decision to reject the recommendations in our last report on minimum SCS pay, together with the subsequent decision to restrict the size of the pot for non-consolidated performance-related payments in 2010 to a maximum of 5 per cent of paybill, had both harmed morale. The unions argued that this problem would be exacerbated by the real terms pay cut during the pay freeze, as well as other changes, for example to redundancy pay and to pensions.

Conclusion

2.26 SCS members are very largely responsible for implementing the policies of the Government of the day, including managing public spending. It is therefore vital that the SCS remains an attractive career option for people of the highest quality. The next few years will be difficult for public sector workers whose terms and conditions will be subject to reduction in various respects. We therefore attach great importance to designing a new reward structure for the SCS which both meets the Government's requirements and priorities, and ensures that the civil service can continue to recruit, retain and motivate sufficient people of the necessary quality to fill SCS posts. We will be happy to cooperate with the Government and SCS trade unions to achieve that goal.

Chapter 3

Senior officers in the armed forces

Our remit group

3.1 This year our senior military remit group comprises 131 officers at 2-star level and above who constitute the high level leadership team for the three services. Table 3.1 provides a breakdown by rank of senior military numbers since 2006. There has been little overall change. In 2010 the total number of senior officers decreased by five over the previous year when there had been a temporary increase because of officers between posts, on resettlement or pending retirement. Between 2009 and 2010 18 officers were promoted into our remit group, two left prematurely and 20 retired. The SSRB remit group continues to be all male. However, there were five female 1-star officers on 1 July 2010.

Table 3.1: Number of senior officers as at 1 July, 2006 to 2010

All services	2006	2007	2008	2009	2010	Net change 2009-2010
4-star	12	12	10	14	10	-4
3-star	25	32	29	33	28	-5
2-star	94	93	91	89	93	+4
Total	131	137	130	136	131	-5

Our last report

- 3.2 In our last report we made recommendations²⁷ on the operation of the Performance Management and Pay System (PMPS) and on the pay scales for the three ranks within our remit group.
- 3.3 We recommended no general pay increase for senior military officers. However, we did recommend that the third and final year of pay restructuring should be implemented as planned. We also recommended the removal of Level 1 of the 2-star pay scale. This change, when combined with restructuring of the scales, ensures that officers receive at least a 10% increase in base pay (excluding X-Factor²⁸) on promotion to 2-star. All of these recommendations were accepted by the Government and implemented with effect from 1 April 2010. The scales resulting from the restructuring effective from 1 April 2010 are as follows:

²⁷ *Review Body on Senior Salaries*, Thirty-Second Report on Senior Salaries 2010, Cm 7804, Recommendations 7-10. TSO, 2010. Available at: http://www.ome.uk.com/SSRB_Reports.aspx (accessed on 15 February 2011).

²⁸ X-Factor is an adjustment to military pay that recognises the relative disadvantage of conditions of service experienced by members of the armed forces compared to those in the civilian sector.

Table 3.2: Pay scales effective from 1 April 2010

Scale point	2-star ¹ £	3-star ¹ £	4-star £	CDS £
6	119,214	152,642	185,184	
5	116,924	148,265	181,553	
4	114,678	144,016	177,993	252,698
3	112,476	138,569	173,652	247,743
2	110,317	132,084	169,416	242,885
1	108,201	125,908	165,284	238,123

1 The scales for 2- and 3-star officers include X-Factor at the rate of £2,383, this sum being equivalent to 25 per cent of the cash value of X-Factor at the top of the OF4 pay scale as proposed by the Armed Forces Pay Review Body from 1 April 2010.

Wider context

3.4 In view of the public sector pay freeze the Ministry of Defence (MoD) this year provided us with evidence on the context and developments affecting the remit group but did not propose changes to pay. In these circumstances we decided not to take oral evidence and to suspend for this year our normal meeting with representatives of our remit group and visits to the individual services.

3.5 The Government's Strategic Defence and Security Review²⁹ (SDSR) states that:

"Restoring a strong economy is critical to sustaining the effectiveness of our national security institutions. It is therefore right that those institutions contribute to tackling the deficit. However, we have been clear that savings will not be made at the expense of our core security: national security budgets have been given relative protection in the Spending Review."

In its evidence the MoD says that it expects the Coalition Government's new policies to have far-reaching consequences for the armed forces as a whole and for our remit group. As part of the Review the Government announced a reduction of 17,000 in armed forces personnel.³⁰ The Government has also announced changes to certain allowances, some of which may affect our remit group. However, the full impact of the Strategic and Spending Reviews on armed forces pay, allowances, pensions and headcount is not yet clear.

3.6 The MoD evidence also says that while the future requirement for senior officers will depend on the structure for the armed forces to be developed under the SDSR, any reduction in the number of senior officers will be achieved through natural wastage, voluntary departures and Directed Early Retirement rather than a redundancy programme.

Evidence

3.7 In addition to describing the broader context referred to above, the MoD's evidence covered:

- numbers and deployment of senior officers;
- recruitment and retention;
- the Performance Management and Pay System;

²⁹ *Securing Britain in an Age of Uncertainty: The Strategic Defence and Security Review 2010*, Cm 7948. TSO, 2010. Available at: <http://www.official-documents.gov.uk/document/cm7948/7948.pdf> (accessed on 3 March 2011).

³⁰ MoD Business Plan 2011-15

- the Directed Early Retirement Scheme;
- job evaluation; and
- attitude surveys.

Recruitment and retention

3.8 Table 3.3 shows the number of officers leaving voluntarily over the last four years. For the senior military these numbers have been decreasing. The senior military is different from the private sector and most other parts of the public sector as recruitment is entirely from promotions of 1-star officers. Therefore it is important to keep track of the feeder groups below 2-star, as well as monitoring recruitment.

Table 3.3: Senior officers leaving the service voluntarily, July 2006 – June 2010

Rank	July 2006 to June 2007	July 2007 to June 2008	July 2008 to June 2009	July 2009 to June 2010
4-star	0	0	0	0
3-star	0	1	0	0
2-star	8	4	1	2
1-star ¹	23	17	22	21

Source: Ministry of Defence

¹ There were 334 1-star officers as at 1 October 2010, so voluntary departures represent some 6.3 per cent of the group.

3.9 SSRB is grateful to the MoD for continuing to provide evidence on whether the pool from which the most senior officers are drawn remains satisfactory. As Table 3.3 shows, there is little change to retention in this feeder group. The MoD conducted exit interviews to determine the reasons for departure. The 21 1-stars who left voluntarily over the last year gave the following reasons:

- 11 left because they were “disillusioned with the lack of prospects” and had taken civilian job offers.
- Six left to take up civilian employment.³¹
- Three had “achieved goals”.
- One came under the category “other”.

While the MOD collects information on reasons for departure from the ranks below 1-star, it is not broken down by rank.

3.10 As the MoD evidence recognises, the remuneration package for senior officers is under pressure from a combination of factors including the current pay freeze, potential changes to pensions and their tax treatment, reductions in the size of the armed forces with the consequent reduction in job security and promotion opportunities, and the budgetary pressures on the MoD. We intend to monitor recruitment and retention of senior officers closely and we urge the MoD to continue to provide us with as much relevant information as possible. In particular it will be important to track the quality of recruits at junior officer level and whether the services are able to retain sufficient of the best officers to fill the higher ranks. As explained in Chapter 1, we see it as an important part of our task to review the position on recruitment and retention of each of our remit groups each year and to sound a warning if we detect any problems.

³¹ Unlike the 11 above, these six did not comment that they were disillusioned with the lack of prospects.

Operation of the Performance Management and Pay System (PMPS)

- 3.11 In our last report we summarised the development and purpose of the senior military's PMPS.³² Some senior officers had told us that the system was not actually performance-based, was bureaucratic and that increments were too small to act as an incentive. These views were reflected in the results of the attitude survey – see Figure 3.1 below. We therefore recommended that the MoD review the PMPS to define the objectives of performance-related pay in the senior military and consider whether the current system could be improved.
- 3.12 In its evidence the MoD reported that in 2010 double increments were awarded to 12 senior officers and the remainder received a single increment, apart from seven officers who did not receive an increment because they were at the top of their pay scales.
- 3.13 The MoD has told us that it examined the PMPS and considered a range of options. In the interests of consistency and a sense of collegiality it decided to continue to award single increments but to suspend double increments (for which only 2-star officers and above are eligible) during the two pay-freeze years.
- 3.14 While we understand the decision to suspend double increments during the pay freeze, we are disappointed that MoD has not answered the questions we posed last year. Performance-related pay can be used to send signals about an organisation's priorities or the kind of leadership and behaviour it wishes to encourage. While usually based on the achievement of agreed objectives, performance-related pay can also reward and retain those who bring extra effort to meeting the challenges facing an organisation. For example, at a time of budgetary stringency it can be used to reward those who identify and implement ways of doing more with less, or who find savings which do not adversely affect achievement of key objectives.
- 3.15 We do not believe that all eligible officers should receive a single increment, regardless of relative contribution. This is not performance-related pay but effectively a system of automatic increments, something that, as we pointed out in our last report, has almost entirely disappeared from the private sector and is rightly being gradually removed in the public sector. The MoD should decide what it wants to achieve through performance-related pay and whether the current system needs adjustment or redesign to serve that purpose while minimising bureaucracy and management resource. We therefore repeat our recommendation of last year. In the meantime we note the MoD's decision to suspend double increments during the pay freeze.

Recommendation 1: We recommend that the Ministry of Defence review the Performance Management and Pay System to define the objectives of performance-related pay in the senior military and consider whether the existing system can be improved.

Directed Early Retirement Scheme

- 3.16 The Directed Early Retirement (DER) Scheme for 1-star officers and above was introduced in 2001. It provided directed retirement ahead of Normal Retirement Age (NRA) for senior officers who could not undertake or complete appointments because those appointments were unexpectedly disestablished or re-graded. Such directed retirement attracts a Special Capital Payment, subject to specific criteria, based upon the amount of time left to serve before NRA.
- 3.17 The rules of the scheme were open to interpretation and it was therefore suspended in February 2009 pending completion of a review to achieve uniformity of application across the three services. During the suspension of the scheme for the review the MoD

³² Review Body on Senior Salaries, *Thirty-Second Report on Senior Salaries 2010*, CM 7804, paragraphs 3.13 – 3.15 and Recommendation 7. Available at: http://www.ome.uk.com/SSRB_Reports.aspx (accessed on 15 February 2011)

did not consider any directed early retirement applications. In conducting the review the MoD consulted each of the services as well as HM Treasury. SSRB noted in its 2010 report that it would be interested in the review findings.

- 3.18 Following completion of the review a revised scheme was introduced in April 2010. Under new, more precise rules, a Special Capital Payment³³ will be awarded only if the service can demonstrate that the lack of availability of further employment is related to:
- the removal or re-grading of a post after an individual has taken it up or has been notified of appointment to it, when the removal or re-grading could not have been foreseen or prevented at the time of appointment, and
 - an unplanned reduction in the number of posts available to the service for which the officer is qualified when that reduction is caused by restructuring or changes in employment requirements within the service or department or an external employing organisation e.g. NATO.

Twenty-six officers left the services under the original scheme and two so far under the revised scheme.

Job evaluation

- 3.19 In 2008 the MoD commissioned consultants, the Hay Group, to conduct a job evaluation exercise to assess senior military job weights and to see how the senior military remuneration package compared with those for jobs of similar weight in the private and wider public sectors. In its final report Hay concluded that overall pay and reward for senior officers was significantly less than that payable to equivalent posts in the private sector and remained low, in general, when compared with similar posts in the wider public sector. Hay also suggested that the job weight of 4-star officers who were Defence Board members was significantly higher than that of other 4-star officers.
- 3.20 The MoD made no proposals last year in response to the Hay report because of the economic climate and pressure on public finances. In this year's evidence, the MoD stated that the Government believed that comparison between senior military officers and posts in the wider private and public sectors required further consideration. Taking these factors into account, and recognising that there are no obvious recruitment or retention problems, the MoD does not propose submitting recommendations relating to the pay arrangements of senior officers based on the Hay report during the two-year public sector pay freeze.

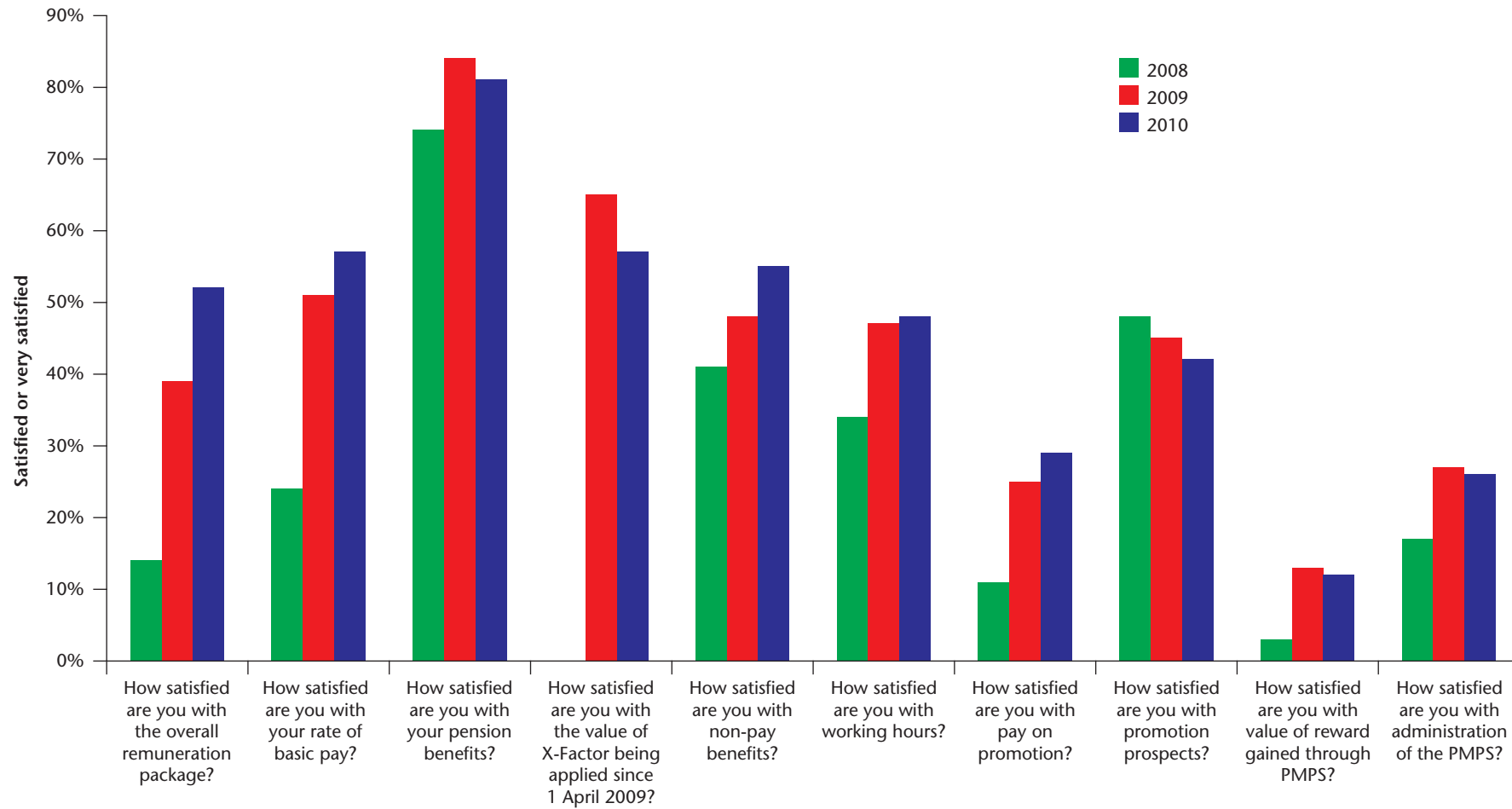
Attitude surveys

- 3.21 The MoD carries out two surveys to determine attitude changes – the Armed Forces Continuous Attitude Survey (AFCAS) and a survey of senior officers' views on the remuneration package, working patterns and leave (the Senior Officers' Attitude Survey). The response rates for both the 2010 attitude surveys was 45 per cent. This represents little change from the last two years.³⁴
- 3.22 General changes in satisfaction between 2008 and 2010 can be seen in **Figure 3.1**. As the figure shows, the level of satisfaction in most areas is similar to the level recorded in 2009 and has increased since 2008. The main exception is satisfaction with promotion prospects which has decreased over the three year period. On the other hand, satisfaction with pay on promotion has improved, which suggests that senior officers recognise the effects of the restructuring we have recommended in recent years.

³³ This was for those on the more recent pension scheme (Armed Forces Pension Scheme 75); officers on the earlier pension scheme (Armed Forces Pension Scheme 05) would receive a Compensation Lump Sum.

³⁴ In 2009 the AFCAS had a response rate of 42 per cent from senior officers and the senior officers' survey had a response rate of 49 per cent while in 2008 they were reportedly both "around" 50 per cent.

Figure 3.1: Changes in satisfaction recorded in the attitude surveys 2008 – 2010



Source: Ministry of Defence

Survey questions

3.23 Additionally the surveys record weekly working hours – see **Table 3.4**:

Table 3.4: Working hours recorded by senior officers in the attitude surveys, 2008 –2010

	2008	2009	2010
Working hours per week	62.4	67.6	65.8

3.24 While the reduction in working hours on last year is a marginal improvement, it is not clear what has happened to leave: in 2010 the MoD changed the method of calculating leave to include the eight public and bank holidays but did not record whether officers actually took them. However, the MoD view is that senior officers are still not taking all the leave to which they are entitled.

3.25 The surveys also measure changes in job satisfaction and the time spent on representational duties:

- Job satisfaction was rated as very high or high by 88 per cent of the senior officers responding, which continued an upward trend from 83 per cent in 2009 and 72 per cent in 2008.
- The amount of time that the respondent had to spend on representational duties was rated as “about right” by 84 per cent of respondents. This has changed little across the three year period (86 per cent in 2009 and 85 per cent in 2008).

3.26 The results from the attitude surveys are helpful. However, it is disappointing that the response rate has not increased. SSRB noted in its last report that the surveys would carry more weight if the response rates were higher. We again urge the MoD to consider how the response rates might be improved.

Senior Medical and Dental Officers

3.27 As of July 2010 there were five senior Medical Officers and Dental Officers (MODOs) – four 2-stars and one 3-star. The Government accepted SSRB’s 2010 recommendations that the rate of pay for 2-star MODOs should be 10 per cent above the base pay for level 7 of MODO 1-star and for 3-star MODOs, 5 per cent above 2-star MODO base pay.

Conclusion

3.28 We are grateful to the MoD for providing evidence on developments affecting the remit group. We set out above our reservations about the operation of the PMPS. We have no other major concerns about this remit group this year. We shall continue to look closely at recruitment, retention and motivation in the senior military, as in our other groups, with a view to ensuring that, despite the inevitable pressures, the remuneration package continues to enable the services to retain sufficient individuals of the highest possible calibre.

Chapter 4

The judiciary

Introduction

4.1 During the last year we have carried out a major review of the judicial salary structure, as we have done typically at five-yearly intervals. This review covers the courts judiciary and those in the Tribunals Service. Most of this chapter is devoted to our report of the review and our consequent findings and recommendations. However, before turning to the major review, we provide a short update on recent developments affecting the judiciary.

Our judicial remit group

4.2 Our remit group consists of full-time and part-time salaried judiciary members in the United Kingdom.³⁵ Fee-paid judiciary members are excluded from our standing remit although many fees are set by reference to the salary for the corresponding full-time post. There were 2,240 salaried members on 31 March 2010, an increase of 89 (4.1 per cent) on the previous year and 139 (6.6 per cent) over the four years 2006 – 2010.

4.3 The remit group comprises around 90 different roles, divided into nine salary groups (Appendix F lists the posts by salary groups). The current salary structure and numbers in post are set out in Table 4.1.

Table 4.1: Judicial salaries and numbers in post

Salary group ¹	Salary from 1 April 2010	Numbers in post ²					Change in numbers in post 2009-10
		2006	2007	2008	2009	2010 ³	
1	£239,845	1	1	1	1	1	0
1.1	£214,165	4	4	4	4	4	0
2	£206,857	16	15	15	15	15	0
3	£196,707	47	49	48	49	49	0
4	£172,753	143	141	144	143	140	-3
5	£138,548	87	84	87	88	96	8
6.1	£128,296	793	806	818	824	860	36
6.2	£120,785	16	20	20	20	36	16
7	£102,921	994	997	1,014	1,007	1,039	32
Total		2,101	2,117	2,151	2,151	2,240	89

Sources: Ministry of Justice, Scottish Government and Northern Ireland Department of Justice

Notes:

1 A list of posts within each salary group is at Appendix F.

2 Numbers as at 31 March.

3 These figures include changes made following the Government's response to the 2008 Tribunals report.³⁶

³⁵ However, stipendiary magistrates in Glasgow are salaried but not within the SSRB remit; all other salaried judges are included.

³⁶ Tribunals Service, *Government response to the SSRB Review of Tribunals' Judiciary Remuneration 2008 (Report No. 66)*, July 2009. This is available at: http://www.tribunals.gov.uk/tribunals/Documents/Publications/GovernmentResponsetothe_SSRBReportNo66_16Jul09.pdf (accessed on 9 February 2011).

4.4 Unlike the members of our other remit groups, the judiciary receive no salary increments or performance related pay. Instead each salary group is paid a spot rate which is usually increased once a year, although we recommended no increase in 2010 and, as discussed in Chapter 1, the Government has subsequently announced a two-year pay freeze for all public servants paid more than £21,000 a year. In addition, the judiciary have only limited opportunities for promotion compared to our other remit groups. For example, in 2010 only one of the 13 successful candidates for the office of High Court Judge in England and Wales was an existing member of the salaried judiciary. (However, although candidates for judicial posts above the High Court/Outer House of the Court of Session are selected through open competition, vacancies are in practice filled by internal candidates, who are already judges at the level below the vacancy, so a form of promotion could be said to operate at the top levels of the judiciary.) Results from the recruitment exercises over the past three years in England and Wales are summarised in Table 4.2.

Table 4.2: Successful candidates by professional background (England and Wales)

Competition	Solicitors		Barristers		Judicial Office Holders ¹		Other / Unknown		Total	
	Numbers	%	Numbers	%	Numbers	%	Numbers	%	Numbers	%
High Court 2006-07	0	0	16	76	5	24	0	0	21	100
High Court 2008	0	0	20	91	2 ²	9	0	0	22	100
High Court 2010	0	0	10	77	1	8	2	15	13	100
Circuit 2006-07	6	6	87	85	9	9	0	0	102	100
Circuit 2008	5	6	67	80	10 ³	12	2	2	84	100

Source: Judicial Appointments Commission (England and Wales)

Notes:

1 For some competitions there are details of the former occupation of judicial office holders.

2 One was a former barrister; one was a former solicitor.

3 Five were former barristers; five were former solicitors.

The 2009-10 review

4.5 In last year's report we recommended that the salaries for the judiciary should remain unchanged for 2010-11. The Government accepted this recommendation.

4.6 The Lord Chief Justice wrote to us following publication of our 2010 report. He expressed gratitude for our work and in particular our emphasis on the national importance of the work done by the members of our remit groups. He also noted our view that our remit group members had been singled out for worse treatment than others employed in the public sector. However, he and other judges who gave evidence to us for this report argued that we should have recommended a pay increase in 2010 even though the Government would have been unlikely to accept such a recommendation. In response we reiterate that we reached our view last year on what we believed to be appropriate in the light of all the evidence. We rejected the Government's argument that senior staff should demonstrate leadership on pay restraint and concentrated instead on the core criteria in our terms of reference, principally recruitment, retention, motivation and funds available to departments. We also took account of wider economic considerations, including the 6 per cent fall in GDP over the previous year.³⁷

³⁷ Review Body on Senior Salaries, *Thirty-Second Report on Senior Salaries 2010*, Cm 7804. Available at http://www.ome.uk.com/SSRB_Reports.aspx (accessed on 9 February 2011).

Constitutional and other changes to the judicial systems since the last major review

4.7 The main objectives of the Constitutional Reform Act 2005³⁸ relevant to the judiciary were:

- to modify the office of Lord Chancellor so that he or she is no longer a judge and does not exercise any judicial functions;
- to share functions related to the judiciary and the courts between the Lord Chancellor and the Lords Chief Justice of England and Wales and of Northern Ireland (or other senior members of the judiciary);
- to provide a guarantee of continued judicial independence;
- to give effect to the agreement (known as the Concordat) between the Lord Chief Justice of England and Wales and the Lord Chancellor on the transfer of the Lord Chancellor's judiciary-related functions;
- to make provision for the creation and operation of a United Kingdom Supreme Court, to replace the system of the Law Lords operating as a committee of the House of Lords;
- to make provision for a Judicial Appointments Commission for England and Wales to recruit and select judges for the courts and members of certain tribunals;
- to make provision for a Judicial Appointments and Conduct Ombudsman and for judicial discipline;
- to make provision for the supply of information to the existing Northern Ireland Judicial Appointments Commission, create a Northern Ireland Judicial Appointments Ombudsman and provide a mechanism for the removal of judicial office holders in Northern Ireland.

The Act received Royal Assent in March 2005, during our previous major review, but the full effects of many of the changes resulting from the Act could not be properly considered in that review.

4.8 The Act has had a substantial impact on the management roles of the more senior judges in England and Wales. The Lord Chief Justice for England and Wales is now responsible for the training, guidance and deployment of individual judges and represents the views of the judiciary of England and Wales to Parliament and the Government. In fulfilling these responsibilities the Lord Chief Justice chairs a Judicial Executive Board, the members of which are the Master of the Rolls, each of the Heads of Division, the Deputy Head of Criminal Justice and the Senior Presiding Judge.

4.9 The Act has also had an impact on the management role of the Lord Chief Justice of Northern Ireland who is now responsible for the training, guidance and deployment of individual judges there. The Lord Chief Justice of Northern Ireland also deals with complaints and discipline matters. However, it is not yet clear to what extent there will be further consequences for the senior judiciary in Northern Ireland from the devolution of responsibility for justice (and policing) to the Northern Ireland Executive which took place in April 2010.

³⁸ The introduction to the Constitutional Reform Act 2005 states it is "An Act to make provision for modifying the office of Lord Chancellor, and to make provision relating to the functions of that office; to establish a Supreme Court of the United Kingdom, and to abolish the appellate jurisdiction of the House of Lords; to make provision about the jurisdiction of the Judicial Committee of the Privy Council and the judicial functions of the President of the Council; to make other provision about the judiciary, their appointment and discipline; and for connected purposes." Available at: <http://www.legislation.gov.uk/ukpga/2005/4/contents> (accessed on 9 February 2011).

- 4.10 Finally, the Supreme Court of the United Kingdom came into existence on 1 October 2009.
- 4.11 The Judiciary and Courts (Scotland) Act 2008 has resulted in more far-reaching changes in Scotland than the equivalent reforms in England and Wales. The 2008 Act establishes the Lord President as head of a unified Scottish judiciary. The Lord President is responsible for the welfare, training, guidance, conduct and deployment of individual judges and for representing the views of the Scottish judiciary. Additionally, the Act states that the Lord President is responsible “for making and maintaining arrangements for securing the efficient disposal of business in the Scottish courts”. These responsibilities extend throughout the Scottish courts system including the sheriff courts and the justice of the peace courts. Previously the Lord President’s management responsibilities were largely limited to the judiciary in the Court of Session. The Act also establishes the Scottish Court Service as a new statutory body corporate. The new Scottish Court Service is a Non Ministerial Department, part of the Scottish Government, managed by a Corporate Board chaired by the Lord President. These changes came into effect on 1 April 2010. This means that the Lord President and other Board members are directly responsible for the Scottish Court Service, including the budget, the collection of fines, and court staff.

The Tribunals Service

- 4.12 Implementation of the Tribunals, Courts and Enforcement Act 2007 brought together over 30 different tribunals into one Tribunals Service, although there are still a number of tribunals which are not included (such as most tribunals in Northern Ireland). At the time of implementation, we were asked to propose a pay system for the Tribunals judiciary who are within this new structure. As part of that review, we engaged PricewaterhouseCoopers (PwC) to carry out a job evaluation of Tribunals judiciary. However, as the new structure was continuing to evolve, the job evaluation findings for the existing posts had less relevance as the review continued. Instead we decided to focus on the planned future structure as a whole rather than on the existing roles which were changing or due to change. We recommended a pay system to be implemented over a five year period to meet the objectives of the new Tribunals organisation including, in particular, the ability to develop cross-assignment of judges between different Tribunals. In our report, we noted that it was inevitable that such a system would entail some departure from the principle of allocating posts to salary groups solely by reference to job weight. Our report, *Review of Tribunals’ Judiciary Remuneration 2008*,³⁹ was published in 2009. In its detailed response⁴⁰ to us, the Government accepted most of our recommendations for the salaried judiciary but rejected most of the recommendations concerning fee-paid judiciary.

Creating a single head of the judiciary

- 4.13 The Lord Chancellor announced on 16 September 2010 that, as part of the planned integration of the courts and tribunals, he had agreed with the Lord Chief Justice and the Senior President of Tribunals that the former should become head of all the judiciary for England and Wales. This would involve a change to the role of the Senior President of Tribunals and would require primary legislation. The Lord Chancellor also noted in his Written Ministerial Statement that a change to the role of the Senior President of Tribunals had implications for the Tribunals judiciary in Scotland and Northern Ireland. He has been in discussion with Scotland and Northern Ireland Ministers, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland about whether and, if so, how the responsibilities of the Senior President of Tribunals for those jurisdictions might transfer. The outcome of these discussions is not known at present. Consequently, they will have to be considered in a subsequent review.

³⁹ Review Body on Senior Salaries, *Review of Tribunals’ Judiciary Remuneration 2008*, Report no. 66 (November 2008). Available at: <http://www.ome.uk.com/Tribunals.aspx> (accessed on 9 February 2011).

⁴⁰ Tribunals Service, *Government response to the SSRB Review of Tribunals’ Judiciary Remuneration 2008 (Report No. 66)*, July 2009. Available at: http://www.tribunals.gov.uk/tribunals/Documents/Publications/GovernmentResponseToTheSSRBReportNo66_16Jul09.pdf (accessed on 9 February 2011).

The major review

Background, purpose and method

- 4.14 In normal circumstances, we conduct an annual review of judicial pay resulting in a recommendation on the pay of the judiciary. By contrast, major reviews of the judicial salary structure have taken place every four or five years and involve the review body looking in detail at the pay structure and the wider context in which pay is set.
- 4.15 When considering the wider context for this review, we looked at the judicial pay structure in other countries. We found that rates of judicial pay in countries such as Canada and Australia where judges are appointed from experienced lawyers, as in the United Kingdom, are broadly comparable. However, we found it difficult to make valid pay comparisons between the United Kingdom and countries such as France and Germany with graduate-entry career judiciaries. The fundamental structural differences between these systems mean that recruitment takes place at very different ages and levels of experience, which of course affects pay expectations.
- 4.16 As set out in our terms of reference, the purposes of our major review were:
- i. to determine whether the current structure of judicial salary groups continues to meet the needs of the judicial systems and those who work in them;
 - ii. to consider whether total reward for each salary group is correctly set in order to recruit, retain and motivate suitably able and qualified people to exercise judicial functions;
 - iii. to consider whether there are newly created judicial posts which need to be allocated to salary groups and whether there is evidence to demonstrate that any existing judicial posts should be placed in different salary groups;
 - iv. to consider whether there have been any significant changes in the relative job weight of the posts in different salary groups since the last review, and if so whether such changes justify adjustment of the differentials between salary groups;
 - v. to consider the evolution of judicial total reward and that of comparable professions and occupations since the last review; and
 - vi. to make recommendations as appropriate in the light of evidence received and the review body's judgement.

In other words, the review has been essentially about the soundness and suitability of the current salary structure, the number of salary groups, the allocation of judicial posts to specific salary groups, the differentials between those groups and, finally, the appropriate salaries for those groups, taking into account the labour markets from which judges are recruited and other factors which our standing terms of reference require us to consider. The full terms of reference for this major review are given at Appendix G.

- 4.17 We described in our last report⁴¹ how we planned to carry out the review. The process of gathering and analysing evidence was largely carried out by our Judicial Sub-Committee (JSC) but the conclusions and recommendations in this report are those of the SSRB as a whole.
- 4.18 At the beginning of the review the JSC convened a Consultative Group, comprising members of the various branches and levels of the judiciary from England and Wales, Scotland, and Northern Ireland, along with representatives of the relevant departmental bodies, to assist and advise the JSC when planning the review, conducting appropriate research and considering the results of that research. As for previous reviews, the JSC commissioned a job evaluation of judicial roles and two UK-wide earnings surveys, one of the pre-appointment earnings of recently appointed judges and the other of earnings of barristers.

⁴¹ Review Body on Senior Salaries, *Thirty-Second Report on Senior Salaries 2010*, Cm 7804, paragraphs 4.24 – 4.27. Available at http://www.ome.uk.com/SSRB_Reports.aspx (accessed on: 9 February 2011).

Job evaluation

- 4.19 Job evaluation was used as the starting point in the previous major review and also in the review of the Tribunals Service judiciary in 2007. In 2005, PwC developed a bespoke system of job evaluation because their generic Monks Six Factor system was not designed for distinguishing between different levels of judicial responsibilities. PwC created the bespoke system with input from the Consultative Group at that time. This methodology was updated for the 2010 review; the full PwC report is published on our website, along with the average scores for the roles held by more than one office holder.⁴²
- 4.20 The 2010 job evaluation differed from previous job evaluations of the UK judiciary. For the first time, PwC carried out an electronic survey which was sent to most of the judges covered by the review. The remainder were evaluated using job descriptions, correspondence with post holders and interviews. The survey asked judicial office holders to respond to structured questions, to comment on a draft job summary and to identify any changes in respect of their judicial office since 2005 in order for PwC to evaluate their posts. The job evaluation covered five factors:
- jurisdiction;
 - complexity and diversity of cases;
 - impact and sensitivity of decisions;
 - court craft; and
 - out of court administration, management and leadership responsibilities.

PwC received 802 responses to the survey, representing around 48 per cent of the judges covered by the survey.

- 4.21 For most judges, PwC derived job evaluation findings directly from the electronic survey results, so that, in effect, judicial office holders evaluated their own jobs. PwC found these evaluations from the survey were generally consistent with the job evaluation findings in 2005 and were corroborated by the other information provided. The focus of the research therefore concentrated on judicial offices that had changed since 2005 and PwC carried out 38 interviews in addition to the electronic survey to verify the effects of these changes. Job evaluation for this review was carried out for all the roles that had not been evaluated during the 2007 review of the Tribunals Service together with the role of Upper Tribunal Judge which had changed significantly since 2007.
- 4.22 The end result of PwC's work was a list of roles allocated to proposed salary groups according to their scores. PwC commented on the changes between this list and the existing allocation of roles to salary groups, making proposals for salary group changes for some roles.

Job size

- 4.23 Job scores increased by 22 per cent on average between 2005 and 2010. PwC estimated that roughly half of the change was due to a real increase in job size (with the remainder caused by a change in methodology for allocating scores between the job factors listed in paragraph 4.20). PwC noted that the increase in job size tended to occur across all salary groups rather than being concentrated in a particular group.

⁴² PricewaterhouseCoopers, *Report to the Judicial Sub-Committee of the Senior Salaries Review Body*, Office of Manpower Economics 2010. Also, PricewaterhouseCoopers, *Multiple Job Holder Scores*, Office of Manpower Economics 2010. Available at: http://www.ome.uk.com/Major_judicial_Review_2010.aspx (accessed on 9 February 2011).

Workload

- 4.24 Many judges had told us about their increased workload since the last major review during our visits to see them at work over the last few years. The PwC survey did not ask questions about the changing workload of judges because job evaluation measures a post's level of responsibility rather than the volume of work. However, many judges referred to their increased workload in their responses to the job evaluation process and PwC passed such responses to us. We considered the comments made within the PwC survey and included a question on workload within our consultation document.
- 4.25 The overwhelming majority of comments in response to the PwC survey and to the consultation document confirmed that workload had increased. A high proportion of the more senior judiciary noted it within the PwC survey whilst the Council of Her Majesty's Circuit Judges carried out their own survey (which covered working hours, complexity, diversity and administration) in response to the consultation and the Association of Her Majesty's District Judges reported in evidence that workload, complexity and diversity of cases had increased. The overall message is that workload has increased at all levels of the judiciary. However, until a standardised survey or other method is in place to measure workload, it is impossible to say whether any one group is affected more than others. Moreover, we consider the level of workload to be a separate issue from job value in the job evaluation sense and to be essentially a matter for management. Workload is increasing in many occupations, as a means of increasing output and hence living standards. If some judges are genuinely overloaded, then this should be resolved either by increasing the number of judges or making organisational changes, such as providing more support or better IT. Otherwise the problem could affect morale and possibly the attractiveness of the profession. However, overloading cannot be addressed through pay.

Pre-appointment earnings of the judiciary and barristers' earnings

- 4.26 The National Centre for Social Research (NatCen) carried out two earnings surveys for us. The first was a survey of the pre-appointment earnings⁴³ of all judges who had been appointed to judicial office in the last three years. The second was a survey of the earnings of barristers and advocates with between 16 and 35 years' experience at the Bar who were therefore potential applicants for judicial posts.⁴⁴ We commissioned similar surveys (by a different contractor) in 2005 for the previous major review and asked NatCen to compare the results. NatCen's work showed that the earnings profile of those potentially applying for judicial appointments has generally 'stretched' since the last major review. The gap between median pre-appointment earnings and judicial salaries had increased considerably for salary group 4, increased slightly for salary group 6.1, but decreased for salary group 7. The NatCen report can be found on our website.⁴⁵
- 4.27 NatCen did not make any adjustment for pension or other elements of total reward. However, adjustments can be made using the Watson Wyatt⁴⁶ results published in the 2008 SSRB report and the Towers Watson⁴⁷ results in the 2010 report (which give

⁴³ Net receipts for each individual year, where earnings were provided, were calculated by adding the following:

- Receipts (excluding VAT) from practice / bar practice after deducting practice expenses but before deducting personal taxes, NI contributions, pension contributions or interest on capital.
- Also, receipts (excluding VAT) from other professional activities after deducting practice expenses but before deducting personal taxes, NI contributions, pension contributions or interest on capital.

⁴⁴ Barristers and advocates can apply for appointment as judges with less experience, but few appear in practice to do so, based on the responses to the "years of experience" question in the NatCen pre-appointment earnings survey of judges.

⁴⁵ The National Centre for Social Research. *Surveys of Pre-appointment Earnings of Recently Appointed Judges and Earnings of Experienced Barristers Report*. Office of Manpower Economics, 2010. Two files (main report and appendices) Available at: http://www.ome.uk.com/Major_judicial_Review_2010.aspx (accessed on 9 February 2011).

⁴⁶ Watson Wyatt. *Report on the comparison of the pension schemes of the Senior Civil Service, Judiciary and Senior Military*. Office of Manpower Economics, 2008. Available at: http://www.ome.uk.com/SSRB_Research_Papers.aspx (accessed on 9 February 2011).

⁴⁷ Towers Watson. *Research into total reward offered by comparator sectors*. Office of Manpower Economics, 2010. Available at: http://www.ome.uk.com/SSRB_Research_Papers.aspx (accessed on 9 February 2011).

comparisons with the legal profession). NatCen’s main results for earnings are given in Table 4.3 along with estimated changes in remuneration on appointment using these adjustments. Adjusting for pension, it is clear that, on average, judges in salary group 7 now receive a substantial increase in remuneration on appointment. However, the current value of the pension will reduce from 1 April 2011 when the revaluation of public sector pensions in payment or deferred is shifted to the Consumer Prices Index (CPI) instead of the Retail Prices Index (RPI). We discuss the issue of pensions in paragraphs 4.76-77 below.

Table 4.3: Median increase or decrease in remuneration on joining the judiciary

Salary group	Salary	Pre-appointment role	Median pre-appointment earnings	Change in earnings on appointment	Estimated change in combined earnings and pension on appointment
4	£172,753	Queen’s Counsel	£535,417	68% decrease	59% decrease
6.1	£128,296	All	£172,978	26% decrease	6% decrease
		Queen’s Counsel	£262,682	51% decrease	38% decrease
		Junior Counsel	£151,702	15% decrease	8% increase
7	£102,921	All (mainly solicitors)	£100,095	3% increase	31% increase

Sources: The National Centre for Social Research and the Office of Manpower Economics (using research results from Watson Wyatt and Towers Watson)

Notes:

- 1 These are full-time, whole year estimates.
- 2 These increases have been uprated using increases recorded for the top decile of legal professionals in the annual survey of hours and earnings (Office for National Statistics) to a common year of 2009.
- 3 An adjustment for pension is made from the research carried out by Watson Wyatt and Towers Watson.^{47 & 48}
- 4 These calculations assume that RPI (not CPI) is used for revaluation of pensions.

Solicitors’ earnings

4.28 For the last major review in 2005, the report that presented the results of the earnings surveys included the findings of a published Law Society survey of solicitors’ earnings. However, this was not an ideal comparison with barristers’ earnings and judicial pay because the survey covered only a very small percentage of solicitors in England and Wales. Consequently, we have looked for other ways to obtain information on solicitors’ earnings but that information is not readily available. Recruitment consultants do publish research on sections of the legal profession, but sample sizes tend to be small and they do not typically present information in forms that would permit useful comparisons with the information collected in the NatCen earnings’ surveys. A somewhat more useful source was Legal Business which recorded the Profit per Equity Partner (PEP) for the top 100 firms.⁴⁸ This showed a considerable range:

⁴⁸ Solicitors’ earnings data from the September 2010 issue of *Legal Business*.

Table 4.4: Profit per Equity Partner in the top 100 solicitors' firms,⁴⁹ United Kingdom

Profit per Equity Partner ranking	Profit per Equity Partner
1	£1,640,000
25	£467,000
50	£334,000
75	£250,000
100	£85,000

Source: Legal Business (September 2010).

4.29 We have agreed with the Law Society that it will include questions on earnings for us in its 2011 omnibus survey, which is sent out to a random sample of their members. For this review, we have the solicitors' data from the pre-appointments earnings surveys. Roughly a third of the judges who took part in the survey had previously practised as solicitors (73 out of 216). Most of these were appointed to salary group 7 (65 out of 73). The median pre-appointment earnings in Table 4.3 therefore reflect the earnings of the high proportion of solicitors appointed at Group 7 who responded to the survey. (Only one respondent appointed as a Circuit Judge was previously a solicitor, so the survey does not provide any useful indication of the earnings of solicitors who become Circuit Judges.)

Collecting annual data on pre-appointment earnings

4.30 For some years, the Northern Ireland judicial appointments commission (NIJAC) has provided us with data of the pre-appointment earnings of applicants on a confidential basis. Following discussions with the judicial appointments commission (England and Wales) (JAC(E&W)) we hope to pilot a collection of earnings data from an England and Wales selection exercise. If this is successful, we shall propose a similar approach to the Judicial Appointments Board in Scotland (JAB).

Consultation

4.31 The results from the two research projects, along with issues raised by the Consultative Group, formed the basis of our consultation with stakeholders. The consultation took place for 12 weeks from 15 July 2010. We published a consultation document setting out our terms of reference, the results of the research and the issues on which we sought views.⁵⁰ This document asked respondents to answer a number of questions, listed in Appendix H. In the last week of the consultation, in response to requests from the judiciary, we published PwC's job evaluation scores⁵¹ and the breakdown of the five factors for each judicial office held by more than one post holder. Scores for roles with a single post holder were not published, but given to each post holder if requested.

Responses to the consultation and oral evidence

4.32 We received 57 written responses to the consultation, some of which referred to other responses. There was a wide range of respondents, including the heads of the judiciary, groups of judiciary members, government departments and judicial appointments organisations, as well as individual responses from judicial office holders. These responses varied enormously. Some considered each of the questions in the consultation document in turn while others gave their views in general. Some responses dealt with a large number of judicial offices while others focused on a single role.

⁴⁹ This is the LB100 (*Legal Business*' top 100 firms) ranked by gross fee income.

⁵⁰ Review Body on Senior Salaries, *Major review of the judicial salary structure: Consultation document*, 15 July 2010. Available at: http://www.ome.uk.com/Major_judicial_Review_2010.aspx (accessed on 9 February 2011).

⁵¹ PricewaterhouseCoopers, *Multiple Job Holder Scores*, Office of Manpower Economics 2010. These can be found at: http://www.ome.uk.com/Major_judicial_Review_2010.aspx (accessed on 9 February 2011).

- 4.33 We held nine days of oral evidence in London, Edinburgh and Belfast during which we had 22 meetings with representatives of the judiciary. We met the Lord Chancellor and Secretary of State for Justice, the Lord Chief Justice of England and Wales, the Lord President of the Court of Session, the Lord Chief Justice of Northern Ireland, representatives of councils and associations representing groups of judiciary and the judicial appointments organisations. A full list of those giving evidence in response to our consultation is given at Appendix A.

Feedback on job evaluation

- 4.34 The results of the job evaluation exercise were a key piece of evidence and many of the comments and concerns raised in responses to the consultation document were about this element. We asked PwC to concentrate on identifying whether posts were correctly allocated to salary group bands, rather than on precise scores, and therefore to investigate concerns raised about scores where respondents argued that their posts had been placed in the wrong salary group. PwC considered a number of challenges to job scores; however, after reviewing the challenges, PwC concluded that in no case did the additional information justify a change to the proposed allocation to a salary group.

Evidence on appointments

- 4.35 The three judicial appointments organisations provide us with evidence on recruitment each year. We considered the data for the most recent year and also general trends observed since the last major review. In both Scotland and Northern Ireland there have been difficulties in recruiting to salary group 4.⁵² The JAB commented on the disappointing quality of the field for the 2010 appointments round while the NIJAC had received few applicants for its last vacancy (in 2009). All three judicial appointments organisations indicated that there had been no significant problems recruiting for any other vacancy in any jurisdiction, with the exception of a handful of specialist roles, in recent recruitment exercises.
- 4.36 The Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland all commented on recruitment in their evidence to us, highlighting the widening gap between private earnings – particularly of Queen’s Counsel – and judicial salaries. They told us they were concerned about the effect of this gap on the quality of applicants for judicial posts. This was particularly relevant for salary group 4 posts for which almost every applicant is a Queen’s Counsel.

Considering the evidence

- 4.37 We have to make judgements on the basis of all of the evidence we received. This ranges from quantifiable evidence, such as the job evaluation and recruitment exercise data, to comments on issues which are much more difficult to measure. This latter category includes the effect a change in salary would have on recruitment and also perceptions of motivation.
- 4.38 We conduct a major review only every four to five years. It is our opportunity to reconsider the full judicial salary structure in light of changes which have occurred to individual posts and to the judicial systems in England and Wales, Scotland and Northern Ireland. We look at the full structure, as well as the individual allocation of judicial posts, to ensure that the system is sound and fit for purpose.

⁵² In Scotland these are Outer House Judges of the Court of Session and in Northern Ireland these are High Court Judges or Puisne Judges (both terms are used).

4.39 Based on our terms of reference, our guiding criteria are:

- i. Roles should be allocated to salary groups according to their job evaluation scores, unless we find overriding reasons for a different approach – see paragraph 4.40 below.
- ii. Salary differentials between the groups should be set to ensure the continued recruitment, retention and motivation of suitably able and qualified people at each level within the judiciary.
- iii. We aim to provide value for money for the taxpayer; it is part of our standing remit to have regard to the funds available to departments.

4.40 Job evaluation scores are an important part of the evidence for job positioning within the judicial pay structure but our conclusions and recommendations are not based on scores alone in every case. Rather we make a rounded judgement, looking at all relevant considerations. As for our last major review, we do not regard job evaluation scores as providing precise boundaries as this would be too arbitrary and could also lead to some posts repeatedly swapping groups in successive reviews. Instead we have looked at a number of factors, such as the hierarchy of posts, the clustering of scores for different posts and the effect of constitutional and other changes to the judicial system on the pay structure. Our recommendations and conclusions occasionally vary from the results produced by the PwC analysis.

Our conclusions from the review

Specific roles

- 4.41 We considered whether each judiciary role was in the right salary group. We decided that roles should be allocated according to the PwC job evaluation results unless there was strong justification in particular cases for a different approach. We also decided that where a judicial post was evaluated as belonging in the same salary group as others for whom the post holder had permanent managerial responsibility, then that post holder should receive a salary lead in recognition of the additional responsibility. Our recommendations for changes to the current allocations are set out below.
- 4.42 We asked the Senior President of the Tribunals whether any role within the Tribunals Service required re-evaluation because it had changed significantly since the review of the Tribunals judiciary in 2008. He thought that consideration should be given to the role of Judge of the Upper Tribunal. PwC job evaluated the Upper Tribunal Judge role in all three chambers as being within the range for salary group 5. The Ministry of Justice (MoJ) did not support a move to that group, arguing that it would disrupt the structure within the Tribunals and would place Upper Tribunal Judges on a par with the President of the Lands Chamber. MoJ also said that Upper Tribunal Judges were not the equivalent of Senior Circuit Judges (who are in salary group 5), and there were no recruitment difficulties. In written and oral evidence the Senior President and the Upper Tribunal Judges themselves supported a move to salary group 5 on the grounds of increased job weight. We can see no overriding reasons to reject the job evaluation. Therefore, we recommend that the post of Judge of the Upper Tribunal be moved to salary group 5. We also recommend that the President of the Lands Chamber be given a salary lead of 5 per cent (see paragraph 4.53 below) in recognition of the responsibility for managing other Judges of the Upper Tribunal. The Presidents of the other Upper Tribunal chambers are already High Court Judges and therefore require no salary lead.
- 4.43 The role of Chairman of the Mental Health Review Tribunal for Wales is the responsibility of the Welsh Assembly who asked that it be included within this review. This role had not been job evaluated previously. PwC evaluated it as belonging in salary group 6.1. The Welsh Assembly did not provide evidence on the job evaluation. We recommend the role be placed in salary group 6.1.

- 4.44 The role of salaried Chairman of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland is similar to that of salaried Employment Judge within the Tribunals Service; both were evaluated as belonging in salary group 6.2. Consequently, we decided to consider the two together. In 2008, we placed salaried Employment Judges in salary group 7, even though they had been evaluated as belonging in salary group 6.2, because we were asked to produce a unified tribunals' pay structure where cross-assignment might take place in the long term. In order for this to be possible, it appeared to be essential that each of the three pillars had the same pay structure. However, the evidence provided during the 2010 consultation made it clear that cross-assignment of Employment Judges was not now expected to occur and there were no plans to bring in legislation to permit it. The MoJ said in written evidence that the Chairmen were an issue for the Department of Education and Learning in Northern Ireland (DELNI)⁵³ but saw a need for consistency with the tribunals structure. As Employment Judges were not specifically named in the consultation document, the MoJ did not comment on the role but has said elsewhere that nothing has changed since the Tribunals report and therefore no changes were needed. DELNI objected to the proposed move, stating there were no recruitment difficulties. The department also stressed that an increase in the Chairmen's pay could not be justified at a time of severe pressures on public finances. The Employment Judges, the two Presidents of the Employment Tribunals (in Scotland and in England and Wales) and the President of the Employment Appeals Tribunal all argued in favour of a move based on the job evaluation.
- 4.45 We believe our previous decision to keep these judges in salary group 7 in spite of their having been job evaluated as salary group 6.2 was justified at the time. However, the dropping of the original intention to cross-assign Employment Judges to other tribunals and other judges to Employment Tribunals means that the rationale for that decision has fallen away. Therefore we recommend that salaried Employment Judges and salaried Chairmen of the Industrial Tribunals and Fair Employment Tribunal be moved to salary group 6.2. Also, we recommend that the Vice President of the Industrial Tribunals and Fair Employment Tribunal be given a salary lead to distinguish this management role from those of the Chairmen the office holder helps to manage. Fee-paid Employment Judges were job evaluated as remaining in salary group 7 during the 2007 review and we were advised that they typically heard less complicated cases so we see no case for moving them to a higher group. However, these judges are outside our remit for this review.
- 4.46 The role of Presiding District Judge (Magistrates Court) in Northern Ireland was not job evaluated previously but had been placed in salary group 7 and given a salary lead (of 8 per cent). PwC job evaluated it as belonging within the score band for salary group 6.2. This move was supported by the MoJ who noted that this was a substantial leadership and management role which had not been evaluated previously. Therefore we recommend moving the role from 108 per cent of salary group 7 to salary group 6.2.

⁵³ The Department for Employment and Learning in Northern Ireland is responsible for posts in the Industrial Tribunals and Fair Employment Tribunal (although salaries are paid with approval from the Northern Ireland Department of Finance and Personnel).

Recommendation 2: We recommend the following changes:

- The role of Judge of the Upper Tribunal be moved from salary group 6.1 to salary group 5.
- The post of President of the Lands Chamber be given a salary lead over salary group 5.
- The post of Chairman of the Mental Health Review Tribunal for Wales be moved from salary group 6.2 to salary group 6.1.
- The role of salaried Chairman of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland and the role of salaried Employment Judge within the Tribunals Service be moved from salary group 7 to salary group 6.2.
- The post of Vice President of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland be given a salary lead over salary group 6.2.
- The post of Presiding District Judge (Magistrates Court) in Northern Ireland be moved from 108 per cent of salary group 7 to salary group 6.2.

4.47 County Court Judges in Northern Ireland are paid at salary group 5, following a decision taken in 1988, on the grounds that they have increased responsibility from presiding over non-jury, 'Diplock' trials dealing with terrorism-related offences. Similarly the Recorder of Belfast (who is the Presiding County Court Judge and also takes 'Diplock' trials) is paid at 108 per cent of the group 5 salary because of his management responsibilities for these judges. Trials without jury were introduced in Northern Ireland in August 1973 for paramilitary type offences, following a report by Lord Diplock. The Justice and Security (Northern Ireland) Act 2007, which abolished Diplock courts, continued to provide for certain trials to be conducted without a jury. Such trials require two judges; one to decide procedural issues such as whether particular evidence is admissible and the other to conduct the trial. These provisions, originally due to expire in July 2009, were renewed in light of the deteriorating security situation and will now remain in force at least until July 2011. As a result, County Court Judges, as well as High Court Judges, in Northern Ireland are still required to conduct some trials without juries. The number of non-jury trials is now very small and, had we not been told that it was likely to rise again, we should have been minded to recommend that the increased salary be discontinued for new appointees. However, numbers of non-jury trials are forecast to increase again. Additionally, concerns were expressed to us that there would be great difficulty recruiting suitable candidates for the County Court if they were paid in salary group 6.1. The Lord Chancellor, who has responsibility for these roles, said in written evidence (to which the NI Department of Justice contributed) that the additional pay was still appropriate: "the preferred option would be to retain the salary uplift while the non jury provisions of the Justice and Security (NI) Act 2007 remain in force". We recommend the current grading should be continued – although the allocated group should remain 6.1 as job evaluated – at least until the non-jury provisions are next reviewed. The next review is due in July 2011. This also applies to the salary lead for the Recorder of Belfast.

Recommendation 3: We recommend that the post of County Court Judge in Northern Ireland continue to be placed in salary group 6.1 but that it be paid at the rate of salary group 5 while the non-jury trial provisions remain in force.

Recommendation 4: We recommend that the role of the Recorder of Belfast / Presiding County Court Judge in Northern Ireland be paid a salary lead over salary group 5 while County Court Judges continue to be paid at salary group 5.

Salaried judiciary roles outside our remit

- 4.48 There are four Stipendiary Magistrates in Scotland, all of whom work in Glasgow. They were not included within our remit despite being salaried judicial office holders. We received information about this group during the review and are surprised that they have not been transferred to our remit and are not covered by the judicial pension scheme. We have been made aware of the Scottish Civil Courts Review⁵⁴ which covers these posts and the Scottish Government's response⁵⁵ to it; the next stage is to develop a number of options. In particular we note the options being considered to develop specialisations at District Judge level – which include the possible creation of a Scotland District Judge and the development of the Stipendiary Magistrate role – and await further information with interest.
- 4.49 At the start of our major review, we were informed about the expected implementation of the Coroners and Justice Act 2009. The Act made provision for the appointment of a Coroner for Treasure. The MoJ are assisting the Department for Culture, Media and Sport in reviewing whether a Coroner for Treasure may be appointed. There is no timescale yet for the conclusion of this review. If, following completion of the review, it is decided that a Coroner for Treasure is to be appointed, that appointment will be made by the Lord Chancellor. Following the outcome of the review, we may be approached to decide where the new post of Coroner for Treasure sits within the judicial pay structure.
- 4.50 The PwC report drew attention to the discrepancy of treatment between coroners in Northern Ireland, who are within our remit, and those in England and Wales who are not. The latter are appointed by individual local authorities, generally on lower salaries and with less generous pension arrangements. We are concerned by this discrepancy in pay and pension arrangements and we urge the Government to reconsider the pay and pensions arrangements for coroners in England and Wales.
- 4.51 When posts are not included in our remit, it can lead to inconsistencies between jurisdictions and between individual posts that should be comparable. We consider it desirable that all salaried judicial office holders should be included in our remit and be considered in our annual reports. We recommend that all salaried judicial office holders within the United Kingdom be covered by our recommendations in future.

Recommendation 5: We recommend that all salaried judicial office holders in the United Kingdom be covered by our recommendations in future.

London allowances

- 4.52 Group 7 posts in London attract a salary lead of £2,000 and an allowance of £2,000, both of which are pensionable. As we have reported in previous years, research carried out for us by the Hay Group suggested that in the private sector London allowances are not usually paid when the salary is £100,000 or more. We have considered this issue as part of the major review and have concluded that it is no longer appropriate to continue these allowances. We recommend that they continue to be paid to the existing group 7 judiciary in the London area who currently receive these payments, while they remain in post, but should not apply to new appointments.

⁵⁴ Scottish Civil Courts Review, *Report of the Scottish Civil Courts Review*, 30 September 2010. Available at: <http://www.scotcourts.gov.uk/civilcourtsreview/> (accessed on 9 February 2011).

⁵⁵ Scottish Government, *Scottish Government Response to the Report and Recommendations of the Scottish Civil Courts Review*, 11 November 2010. Available at: <http://www.scotland.gov.uk/Publications/2010/11/09114610/0> (accessed on 9 February 2011).

Recommendation 6: We recommend that the salary lead and the allowance continue to be paid to existing group 7 judiciary in the London area who currently receive these payments, while they remain in post, but these payments should not apply to new appointments.

Management salary leads

- 4.53 We reviewed the size of the salary leads given to post holders whose posts are job evaluated as falling in the same group as those of the judges whom they manage. At present different percentage leads apply to different posts and we agreed that standardisation of this lead would be appropriate so that judges who have formal and significant management responsibility for other judges in the same salary group should have a salary lead fixed at 5 per cent. Judges who are currently paid a larger salary lead should continue to receive the larger lead while they remain in those roles.

Recommendation 7: We recommend that management salary leads be standardised at 5 per cent. Judges who are currently paid a larger salary lead should continue to receive the larger lead while they remain in those roles.

Circuit Judges dealing with fraud at Southwark Crown Court and Resident Judges

- 4.54 PwC job evaluated the role of Circuit Judge dealing with fraud cases based at Southwark Crown Court as being in the range for salary group 5. The MoJ gave evidence stating that the mix of cases at Southwark might change following recent initiatives in this area and therefore the role might also change. The Lord Chief Justice noted that the judges at Southwark dealt with a mix of cases. He proposed that he provide further evidence to us on the issue of additional reward for fraud work for a future report; indicating that he planned to consult the Senior Presiding Judge. Having considered all the evidence we make no recommendation for a change of salary group. However, we agree with the Lord Chief Justice's proposal and ask that he provide further evidence to us in time for our next annual report.
- 4.55 The Council of Her Majesty's Circuit Judges raised the issue of Resident Judges, who were not Senior Judges (paid in salary group 5), receiving an allowance or other form of financial payment for the role in addition to their group 6.1 salary. These judges are responsible for allocating and managing the business of the court to which they belong. We asked the Lord Chief Justice for his views as the allocation of Resident Judges is a matter for the judicial office and not the department. As for the Circuit Judges at Southwark, the Lord Chief Justice proposed that he consult the Senior Presiding Judge and then provide further evidence to us for a future report. We agree with this proposal.

Recommendation 8: We recommend that the issues of additional reward for fraud work and of an allowance for Resident Judges be considered by the Lord Chief Justice. We will consider further evidence on these issues as part of our next annual report.

Other roles considered by PwC

- 4.56 There were a number of other roles for which PwC suggested a change of salary group or proposed giving a salary lead. The details of the proposed changes and other evidence are given below along with our conclusions in each case.
- 4.57 PwC job evaluated the role of Deputy President of the Supreme Court as being in the range for salary group 2. PwC proposed a salary lead for this role to reflect its management responsibilities. The MoJ did not support PwC's proposal, stating that the role had limited additional responsibilities over those of the Justices of the Supreme Court. Also, we believe it would be inappropriate if this post were to be paid more than the Heads of

Division. We are advised that the latter posts are at least as weighty as those of the Deputy President. Therefore, we were not persuaded that this post merits a salary lead over others in group 2.

- 4.58 PwC job evaluated the post of Vice-President of the Queen's Bench Division/Deputy Head of Criminal Justice as being in the range for salary group 2 and proposed it be moved to that group. The Lord Chief Justice and the MoJ explained to us that the roles of Vice-President of the Queen's Bench Division and Deputy Head of Criminal Justice are usually not combined but allocated to different members of the Court of Appeal. Therefore, since this is likely to be only a temporary arrangement, we make no recommendation for a change to the salary group for this post.
- 4.59 PwC job evaluated the post of Surveyor Member of the Lands Tribunal in Scotland and in Northern Ireland as belonging in salary group 7. These posts are equivalent to that of Surveyor Member in the Lands Chamber of the Tribunals structure. In 2007, Surveyor Members in the Lands Chamber were also job evaluated as belonging in salary group 7, but we recommended in our 2008 Tribunals report⁵⁶ that they remain in salary group 6.2 as part of the pay system we proposed to meet the objectives of the new Tribunals organisation. This is one of the few roles within our remit held by "professionally qualified" members rather than legally qualified judiciary. Surveyor members often hear cases alone and the only salaried legally qualified members of the Lands Tribunals in Scotland and Northern Ireland are the respective Presidents. Similarly the only legally qualified member of the Lands Chamber in the England and Wales Tribunals structure is the President. Additionally, we were told that there were recruitment difficulties whenever these posts became vacant because they had to be filled by qualified and highly experienced surveyors. The MoJ agreed with PwC that there was a need to ensure consistency with the equivalent roles in England and Wales and was concerned that a lower salary would be insufficient to recruit and retain suitable surveyor members. Therefore, as in 2006, on balance, we believe these roles should remain in salary group 6.2.
- 4.60 PwC job evaluated the post of District Judge of the Principal Registry of the Family Division as belonging in salary group 6.2. Evidence from the Lord Chief Justice, the MoJ and the Association of Her Majesty's District Judges all argued that there were other District Judges who carried out the same sort of work as the District Judges of the Principal Registry of the Family Division. In addition, there were no recruitment issues and the Lord Chief Justice expressed concerns about the effect of such a move on collegiality across District Judges as a whole. We conclude that the role of District Judge of the Principal Registry of the Family Division should remain in salary group 7.

Other roles raised in the consultation

- 4.61 Finally, there were a number of other roles for which the salary group allocation was questioned by one or more respondents to the consultation and we considered the evidence presented to us. These included:
- President of the Supreme Court – PwC job evaluated this post as belonging in salary group 1.1. We considered the additional evidence presented to us setting out the difference between the former role of Senior Law Lord (which was also placed within salary group 1.1) and that of the President of the Supreme Court and we noted the latter's representational role. However, applying the principles set out in paragraph 4.39 above, we do not consider that there are overriding reasons to depart from PwC's job evaluation result for this post.

⁵⁶ Review Body on Senior Salaries, *Review of Tribunals' Judiciary Remuneration 2008*, Report no. 66 (November 2008). Available at: <http://www.ome.uk.com/Tribunals.aspx> (accessed on 9 February 2011).

- Lord Justice Clerk – PwC job evaluated this post as belonging in salary group 2. The PwC report stated that the implementation of the Judiciary and Courts (Scotland) Act 2008 might have a future effect on this role. Consequently we think this role may need to be reviewed at some point but for the time being we believe it should remain in group 2.
- Chief Social Security Commissioner and Social Security Commissioner in Northern Ireland – PwC job evaluated these roles as belonging in salary groups 5 and 6.1 respectively – their current groups. We were asked to consider mirroring the recommendations for the Upper Tribunal Judges in the jurisdiction of the Tribunals Service, that is, considering the Social Security Commissioner the equivalent of an Upper Tribunal Judge and giving the Chief Social Security Commissioner a salary lead. However, we concluded that the job evaluation should take precedence.
- President and Vice President of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland – PwC job evaluated these roles as belonging in their current salary groups, namely 6.1 and 6.2 respectively. It was proposed to us that these posts should be aligned with the President and Vice President in the Scotland jurisdiction (within the Tribunals Service) who are in groups 5 and 6.1 respectively, but the evidence of the job evaluation was that the managements spans in Northern Ireland are significantly smaller than in the larger jurisdiction of Scotland and this is not outweighed by the additional Fair Employment element in Northern Ireland. We can see no reason for departing from the job evaluation. However, as we are proposing that Chairmen of the Industrial Tribunals and Fair Employment Tribunal be moved to salary group 6.2 we have also proposed that the role of Vice President of the Industrial Tribunals and Fair Employment Tribunal be given a salary lead since the Vice President will have some management responsibility for judges in the same salary group.
- Senior Master – PwC job evaluated this role as belonging in salary group 6.1. We considered the additional management evidence presented to us. However, we concluded that this was insufficient to justify departing from the job evaluation, so the post should remain in salary group 6.1.
- Appeal Tribunal Judges – PwC job evaluated these posts as belonging in salary group 7 in 2007. We recommended in our 2008 Tribunals report that they should remain in salary group 7 as they were non-management posts in the First Tier Tribunal. The Council of Appeal Tribunal Judges presented evidence to us proposing these judges be moved to salary group 6.2 because of the management responsibilities they now held. We considered the evidence presented, including details of the complexity of the work and the responsibilities these judges had for training, appraisal and mentoring, but concluded it was insufficient for us to recommend the roles as First Tier management roles within the Tribunals structure.
- Liaison Master in Northern Ireland – This post was evaluated separately from the other Masters of the High Court and Taxing Master as it was explained to us that this was a new role. PwC job evaluated it as belonging in salary group 7 where it is currently situated and therefore we make no recommendation.
- First Tier Judges with tax expertise – We were told that First Tier Judges in the Tax Chamber could be divided into those with tax expertise and those without. Upper Tribunal Judges in the Tax and Chancery Chamber and salaried judges of the First Tier Tax Chamber proposed that those with tax expertise be paid at 6.2. As this is a case of specialisation within a chamber, we believe this is now a matter for the Senior President to consider.
- Roles belonging to the Association of High Court Masters and Master (High Court) Matrimonial in Northern Ireland – We were asked to consider treating all the salary group 7 roles within the association, and the Master (High Court) Matrimonial in Northern Ireland, as equivalents to the role of District Judge of the Principal Registry

of the Family Division and therefore to be moved to salary group 6.2. However, as explained above, we do not recommend a move for the role of District Judge of the Principal Registry of the Family Division and consequently do not recommend any move for roles within the Association of High Court Masters or the role of Master (High Court) Matrimonial in Northern Ireland.

The overall pay structure – groupings and differentials between salary groups

- 4.62 Responses to us and the evidence from the PwC job evaluation indicated that the overall structure was generally sound. There were no glaring anomalies or major changes suggested. We therefore propose only two detailed changes to the overall structure. The first, raised by PwC, is to create a separate salary group for the post of Lord President of the Court of Session as this role has become significantly larger than the others in salary group 1.1 while remaining smaller than that of the Lord Chief Justice of England and Wales (see paragraph 4.11 above). Secondly, in our last major review, the conclusions of which were included in our 2006 annual report, we recommended that salary group 6.2 be repositioned more centrally between salary groups 6.1 and 7. This recommendation aimed to make salary group 6.2 a more internally consistent and usable group within the structure. Consequently since 2006 we have usually recommended slightly smaller increases for group 6.2, but given the low level of awards in recent years, progress in moving the group towards the midpoint has been very slow and it has now ceased during the pay freeze. We think that repositioning is still appropriate and, five years on, that a revised, more central rate should now be implemented for new entrants to salary group 6.2.
- 4.63 In addition to these two changes, we wish to take the opportunity to designate the groups in a more rational way. There were originally seven groups in the old structure but two groups were subsequently split, leading to an illogical numbering system. We propose that henceforth the salary groups should be redesignated as A to J, where group A equals the old group 1 and group J is the equivalent of the old group 7. The full structure is shown in Table 4.5 below.
- 4.64 We looked at the pay differentials between the salary groups at each level of the judiciary. As we point out in Chapter 1, the judiciary fulfil a vital role in our national life and it would be deeply damaging to the national interest if the judicial appointments organisations were no longer able to recruit and retain sufficient suitable people for judicial office. We first considered the three salary groups into which most judges are recruited: salary groups 4, 6.1 and 7. We looked at the different labour markets from which judges are drawn for these groups, and at the NatCen survey evidence, reported above, on pre-appointment earnings showing that, on average, the gap between median pre-appointment earnings and judicial salaries had increased significantly for salary group 4 and slightly for salary group 6.1. In contrast judges in salary group 7 now typically receive a substantial increase in remuneration on appointment compared with median pre-appointment earnings when the value of the judicial pension scheme is taken into account.
- 4.65 The constitutional changes which have taken place have affected those at the top of the salary structure more than those below. In England and Wales the Lord Chief Justice delegates some of his additional duties to members of the Court of Appeal and most members of the High Court also have substantial roles in addition to their judicial functions. We received evidence from a number of respondents, including the Association of Her Majesty's High Court Judges, listing the range of other duties they carry out. Salary group 4 is the highest within the structure to which, in practice, external recruitment takes place, posts in the Court of Appeal and above being filled by judges who have served in the High Court. So the scope for progression and salary levels of posts above the High Court are also likely to influence the best lawyers when they consider whether to apply for judicial office. In Scotland the Lord President, as we have said, has acquired substantial additional responsibilities, some of which may well also affect other senior

judges in Scotland. In Northern Ireland the Lord Chief Justice has taken over responsibilities from the Lord Chancellor, in much the same way as his counterpart in England and Wales, while there may be further consequences from the recent devolution of justice matters to the Northern Ireland Executive.

- 4.66 Thus, after considering all the evidence, we come to the conclusion that, given the unusual recruitment pattern in the judiciary, the priority at present should be to improve differentials at the higher levels. This is needed to signal the importance of recruiting sufficient numbers of highly skilled lawyers from private practice to the High Court level, and to ensure appropriate pay progression for those who move on to the Court of Appeal in both England and Wales and Northern Ireland, the Inner House of the Court of Session and the Supreme Court.

Salary of the Lord Chief Justice

- 4.67 Our terms of reference require us to have regard to “the need to maintain broad linkage between the remuneration of the three main remit groups, while allowing sufficient flexibility to take account of the circumstances of each group”. We reviewed this condition during 2003-04 and in our 2004 report recommended that broad linkage should be achieved from then on by maintaining general equivalence in salary levels at the top of the structures. Consequently, to determine the appropriate salary for the top of the judicial pay structure we considered the earnings of the Cabinet Secretary, the Chief of Defence Staff and the Lord Chief Justice. The Cabinet Secretary is currently paid between £235,000 and £239,999 but his likely pay progression is difficult to determine at present because the normal arrangements for Permanent Secretaries’ performance pay, including non-consolidated performance-related payments, have effectively been suspended for the last two years. Nevertheless, the Cabinet Secretary would normally be eligible to be considered for a performance related bonus of up to £17,500. The Chief of Defence Staff has a pay scale with four performance-related steps (see Table 3.2 in chapter 3). We believe that the Lord Chief Justice’s salary should be set at the level such that if he and the Chief of the Defence Staff started simultaneously and each remained in post for four years, they would be paid approximately the same amount in total over that four year period.

A general increase for the judiciary?

- 4.68 Many of the judges who gave evidence argued that we should recommend a catch-up award for the judiciary. In support of this proposal some pointed to the Government’s staging and abatement of previous SSRB recommendations, suggesting that the ‘shortfall’ should be made good, either immediately or at the end of the pay freeze. Other arguments included that judicial pay had not increased in line with RPI or average earnings, and that earnings of Queen’s Counsel in private practice had increased faster than judicial pay. We are not persuaded by these arguments because the evidence shows that current judicial pay is adequate for recruitment, retention and motivation at most levels, the exception being at the High Court level where, as described above, we received evidence of difficulties in recruitment, especially in Scotland and Northern Ireland.

Our proposed salary structure

- 4.69 The conclusions of our latest review are largely reassuring. The evidence points clearly to the current salary structure being basically sound, with only detailed adjustments necessary, for example the creation of an additional salary group to reflect the increased responsibilities of the Lord President of the Court of Session in Scotland. For the most part we can detect no systemic difficulties in recruiting and retaining sufficient numbers of suitable judges. Indeed, restrictions in legal aid, combined with the general economic situation, have made a judicial career more attractive to junior barristers and to solicitors other than those in the highest paying firms.

4.70 The one area where we have received convincing evidence of a real problem is recruitment to the Outer House of the Court of Session in Scotland and to the High Court in Northern Ireland. We have also heard concerns about recruitment to the High Court in England and Wales, although the last appointment exercise there successfully filled a total of 13 vacancies. Scotland and Northern Ireland are both small jurisdictions and there appear to be factors specific to each country which are affecting recruitment at High Court and equivalent level. The JAB and NIJAC have complained about the quality and size of fields of applicants, and about the reluctance of suitably qualified lawyers to apply for judicial appointment, but it has hitherto been possible to fill vacancies. We think judicial salaries should be restructured to increase the pay differentials at High Court level and above. As noted above, this is intended chiefly to signal the importance of attracting high quality lawyers to the most senior levels of the judiciary. The other main structural change we propose is implementing the repositioning of salary group 6.2 more centrally between 7 and 6.1.

4.71 Our conclusions on the basis of all the evidence available to us are that the judicial salary structure should be as set out in table 4.5 below.

Table 4.5: Proposed salary groups and rates

Current salary group	New salary group	Salary
1	A	£245,000
1.1	B ¹	£235,000
	C	£225,000
2	D	£215,000
3	E	£205,000
4	F	£180,000
5	G	£140,000
6.1	H	£130,000
6.2	I	£115,000
7	J	£103,000

¹ Salary group B contains the Lord President of the Court of Session in Scotland while salary group C contains all the other posts which were within salary group 1.1

Implementation

4.72 In normal circumstances we should expect our proposed new structure to be introduced at the next review date, 1 April 2011. However, we of course recognise that the Government has imposed a pay freeze for the next two years for public sector workers paid more than £21,000 a year. Consequently, we recommend that the proposed new salary structure be implemented once that is consistent with public sector pay policy.

Recommendation 9: We recommend that the proposed new salary structure be implemented once that is consistent with public sector pay policy.

4.73 Nevertheless, we have identified above some posts (including that of the Lord President of the Court of Session) which we consider, on the basis of the evidence and particularly of job evaluation, to be incorrectly graded at present. **We invite the Governments in the relevant parts of the United Kingdom to correct some or all of these anomalies sooner rather than later.**

4.74 In addition, where we recommend that salaries, allowances or management leads should be lower than they currently are, it would seem sensible to apply these new rates to all new entrants to a salary group immediately. It is a constitutional principle, reinforced in legislation in many cases, that the Government may not reduce the pay of judges currently in post, but we recommend that, subject to any legal constraints, from 1 April 2011 new entrants to judicial posts should be paid at the lower of the proposed new rate and the old rate for their posts in order to facilitate transition to the new structure. So judges appointed to London posts in salary group 7 (or new salary group J) from 1 April 2011 should no longer receive the London allowance and salary lead totalling £4,000; judges appointed to posts in group 6.2 (or new salary group I) from that date should be paid £115,000; and judges newly appointed to posts with a salary lead for managing other judges in the same group should receive an additional 5 per cent of salary, even if they replace someone who received a larger lead.

Recommendation 10: We recommend that from 1 April 2011 newly appointed judges should be paid at the lower of the proposed new rate and the old rate for the salary group to which the post is now allocated from 1 April 2011. Those appointed to London posts in group 7 should not receive the London salary lead and allowance and salary leads for newly appointed judges should be 5 per cent.

4.75 Given the pay freeze, we expect to make our next recommendations for changes to judicial pay to take effect from 1 April 2013. We shall take the structure in Table 4.5 as our starting point for that next review, in the course of which we shall need to look at how far that structure has been implemented, as well as at all the normal matters we are required to take into account by our terms of reference.

Pensions

4.76 We have repeatedly drawn attention to the value of judicial pensions and to their importance in recruitment and retention. The advice of our consultants has been that judicial pensions are worth some 35-40 per cent of salary to judges.⁵⁷ Some members of the judiciary have challenged those figures and we accept that there are different methods of valuing benefits, but the fact remains that judicial pensions are worth substantially more than those of Senior Civil Servants or NHS managers, for example. This is because most judges accrue pension at the rate of 1/40th and lump sum at 2.25/40th of final salary. By contrast, members of the SCS (Classic) and NHS (pre-2008) schemes accrue pension at the rate of 1/80th and lump sum at the rate of 3/80th of final salary.

4.77 However, as noted in paragraph 4.27 above, the Government's decision to use CPI rather than RPI from 1 April 2011 to uprate public sector pensions that are deferred or in payment is likely to reduce the value of judicial pensions. We have not been able to obtain any estimate of the precise effect from the MoJ or elsewhere. Of course this change will apply to all public sector pensions – and probably to many in the private sector in time. In addition, it seems likely that judges will, like most other public sector workers, be required to pay higher pension contributions. As noted in paragraph 1.14 of Chapter 1, the Pensions Bill 2011, which was introduced in the House of Lords in January, makes provision for changes to judicial pension arrangements. We shall therefore need to consider the effect of these changes on judges' total reward once the precise numbers

⁵⁷ The method used to assess the value of pension provisions is called the "projected unit method". This calculates the value of the benefits to be accrued over the next year of service, allowing for future increases in pay up to the expected age of retirement or earlier exit from the pension scheme, and expresses that value as a percentage of salary. The value of any risk benefits (i.e. benefits paid on death in service or on ill-health which are not related to accrued service) and accrual of the State Second Pension are then added to this value, and member contributions are deducted. This approach is an appropriate way of valuing pensions of different groups for comparison where the focus is on current accrual of benefits and current profiles at a group rather than an individual level. It also enables the value of the pension to be added to salary and other quantifiable benefits to arrive at total reward. The calculations for the SSRB assumed RPI (not CPI) would be used for revaluing pensions.

are known. It will be particularly important to establish whether changes to judicial pensions affect recruitment or retention and we shall monitor this closely.

Conclusions

- 4.78 A five-yearly review provides an opportunity to look at the whole of the judicial salary structure and at all the developments – legislative, economic, social and other – affecting the work of judges and their recruitment, retention and motivation. The salaried judiciary are a small group – some 2,240 people out of a UK workforce of over 31 million – but they play a vital role in our society. It is essential for the maintenance of the rule of law that we have judges of high quality and integrity. Increasingly, judges tell us their perception is that their work is not sufficiently valued by the Government and indeed by society as a whole.
- 4.79 The labour market for judges is unusual since they can be recruited only from the pool of qualified and experienced lawyers. They are thus unlike most other professional groups which have graduate or post-graduate entry. Judges are typically in their 40s or 50s when they make the move from practising as barristers (advocates in Scotland) or solicitors. This largely explains the relatively high earnings of judges – all are in the top 2 per cent of the national earnings distribution and most are in the top 1 per cent. However, the most successful lawyers in private practice will earn several times the salary of even the highest paid judge.
- 4.80 Research⁵⁸ suggests that pay appears relatively low on the list of reasons that deter suitably qualified people from applying to join the High Court bench and we suggest that the governments in all parts of the United Kingdom continue to investigate why many experienced lawyers are reluctant to apply for judicial posts at that level and to try to address the most serious impediments.
- 4.81 For our part, we shall continue to monitor recruitment, retention and motivation in this as in our other remit groups. We see a danger that the perception that judges are undervalued could be exacerbated by a three year pay freeze coupled with changes which reduce the value of judicial pensions. If this were to begin to impede recruitment, there would be a need to take urgent remedial action.

⁵⁸ A report for the Judicial Executive Board for England and Wales by Professor Dame Hazel Genn on *The attractiveness of senior judicial appointments to highly qualified practitioners* was published early in 2009. This was qualitative research based on interviews with six recently appointed High Court Judges and 29 highly qualified barristers and solicitors. The disadvantages of judicial office perceived by practitioners not seeking judicial appointment were, in rough order of decreasing importance: workload and conditions, requirement to go on circuit, salary, loss of autonomy, a preference to advocate rather than to decide, a temperament more suited to the Bar than the Bench and the perceived isolation and general lack of support in judicial roles. The report is available at: <http://www.judiciary.gov.uk/Resources/JCO/Documents/News%20Release/report-sen-jud-appt.pdf> (accessed on 9 February 2011).

Chapter 5

Very Senior Managers in the National Health Service

Introduction

- 5.1 This is the fourth annual report in which we have reviewed the remuneration of the group of ‘very senior managers’, known as VSMs, working in the National Health Service (NHS). VSMs were added to our remit in July 2007. The VSM remit group includes chief executives, executive directors and other senior managers with board-level responsibility who report to the chief executives in Strategic Health Authorities (SHAs), Special Health Authorities (SpHAs) which provide a national service to the whole of England (e.g. the National Patient Safety Agency), Primary Care Trusts (PCTs) and Ambulance Trusts (ATs).
- 5.2 Other senior managers such as those on medical consultants’ contracts, those working in other English NHS organisations and equivalent senior managers working in NHS organisations in Scotland, Wales or Northern Ireland are not within our remit.

Our remit group

- 5.3 There are an estimated 1,100 VSMs in our remit group and they work in approximately 175 NHS organisations, a slightly lower number than we reported last year, reflecting a reduction in the number of SpHAs and the merger of some PCTs. The Department of Health (DH) has not been able to provide precise figures for the current number of VSMs. However, Table 5.1 below provides an estimate of the number of VSMs in organisations covered by the pay framework, as of May 2009.⁵⁹ A small proportion of VSMs, mainly in London, are still employed on pre-framework contracts at salaries higher than those set out in the framework. The Trusts and Health Authorities which employ our remit group are listed at Appendix B.

Table 5.1: Estimated number of VSMs in the health organisations covered by the pay framework – May 2009

Organisation	PCT	AT	SHA	SpHA	Totals
Chief Executives	152	11	10	9	182
Directors	771	57	56	54	938
Total VSMs	923	68	66	63	1,120

Source: Evidence to the SSRB from DH for 2010 report

Our last report

- 5.4 Last year we recommended that from 1 April 2010 there should be a 2.25 per cent increase in the base pay of those VSMs covered by the pay framework whose current total salary was less than £80,000. We also recommended an increase from 1 April 2010 in the base pay of VSMs covered by the pay framework whose current total salary was between £80,000 and £81,799, to bring their total salary to £81,800. These recommended increases were intended to begin the elimination of pay overlap between VSMs and the level of staff immediately below them. Those staff are on the Agenda for Change (AfC) pay structure which covers most NHS workers other than doctors and dentists. At present,

⁵⁹ The VSM pay framework is the reward strategy for managers in senior positions within NHS organisations. It is designed to provide a framework to enable the recruitment, retention and motivation of high calibre staff, provide local flexibility within a national framework, and be consistent with the principles of other pay reforms in the NHS, such as those on the Agenda for Change (AfC) framework. Available at http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_085524.pdf (accessed on 9 February 2011)

certain VSMs are paid less than the highest AfC grades, some of whom report to VSMs. The Government of the day rejected our recommended increases for VSMs paid less than £81,800. We were disappointed that the Government did not accept these extremely low-cost proposals, which would have affected a small number of people and were aimed at starting to address a real problem of pay overlap between VSMs and the most senior staff who report to them.

- 5.5 We recommended that from 1 April 2010 there should no increase in the base pay of VSMs covered by the pay framework whose current total salary is £81,800 or more. Finally, we recommended that the level of the bonus pot should remain at 5 per cent of the VSMs' paybill for 2010-11.

Department of Health White Paper: *Equity and Excellence: Liberating the NHS*

- 5.6 In previous years we received written and oral evidence from DH but, given the Government's decision to impose a two-year pay freeze on those paid over £21,000 in the public sector, DH has not provided evidence on pay this year. However, we received an update from DH on the changes that are likely to occur to VSMs as a result of the DH White Paper *Equity and Excellence: Liberating the NHS*.⁶⁰
- 5.7 The White Paper proposes that "SHAs will be abolished as statutory bodies during 2012-13". In addition, the Government proposes to "transfer PCT health improvement functions to local authorities and abolish PCTs. It is expected that PCTs will cease to exist from 2013." Ambulance Trusts are expected to become Foundation Trusts and will therefore set their own pay structures. A number of the Special Health Authorities (SpHAs) will be retained. Thus after 2013 those SpHAs will be the only remaining organisations employing VSMs within our remit.
- 5.8 PCT chairmen have said that the uncertainty caused by these changes is already having an impact on VSMs' motivation and morale. Recruitment and retention of staff in VSM organisations will undoubtedly become more difficult as organisations move closer to abolition. There is a risk that the need to hire interim managers (of whom we believe there are already significant numbers, although DH is unable to tell us how many) will result in higher medium term costs for NHS organisations.

Job evaluation

- 5.9 The current pay framework does not use job weight to determine the relative pay levels of VSM roles, unlike AfC which is strictly based on job evaluation. The Wright Report⁶¹ pointed to a lack of clear rationale for the pay of different VSM posts and recommended that there should be a job evaluation of VSMs. We supported that recommendation in our 2009 report and DH accepted it and tendered for consultants to develop a job evaluation scheme. PricewaterhouseCoopers won the contract and began the work. However, following the DH White Paper with its proposals to abolish many of the VSM organisations, the job evaluation is being changed. It is likely to cover only VSMs in SpHAs and the current, unsatisfactory pay system will therefore continue for the other organisations until they are abolished or become Foundation Trusts.

⁶⁰ *Equity and Excellence: Liberating the NHS*. Department of Health, 2010. Available at: http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_117794.pdf (accessed on 9 February 2011)

⁶¹ *Evidence on Very Senior Managers*. Annex A: The NHS Very Senior Managers' pay framework: An independent evaluation. Department of Health, 2008. Available at: http://www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_090068 (accessed on 9 February 2011)

VSM remuneration

5.10 Remuneration arrangements for VSMS include:

- base pay;
- annual performance bonus;
- recruitment and retention premia;
- additional payments for additional responsibilities;
- development pay; and
- pension.

Base pay

5.11 The base pay of individual VSMS is determined by their type of post and the banding of their employing organisation. That banding is in turn determined by weighting factors which differ between the four types of organisation: for SHAs and PCTs the banding factor is “weighted population”, that is, resident population weighted for age and deprivation. For ATs it is expenditure on emergency services and activity, and for SpHAs the organisational weighting factor is a combination of current grant-in-aid and national impact. We normally review VSM pay each year and the Government updates the pay framework with effect from 1 April to reflect the changes it decides to make, after considering our recommendations. However, given the Government’s policy of a two-year pay freeze for higher paid public sector workers, we make no proposals on VSM pay this year.

5.12 Chief executives in SpHAs are paid within a range specified for their organisation’s banding, while chief executives in the other organisations covered by the pay framework are paid at a spot rate. The pay of VSM executive directors is expressed as a percentage of their chief executive’s pay. Tables 5.2 to 5.4 below show the basic pay of chief executives and executive directors.

Table 5.2: Base pay of Chief Executives of PCTs, ATs and SHAs from 1 April 2009

	PCT Chief Executives	AT Chief Executives	SHA Chief Executives
London	not applicable	£150,351	£204,048
Band 5	£149,657	not applicable	n/a
Band 4	£138,571	not applicable	n/a
Band 3	£127,486	£128,873	£182,570
Band 2	£116,401	£121,355	£171,831
Band 1	£105,315	£112,764	£161,091

Table 5.3: Base pay of executive directors of PCTs, ATs and SHAs as percentages of the organisation’s Chief Executive’s pay from 1 April 2009

Examples of roles in organisation	PCT Directors	AT Directors	SHA Directors
Finance	75%	75%	75%
HR & Workforce Development	60%	60%	70%
Nursing	65%		65%
Information Management and Technology	60%		60%
Corporate Affairs	55%		55%

Table 5.4: Base pay ranges of Chief Executives and executive directors of SpHAs from 1 April 2009

	Chief Executives		Directors
	From	To	
Group 1	£162,878	£183,894	Executive directors in SpHAs are paid between 55 per cent and 75 per cent of the mid-point of the chief executive's pay.
Group 2	£141,861	£162,878	
Group 3	£99,829	£141,861	

5.13 As noted above, NHS managers immediately below the VSM group are on the AfC pay scales for non-medical NHS staff. They tend to be in the top two pay bands (bands 8 and 9). From 1 April 2009, the maxima of the pay ranges for bands 8 and 9 were £79,031 and £95,333 respectively. AfC staff working in London are also entitled to a supplement of up to a maximum of £6,080, so the London range maxima for bands 8 and 9 are, respectively, £85,111 and £101,413. This compares with, for example, corporate affairs directors in a band 1 PCT with a maximum salary of £57,923, or a finance director in a band 3 PCT or Ambulance Trust who is paid around £96,000.

Performance pay

5.14 The levels of bonus payments are dependent on the performance category in which the VSM has been placed. There are currently four categories (A to D), as set out in Table 5.5 below.

Table 5.5: Annual pay award by performance category

Category	Base pay ¹	Bonus
A Outstanding	Annual uplift consolidated into salary	Up to 5 per cent (non-consolidated)
B Exceeds expectations	Annual uplift consolidated into salary	Up to 5 per cent (non-consolidated)
C Satisfactory	Annual uplift consolidated into salary	None
D Not satisfactory	No increase	None

Notes:

1 In practice VSMs have not received an uplift in base pay since 2009: there was no increase in 2010-11 and there will be no increase during the two-year public sector pay freeze (for those earning over £21,000 a year) which applies from April 2011.

5.15 If an organisation fails to meet its financial targets, all VSMs in that organisation are automatically placed in category D ("not satisfactory" performance), regardless of their individual performance, and receive no uplift in salary or bonus payment. While we have repeatedly argued that this is unfair on individual high performing VSMs and may make it harder for failing organisations to recruit the capable senior managers they need to improve their performance, the Government has refused to change the rule.

5.16 The bonus pot has remained at 5 per cent of paybill since the introduction of the pay framework. NHS organisations determine which individuals will receive a bonus payment annually. Bonus payments are non-pensionable, one-off payments. This year the percentage of VSMs who can receive a bonus has been reduced to 25 per cent, which means that many managers who would have received a bonus under previous arrangements will now not do so. In 2009-10 the bonus spend for SpHAs was 2.28 per cent of the paybill. DH have been unable to provide bonus spend figures for SHAs, PCTs and Ambulance Trusts this year.

Recruitment and retention premia

5.17 Recruitment and retention premia (RRP) may be used when market pressures lead to difficulties in recruiting and retaining staff at the normal base pay rate for the post. Employing organisations may pay premia of up to 30 per cent of base pay; such premia may be one-off, fixed-term or long-term, depending on job market conditions. One-off or fixed-term RRP do not count towards any other payment (e.g. pension), unlike long-term RRP which are pensionable and also count for other payments linked to basic pay (e.g. performance bonus payments). DH is unable to tell us how many VSMs received RRP or the total level paid. However, in 2009 72 per cent of VSMs in Ambulance Trusts and 73 per cent of VSMs in London PCTs received long-term RRP, indicating significant use of RRP by NHS organisations. We have no reason to believe that there has been a reduction in the use of RRP since 2009.

Payment for additional responsibilities

5.18 Individuals taking on significant extra responsibilities are eligible for additional payments linked to the proportion of time spent on additional work. Such payments may be up to 10 per cent of basic salary. Additional payments may be pensionable and may also count towards the calculation of bonus payments where the additional responsibilities form part of the core role. DH's data collection exercise in 2009 revealed that much use was made of payment for additional responsibilities, particularly in London, where 76 per cent of VSMs in the data collection received payment for additional responsibilities. Again, we have no reason to believe that there has been a reduction in the use of payment for additional responsibilities since 2009.

Development pay

5.19 Within the pay framework there is flexibility to pay a salary below the rate for the job, so-called "development pay", to newly promoted or appointed VSMs below chief executive. Such payment continues for a fixed period while the individual develops the skills required for the role. This facility appears to be rarely used by NHS organisations.

Pensions

5.20 Changes to the NHS pension scheme in England and Wales came into effect on 1 April 2008. Existing NHS staff could choose to transfer to the new scheme. Both schemes are defined benefit schemes linked to final salary but the new scheme has higher minimum and normal pension ages and a higher accrual rate but no automatic lump sum. Further details are set out in Table 5.6.

Table 5.6: NHS pension schemes available to VSMs

	NHS pension scheme prior to 1 April 2008	NHS pension scheme from 1 April 2008
Accrual rate	1/80 th	1/60 th
Lump sum	3/80 ^{ths} of pension for each year of service	Option to exchange part of pension for cash at retirement, up to 25% of capital value. Some members may have a compulsory amount of lump sum
Normal pension age	60	65
Minimum pension age	50	55
Employer contribution	14 per cent	14 per cent

- 5.21 Until 1 April 2008, VSMS contributed 6 per cent of their earnings to the pension scheme. The new scheme introduced tiered employee contributions depending on salary level as set out in Table 5.7 below.

Table 5.7: NHS pension scheme contribution rates applicable to VSMS from 1 April 2010

Contribution rate	Salary level for existing VSMS remaining in the same post ¹	Salary level of new VSMS and those moving to new jobs ²
8.5 per cent	Earning £107,847 plus	Earning £110,274 plus
7.5 per cent	Earning £68,393 - £107,846	Earning £69,932 - £110,273
6.5 per cent	Earning less than £68,393	Earning less than £69,932

Notes:

1 VSMS in pensionable NHS employment on 31 March 2010 and continuing in the same employment.

2 New joiners and VSMS who have changed jobs (including promotion) on or after 1 April 2010.

- 5.22 The Government may decide to make further changes to VSMS' pension arrangements following the completion of Lord Hutton's review of public sector pensions.⁶² We will take any changes to VSMS' pension arrangements into account when assessing the value of the total reward for VSMS, in future reports.

Evidence

- 5.23 We have received written evidence from NHS Employers and Managers in Partnership (MiP). We did not take oral evidence from these organisations. We did not receive formal evidence from DH, or any other interested party, because we are not making pay recommendations, owing to the public sector pay freeze.
- 5.24 NHS Employers represent NHS organisations in England on workforce issues. Their evidence is based on the results of a survey sent to PCT chairmen. NHS Employers felt that the developments outlined in the White Paper were likely to have an impact on the recruitment and retention of key executives during the period of transition. NHS Employers also felt that there would be an impact on the morale of the VSM group. A number of PCT chairmen have reported a drop in morale, which they attributed to concern about lack of job security.
- 5.25 Managers in Partnership (MiP) is the trade union for senior managers in the NHS, at AfC band 8 and above, including VSMS, and has drawn upon its experience of working with VSMS to provide us with evidence. MiP informed us that PCTs and SHAs are finding it increasingly difficult to recruit and retain good staff, owing to the current climate of rapid change, increased workloads and the plans to abolish organisations. MiP noted that there had been a low take-up of a Mutually Agreed Resignation Scheme (MARS) which had been set up to manage the downsizing of NHS organisations. The scheme ran from September to October 2010 and paid half a month's salary for every year of service to those who agreed to resign under it. The low take-up of the scheme may result in NHS organisations having to make more senior managers compulsorily redundant as part of the downsizing of their organisations.
- 5.26 In addition, MiP reported that managers would expect their salaries to catch up with comparable roles in the private sector once the pay freeze has ended. MiP argued that the Government's preference for local pay determination ought to be set within a national framework for pay.

⁶² *Independent Public Service Pensions Commission: Interim Report*. HM Treasury, 2010. Available at http://www.hm-treasury.gov.uk/d/hutton_pensionsinterim_071010.pdf (accessed on 9 February 2011)

Conclusion

- 5.27 The most significant changes affecting VSMs this year have been the new Government's plans for rapid reform of the NHS structure and the public sector pay freeze. Both of these developments will have an impact on recruitment, retention and morale of VSMs. The Government's pay freeze means that we make no recommendations on pay for 2011 and 2012. However, given the significant changes occurring to the VSM group, we shall continue to monitor recruitment, retention and morale closely. Evidence from PCT chairmen shows that VSM members' morale is already being adversely affected.
- 5.28 We shall seek more information on the changing size of the VSM group as the details of the reforms to VSM organisations emerge. By the end of the NHS reorganisation and Government pay freeze, SpHAs will be the only organisations left with VSMs, who will probably number well below 100 in total.

Appendix A

List of those who gave evidence to the SSRB

The senior civil service

Oral evidence:

Cabinet Secretary and Head of the Home Civil Service
FDA and Prospect (joint union evidence)

Senior officers of the armed forces

The Ministry of Defence

The judiciary

Lord Chancellor and Secretary of State for Justice
The Lord Chief Justice of England and Wales; accompanied by the Chancellor of the High Court
and a judge from the Chancery Division of the High Court.

Those providing evidence to the Judicial Sub-committee:

Written and/or oral evidence:

Lord President of the Court of Session
Lord Chief Justice of Northern Ireland
Senior President of the Tribunals Service
Lord Justice Clerk
Lord Justices of the Court of Appeal
Association of Her Majesty's High Court Judges
Presiding County Court Judge in Northern Ireland
President, Employment Tribunals (England and Wales)
President, Employment Tribunals (Scotland)
Upper Tribunal Judges (from the Administrative Appeals Chamber, the Immigration and Asylum
Chamber and the Tax and Chancery Chamber)
Council of Her Majesty's Circuit Judges
Circuit Judges of Southwark Crown Court
Council of Her Majesty's County Court Judges in Northern Ireland
Sheriffs' Association
President and Vice President of Industrial Tribunals and Fair Employment Tribunals in
Northern Ireland
Chief Social Security Commissioner and Social Security Commissioner in Northern Ireland
Valuer Member of the Lands Tribunal for Northern Ireland
Presiding District Judge (Magistrates' Court) in Northern Ireland
The Association of High Court Masters (including Masters of the Queen's Bench Division of the
High Court, Registrars in Bankruptcy of the High Court, Cost Judges of the Senior Courts
Costs Office, Senior and Chief Masters of the High Court)
Masters of the High Court (Northern Ireland)
Chairmen of the Tribunals and Fair Employment Tribunals in Northern Ireland
Council of Employment Judges
Council of Appeals Tribunal Judges
Salaried Judges of the First-Tier Tribunal (Tax Chamber)
Association of Her Majesty's District Judges
Northern Ireland District Judges
District Judges of the Principal Registry of the Family Division
District Judges based at Birmingham Civil Justice Centre and Birmingham Family Court
Judicial Appointments Commission (England and Wales)

Judicial Appointments Board, Scotland
Northern Ireland Judicial Appointments Commission
Scottish Government
Department for Employment and Learning, Northern Ireland
Law Society

A further 11 pieces of written evidence from other individual judicial post holders, including Consultative Group members, in addition to 6 responses to the online survey.

Very Senior Managers in the National Health Service

NHS Employers
Managers in Partnership

Appendix B

List of NHS organisations^{1,2,3,4} employing VSMs in SSRB's remit group

Strategic Health Authorities (SHAs)

East Midlands SHA	South Central SHA
East of England SHA	South East Coast SHA
London SHA	South West SHA
North East SHA	West Midlands SHA
North West SHA	Yorkshire and the Humber SHA

Special Health Authorities

National Institute for Health and Clinical Excellence	NHS Litigation Authority
National Patient Safety Agency	NHS Professionals Special Health Authority
National Treatment Agency	The Health and Social Care Information Centre
NHS Blood and Transplant	The NHS Institute for Innovation and Improvement
NHS Business Services Authority	

Ambulance Trusts⁵

East Midlands Ambulance Service NHS Trust	South Central Ambulance Service NHS Trust
East of England Ambulance Service NHS Trust	South East Coast Ambulance Service NHS Trust
Great Western Ambulance Service NHS Trust	South Western Ambulance Service NHS Trust
London Ambulance Service NHS Trust	West Midlands Ambulance Service NHS Trust
North East Ambulance Service NHS Trust	Yorkshire Ambulance Service NHS Trust
North West Ambulance Service NHS Trust	

¹ <http://www.nhs.uk/servicedirectories/Pages/strategiehealthauthoritylisting.aspx> (accessed on 10 February 2011)

² <http://www.nhs.uk/servicedirectories/Pages/specialhealthauthoritylisting.aspx> (accessed on 10 February 2011)

³ <http://www.nhs.uk/servicedirectories/Pages/ambulancetrustlisting.aspx> (accessed on 10 February 2011)

⁴ <http://www.nhs.uk/servicedirectories/Pages/primarycaretrustlisting.aspx> (accessed on 10 February 2011)

⁵ Ambulance Services on the Isle of Wight are provided by the Isle of White NHS PCT

Primary Care Trusts (PCTs)

Ashton, Leigh and Wigan PCT	Barking and Dagenham PCT
Barnet PCT	Barnsley PCT
Bassetlaw PCT	Bath and North East Somerset PCT
Bedfordshire PCT	Berkshire East PCT
Berkshire West PCT	Birmingham East and North PCT
Blackburn with Darwen PCT	Blackpool PCT
Bolton PCT	Bournemouth and Poole Teaching PCT
Bradford and Airedale Teaching PCT	Brent Teaching PCT
Brighton and Hove City PCT	Bristol PCT
Bromley PCT	Buckinghamshire PCT
Bury PCT	Calderdale PCT
Cambridgeshire PCT	Camden PCT
Central and Eastern Cheshire PCT	Central Lancashire PCT
City and Hackney Teaching PCT	Cornwall and Isles of Scilly PCT
County Durham PCT	Coventry Teaching PCT
Croydon PCT	Cumbria Teaching PCT
Darlington PCT	Derby City PCT
Derbyshire County PCT	Devon PCT
Doncaster PCT	Dorset PCT
Dudley PCT	Ealing PCT
East Lancashire Teaching PCT	East Riding of Yorkshire PCT
East Sussex Downs and Weald PCT	Eastern and Coastal Kent PCT
Enfield PCT	Gateshead PCT
Gloucestershire PCT	Great Yarmouth and Waveney PCT
Greenwich Teaching PCT	Halton and St Helens PCT
Hammersmith and Fulham PCT	Hampshire PCT
Haringey Teaching PCT	Harrow PCT
Hartlepool PCT	Hastings and Rother PCT
Havering PCT	Heart of Birmingham Teaching PCT
Herefordshire PCT	Hertfordshire PCT
Heywood, Middleton and Rochdale PCT	Hillingdon PCT
Hounslow PCT	Hull Teaching PCT
Isle of Wight NHS PCT	Islington PCT
Kensington and Chelsea PCT	Kingston PCT
Kirklees PCT	Knowsley PCT
Lambeth PCT	Leeds PCT
Leicester City PCT	Leicestershire County and Rutland PCT

Lewisham PCT	Lincolnshire Teaching PCT
Liverpool PCT	Luton PCT
Manchester PCT	Medway PCT
Mid Essex PCT	Middlesbrough PCT
Milton Keynes PCT	Newcastle PCT
Newham PCT	Norfolk PCT
North East Essex PCT	North Lancashire Teaching PCT
North Lincolnshire PCT	North Somerset PCT
North Staffordshire PCT	North Tyneside
North Yorkshire and York PCT	Northamptonshire Teaching PCT
Nottingham City PCT	Nottinghamshire County Teaching PCT
Oldham PCT	Oxfordshire PCT
Peterborough PCT	Plymouth Teaching PCT
Portsmouth City Teaching PCT	Redbridge PCT
Redcar and Cleveland PCT	Richmond and Twickenham PCT
Rotherham PCT	Salford PCT
Sandwell PCT	Sefton PCT
Sheffield PCT	Shropshire County PCT
Somerset PCT	South Birmingham PCT
South East Essex PCT	South Gloucestershire PCT
South Staffordshire PCT	South Tyneside PCT
South West Essex PCT	Southampton City PCT
Southwark PCT	Stockport PCT
Stockton-on-Tees Teaching PCT	Stoke on Trent PCT
Suffolk PCT	Sunderland Teaching PCT
Surrey PCT	Sutton and Merton PCT
Swindon PCT	Tameside and Glossop PCT
Telford and Wrekin PCT	Tower Hamlets PCT
Trafford PCT	Wakefield District PCT
Walsall Teaching PCT	Waltham Forest PCT
Wandsworth PCT	Warrington PCT
Warwickshire PCT	West Essex PCT
West Kent PCT	West Sussex PCT
Western Cheshire PCT	Westminster PCT
Wiltshire PCT	Wirral PCT
Wolverhampton City PCT	Worcestershire PCT

Appendix C

Website references for publications

SSRB reports from 2001 onwards can be found at:

http://www.ome.uk.com/SSRB_Reports.aspx

Information submitted to the SSRB by the Cabinet Office

<http://www.cabinetoffice.gov.uk/>

Evidence submitted to the SSRB by the Ministry of Justice

<http://www.justice.gov.uk/response-letter-ssrb-review.pdf>

Written evidence from NHS Employers

<http://www.nhsemployers.org/PayAndContracts/AnnualPayReview/Pages/VerySeniorManagers201112.aspx>

Written evidence from Managers in Partnership

http://www.miphealth.org.uk/home/Senior_managers_pay.aspx

Appendix D

Existing salaries for the four remit groups

Senior civil servants (as at 1 April 2010)

Pay band	Minimum	Reference points	Recruitment & Performance Ceiling (RPC)	Numbers in post
3	£101,500	£140,000	£208,100	169
2	£82,900	£120,000	£162,500	749
1A	£67,600	£100,000	£128,900	175
1	£58,200	£90,000	£117,800	3,096
				4,189
Permanent Secretaries: £141,800 to £277,300				41

Senior officers of the armed forces

Scale point	Value of scale points (April 2010 – March 2011)			
	CDS	4-star	3-star ²	2-star ²
6		£185,184	£152,642	£119,214
5		£181,553	£148,265	£116,924
4	£252,698	£177,993	£144,016	£114,678
3	£247,743	£173,652	£138,569	£112,476
2	£242,885	£169,416	£132,084	£110,317
1 (Minimum)	£238,123	£165,284	£125,908	£108,201
Numbers in post ¹	1	9	28	93

¹ Numbers in post supplied by the MoD, and relate to numbers in post as of 1 July 2010.

² This includes X-Factor which is applied at the rate of £2,383, this sum being equivalent to 25 per cent of the cash value of X-Factor at the top of the OF4 pay scale as proposed by AFPRB from 1 April 2010.

Members of the judiciary

Salary group	Salary from 1 April 2010	Number in post on 31 March 2010
1	£239,845	1
1.1	£214,165	4
2	£206,857	15
3	£196,707	49
4	£172,753	140
5	£138,548	96
6.1	£128,296	860
6.2	£120,785	36
7	£102,921	1,039
	Total	2,240

Sources: Ministry of Justice; Scottish Government; Northern Ireland Department of Justice.

Chief Executives of PCTs, ATs, SHAs and SpHAs – base pay from 1 April 2010

	PCT Chief Executives ¹	AT Chief Executives ²	SHA Chief Executives ¹
London	not applicable	£150,351	£204,048
Band 5	£149,657	not applicable	not applicable
Band 4	£138,571	not applicable	not applicable
Band 3	£127,486	£128,873	£182,570
Band 2	£116,401	£121,355	£171,831
Band 1	£105,315	£112,764	£161,091
SpHA Chief Executives			
(aligned to arrangements for SHA and PCT CEs)³			
	From	To	
Group 1	£162,878	£183,894	
Group 2	£141,861	£162,878	
Group 3	£99,829	£141,861	

Notes:

1 The organisation weighting factor used for banding is weighted population i.e. resident population weighted for age and deprivation.

2 The organisation weighting factors used for banding are expenditure on emergency services, and activity.

3 The organisational weighting factor is a combination of current grant in aid and national impact.

Appendix E

Existing base salaries of Permanent Secretaries in £5,000 bands (as at February 2011)

Band £	Number in Band	Office Holder
235,000 – 239,999	1	Cabinet Secretary and Head of Home Civil Service
230,000 – 234,999	–	1st Parliamentary Counsel
225,000 – 229,999	1	
220,000 – 224,999	–	
215,000 – 219,999	–	
210,000 – 214,999	1	Chief Executive – National Health Service
205,000 – 209,999	–	
200,000 – 204,999	–	
195,000 – 199,999	–	
190,000 – 194,999	–	
185,000 – 189,999	1	Chief Executive – Jobcentre Plus
180,000 – 184,999	7	Permanent Secretaries: – Ministry of Justice – Dept for Education – Dept Work and Pensions – Ministry of Defence – Foreign and Commonwealth Office – Home Office National Security Advisor
175,000 – 179,999	2	Permanent Secretaries: – Scottish Government – HM Treasury
170,000 – 174,999	4	Permanent Secretaries: – HM Revenue and Customs – Dept for International Development – Department for Communities and Local Government – Department for Transport

165,000 – 169,999	3	Chief Scientific Adviser – Business, Innovation and Skills Permanent Secretaries: – Dept Energy and Climate Change – Secret Intelligence Service
160,000 – 164,999	6	Permanent Secretaries: – Business, Innovation and Skills – Department of Health – Government Communications – Welsh Assembly Government 2nd Permanent Secretary – HM Revenue and Customs Chairman of the Joint Intelligence Committee and Head of Intelligence Assessment
155,000 – 159,999	4	Permanent Secretaries: – Security Service – Department for Culture Media & Sport Head of International Economic Affairs and Europe, Cabinet Office Treasury Solicitor
150,000 – 154,999	3	Permanent Secretaries: – Northern Ireland Civil Service – No.10 2nd Permanent Secretary – HM Treasury
145,000 – 149,999	1	Permanent Secretary – Government Communications HQ
140,000 – 144,999	4	Permanent Secretary – Office for National Statistics Chief Scientific Adviser – MoD (2nd Permanent Secretary) 2nd Permanent Secretary – Ministry of Defence Chief Operating Officer – Cabinet Office

Appendix F

Judicial salary structure at 31 March 2010⁶

Group 1

Lord Chief Justice

Group 1.1

Lord Chief Justice of Northern Ireland
Lord President of the Court of Session
Master of the Rolls
President of the Supreme Court

Group 2

Chancellor of the High Court⁷
Deputy President of the Supreme Court
Justices of the Supreme Court
Lord Justice Clerk
President of the Family Division
President of the Queen's Bench Division⁸
Senior President of Tribunals

Group 3

Inner House Judges of the Court of Session
Lords Justices of Appeal
Lords Justices of Appeal (Northern Ireland)

Group 4

High Court Judges⁹
High Court Judges (Northern Ireland)¹⁰
Outer House Judges of the Court of Session
Vice-Chancellor of the County Palatine of Lancaster¹¹

Group 5

Acting President, Asylum & Immigration Tribunal
Chairman, Criminal Injuries Compensation Appeal Panel
Chairman, Scottish Land Court / President, Lands Tribunal for Scotland
Chamber Presidents of First Tier Tribunals, Health, Education & Social Care Chamber and Social Entitlement Chamber
Chief Social Security Commissioner (Northern Ireland)
Circuit Judges at the Central Criminal Court in London (Old Bailey Judges)
Former Chief Asylum Support Adjudicator, Asylum Support Tribunal (now judge of the First Tier Tribunal, Social Entitlement Chamber and deputy Judge of the Upper Tribunal)¹²

⁶ Alphabetical order within salary group.

⁷ Formerly known as Vice-Chancellor until 1 October 2005.

⁸ Post became effective on 3 October 2005.

⁹ Includes the posts of President, Asylum and Immigration Tribunal and President, Employment Appeals Tribunal, both of whom are High Court Judges.

¹⁰ High Court Judges in Northern Ireland are also known as Puisne Judges.

¹¹ Post currently held by a High Court Judge.

¹² This post is paid 108 per cent of the Group 5 salary.

Former President, Care Standards Tribunal (now Judge of the First Tier Tribunal, Health Education and Social Care Chamber and Deputy Judge of the Upper Tribunal)
Judge Advocate General
Permanent Circuit Judge, Employment Appeals Tribunal
President, Employment Tribunals (Eng & Wales)
President, Employment Tribunals (Scotland)
President, First Tier Tax Chamber
President, Lands Chamber of the Upper Tribunal
Recorder of Belfast¹³
Recorder of Liverpool
Recorder of Manchester
Senior Circuit Judges
Senior District Judge (Chief Magistrate)
Sheriffs Principal
Specialist Circuit Judges, Chancery, Mercantile, Patents & Business List
Specialist Circuit Judges, Technology & Construction Court
Vice-President of the Upper Tribunal (Immigration and Asylum Chamber) (former Deputy President, Asylum and Immigration Tribunal)

Group 6.1

Chief Bankruptcy Registrar
Chief Chancery Master
Circuit Judges
County Court Judges (Northern Ireland)¹⁴
Deputy Presidents of the First Tier Tribunal (Health, Education & Social Care Chamber)
Former Deputy President, Care Standards Tribunal
Judge of the First Tier Tribunal and Deputy Judge of the Upper Tribunal (Former President, Charity Tribunal)
Judge of First Tier Tribunal Social Entitlement Chamber (Former Regional Chairmen, Appeals Tribunals)
President, Appeals Tribunal (Northern Ireland)
President, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)
Regional Employment Judges (formerly Regional Chairmen, Employment Tribunal)
Registrar of Criminal Appeals
Senior Costs Judge
Senior District Judge, Principal Registry of the Family Division
Senior Immigration Judges
Senior Judge of the Court of Protection
Senior Queen's Bench Master
Sheriffs
Social Security and Child Support Commissioner (Northern Ireland)
Upper Tribunal Judges, Administrative Appeals Chamber, Immigration and Asylum Chamber and Tax and Chancery Chamber.
Vice-President, Employment Tribunal (Scotland)

¹³ Current post-holder receives a salary of 108% of Group 5 rate under arrangement established from 1 April 2002.

¹⁴ Post holders are paid the salary for Group 5 so long as they are required to carry out significantly different work from their counterparts elsewhere in the UK.

Group 6.2

Adjudicator, HM Land Registry
Chairman, Mental Health Review Tribunal (Wales)¹⁵
Deputy Senior District Judge (Magistrates' Courts)
Designated Immigration Judges
Former Deputy Chief Asylum Support Adjudicator, Asylum Support Tribunal (now Deputy Principal Judge of the First Tier Tribunal, Social Entitlement Chamber)
Former Regional Chairmen, Mental Health Review Tribunals (England)
Members, Lands Tribunal (Northern Ireland)
Members, Lands Tribunal (Scotland)
Members, Upper Tribunal (Lands)
President, War Pensions and Armed Forces Compensation Chamber
Vice-Judge Advocate General
Vice-President, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)

Group 7¹⁶

Assistant Judge Advocates General
Bankruptcy Registrars
Chairmen, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)
Chancery Masters
Chief Medical Member, First Tier Tribunal, Social Entitlement Chamber
Coroner, Northern Ireland
Costs Judges
District Judges
District Judges of the Principal Registry of the Family Division
District Judges (County Court) (Northern Ireland)
District Judges (Magistrates' Courts)
District Judges (Magistrates' Courts) (Northern Ireland)
Employment Judges (England and Wales and Scotland)
Former Asylum Support Adjudicators (now Judges of the First Tier Tribunal, Social Entitlement Chamber)
Former Deputy President, Pensions Appeal Tribunal (now First Tier Tribunal Judge, War Pensions and Armed Forces Chamber)
Former District Chairmen, Social Security & Child Support Appeals Tribunal (now First Tier Tribunal Judges, Social Entitlement Chamber)
High Court Masters (Northern Ireland)
Immigration Judges
Legal Member, Appeals Tribunal (Northern Ireland)
Presiding District Judge (Magistrates' Courts) (Northern Ireland)¹⁷
Queen's Bench Masters
Salaried Judges of the First Tier Tribunal (Health, Education & Social Care Chamber, Social Entitlement Chamber, Tax Chamber)
Senior Coroner, Northern Ireland¹⁸

¹⁵ The Chairman of the Mental Health Review Tribunal (Wales) also falls in this group, but the Welsh Assembly Government is responsible for this post.

¹⁶ Group 7 post-holders in London are paid an additional £2,000 salary lead and an additional £2,000 London allowance.

¹⁷ This post is paid at 108 per cent of the Group 7 salary.

¹⁸ This post is paid at 110 per cent of the Group 7 salary.

Appendix G

Terms of Reference for the Review of the Judicial Salary Structure

1. The Review Body on Senior Salaries will carry out a review of the salary structure for the judiciary in England and Wales, Scotland and Northern Ireland with a view to submitting a report early in 2011.

Purposes of the review

2. The purposes of the review are:
 - (i) to determine whether the current structure of judicial salary groups continues to meet the needs of the judicial systems and those who work in them;
 - (ii) to consider whether total reward for each salary group is correctly set in order to recruit, retain and motivate suitably able and qualified people to exercise judicial functions;
 - (iii) to consider whether there are newly created judicial posts which need to be allocated to salary groups and whether there is evidence to demonstrate that any existing judicial posts should be placed in different salary groups;
 - (iv) to consider whether there have been any significant changes in the relative job weight of the posts in different salary groups since the last review, and if so whether such changes justify adjustment of the differentials between salary groups;
 - (v) to consider the evolution of judicial total reward and that of comparable professions and occupations since the last review; and
 - (vi) to make recommendations as appropriate in the light of evidence received and the review body's judgement.

Scope of the review

3. The review covers salaried judicial posts in England, Wales, Scotland and Northern Ireland with the exception of stipendiary magistrates in Scotland and devolved tribunals in Scotland. As indicated in the SSRB's 2009 report, the SSRB does not intend to revisit the recent job evaluation for the Tribunals' judiciary when it carries out the major review. However, some roles had still to be fully defined at that point and these will need evaluating, as will any which have changed significantly. The SSRB will also consider any relevant evidence on how posts have been affected by the changes in structure of the Tribunals Service.

Process

4. The SSRB may delegate activities such as the taking of evidence to its Judicial Sub-Committee. The Sub-Committee shall consult a Consultative Group comprising:
 - four representatives nominated by the Lord Chief Justice for England and Wales;
 - two representatives nominated by the Lord President of the Court of Session;
 - one representative nominated by the Lord Chief Justice for Northern Ireland;
 - two representatives nominated by the Senior President of Tribunals;
 - two representatives nominated by the Ministry of Justice;
 - two representatives nominated by the Scottish Government;
 - one representative nominated by the Court Service for Northern Ireland.

5. The purpose of the Consultative Group is to provide advice to the SSRB on the organisation and operation of the judiciary as they affect the review, and on the definition and design of any research which the SSRB may commission as part of the review.
6. Meetings of the Sub-Committee and the Consultative Group shall be chaired by the Chairman of the Sub-Committee, or in his absence by another member of the Sub-Committee.
7. The SSRB will invite written evidence from members of the judiciary and from others, including the Government, with an interest in judicial salaries. It will also take oral evidence and may consult further (in mid 2010) if there are questions on which it wishes to receive more evidence before drafting its final report.

Appendix H

Questions asked in the Consultation Document

Question 1: PricewaterhouseCoopers stated they did not believe that fundamental changes to the salary groups are needed. Do you agree?

Question 2: In light of the results from the National Centre for Social Research's surveys of recently-appointed judges and barristers:

- i. Do you think pay for salary group 7 judges is at the appropriate level to recruit, retain and motivate suitable candidates for judicial posts? Please explain your reasons.
- ii. Do you think pay for salary group 6.1 judges is at the appropriate level to recruit, retain and motivate suitable candidates for judicial posts? Please explain your reasons.
- iii. Do you think pay for salary group 4 judges is at the appropriate level to recruit, retain and motivate suitable candidates for judicial posts? Please explain your reasons.
- iv. Do you have any comments on the suitability of levels of pay in any other salary group to recruit, retain and motivate candidates for judicial posts? Please give details.

Question 3: The job evaluation exercise did not take into account changes in workload. PricewaterhouseCoopers passed any comments on workload which were made in the job evaluation survey to SSRB. Is there anything further you wish to add?

Question 4: Are there any further factors which may affect recruitment, retention and motivation that you wish to comment on? (For example: work-life balance, the nature of judicial work, geographical working location, security.)

Question 5: The job evaluation which PricewaterhouseCoopers carried out identified a number of posts as having a job weight which would place them in a different salary group from their current one. Please state whether you agree with each potential change and why:

- i. Should the posts of Surveyor Member of the Lands Tribunal in Scotland and Surveyor Member of the Lands Tribunal in Northern Ireland be moved to salary group 7?
- ii. Should the post of Chairman of the Industrial Tribunals and Fair Employment Tribunal in Northern Ireland be moved to salary group 6.2?
- iii. Should the post of Chairman of the Mental Health Tribunal for Wales be moved to salary group 6.1?
- iv. Should the post of Judge of the Upper Tribunal be moved to salary group 5?
- v. Should the post of District Judge of the Principal Registry of the Family Division be moved to salary group 6.2?
- vi. Should the post of Presiding District Judge (Magistrates Court) in Northern Ireland be moved to salary group 6.2?
- vii. Should the post of County Court Judge in Northern Ireland be paid at the rate for salary group 6.1?
- viii. Should the post of Presiding County Court Judge / Recorder of Belfast in Northern Ireland be paid at the rate for salary group 5?
- ix. Should Circuit Judges based at Southwark Crown Court be classed as Specialist Circuit Judges, and placed in salary group 5?

- x. Should the post of Vice-President of the Queen's Bench Division / Deputy Head of Criminal Justice be moved to salary group 2?
- xi. Should the post of Deputy President of the Supreme Court be paid at 102 per cent of the rate for salary group 2?
- xii. Should the post of Lord President of the Court of Session be placed in a new salary group paid at 104 per cent of the rate for salary group 1.1?

Question 6: Do you agree with PricewaterhouseCoopers' comments on:

- i. Circuit Judges with management responsibilities?
- ii. The Coroner and Senior Coroner in Northern Ireland?
- iii. Senior District Judge of the Principal Registry of the Family Division?
- iv. President of the Supreme Court?

Question 7: Is there any comment you wish to make about the job weight and allocation of any other role covered by the PricewaterhouseCoopers report?

Question 8: Do you have any further comments on any post of the salaried judiciary of the United Kingdom?

Question 9: Is there any further comment you wish to make as part of this consultation?

Appendix I

Glossary of terms and abbreviations

General

AFPRB	Armed Forces' Pay Review Body.
ASHE	Annual Survey of Hours and Earnings.
Average	The sum of a set of values divided by the number of values.
AWE	Average Weekly Earnings.
AEI	Average Earnings Index.
Base pay	Basic salary, excluding non-consolidated bonuses, allowances, value of pensions, etc.
Comprehensive Spending Review (CSR)	A Comprehensive Spending Review is a process by which HM Treasury sets resource limits and priorities, covering the period of a number of years. The 2010 Comprehensive Spending Review covers the period from 2011-12 to 2014-15.
CPI ¹⁹	Consumer Prices Index.
GDP	Gross Domestic Product.
Hutton Review of Fair Pay in the Public Sector	Led by Will Hutton, a review into pay disparity between managers and the lowest paid in the public sector.
Independent Public Service Pensions Commission (IPSPC)	Led by Lord John Hutton, a review into the future of pension provision in the public sector.
Job weight	The relative level, complexity and responsibility of different jobs/positions.
Median	The middle value in a set of observations ranked in ascending order, that is, the value that divides the data into two parts of equal size.
MPC	Monetary Policy Committee.
OBR	Office for Budget Responsibility. Formed in May 2010 to make an independent assessment of the public finances and the economy for each Budget and Pre-Budget Report.
Pay band	A salary range with a minimum and maximum within which posts are allocated according to job weight.
Performance related pay	Any method by which links are established between the assessed performance of an individual in a job and what he or she receives in salary, bonus payments, incentives or benefits.
RPI ¹⁹	Retail Prices Index.
RPIX	Retail Prices Index excluding mortgage interest payments.
SSRB	Senior Salaries Review Body.

¹⁹ RPI and CPI are the two main measures of inflation in the UK. They each measure the average change in the prices of goods and services bought for the purpose of consumption by the vast majority of households in the UK.

Senior civil service

Civil Service Commissioners	Oversee appointments to senior positions within the SCS to ensure fair and open competition for jobs.
Fast Stream	A recruitment, training and development scheme aimed at very able graduates, selected on the basis of their potential to reach the senior civil service.
JESP	Job Evaluation of Senior Posts.
Performance tranche	One of three tranches (or sets) to which individuals are allocated according to annual assessment of their performance. These are then used in a pay matrix to determine the size of individual annual increases in salary.
Progression Target Rate (PTR)	Point in the pay band which represents the effective maximum for most senior civil servants. Only the top 25 per cent of performers will be able to progress beyond this point.
Recruitment & Performance Ceiling (RPC)	The pay band ceiling. Once pay has reached the RPC, further consolidated pay awards are restricted to the annual revalorisation of the RPC, with the balance of any award non-consolidated.
Shadow Target Rate (STR)	If a post, recruited through an open competition, requires specific, scarce skills, which would attract a market premium, a STR can be set above the standard PTR but below the pay band ceiling.
SCS	Senior civil service/servants.
Senior Leadership Committee (SLC)	Considers applications and appointments to the most senior posts – normally those at Pay Band 3 and Permanent Secretary level. The Committee is chaired by the Head of the Home Civil Service and attended by the First Commissioner.
Target Rate (TR)	A point in the pay band which represents the effective maximum for most Permanent Secretaries. Only the top 25 per cent of performers will be able to progress beyond this point.

The armed forces

CDS	Chief of Defence Staff.
COS	Chiefs of Staff.
MOD	Ministry of Defence.
MODOs	Medical and dental officers.
PMPS	Performance Management and Pay System.
Strategic Defence and Security Review	Published in 2010 covering the period up to 2015. Details how the Armed Forces will be reshaped to tackle emerging and future threats.

The judiciary

JAB	Judicial Appointments Board (Scotland).
JAC(E&W)	Judicial Appointments Commission (England and Wales).
NIJAC	Judicial Appointments Commission (Northern Ireland).
LCJ	Lord Chief Justice.

Moj	Ministry of Justice.
NatCen	National Centre for Social Research.
Spot rate	Judges are all paid a standard amount in each salary group. This is compared with Senior Civil Servants whose base pay can be any amount within a specified range.
NICS	Northern Ireland Court Service.
NIJAC	Northern Ireland Judicial Appointments Commission.
PwC	PricewaterhouseCoopers.
Salary group	The grouping of judicial posts, for pay purposes, according to job weight. See Appendix F.
Queen's Counsel (QC)	Lawyers appointed by letters patent to be one of "Her Majesty's Counsel learned in the law". Barristers and solicitors with sufficient experience and knowledge can apply to become Queen's Counsel. QCs undertake work of an important nature and are referred to as 'silks', a name derived from the black court gown that is worn. QCs will be known as King's Counsel if a king assumes the throne.
Junior Counsel (JC)	Barristers who are not Queen's Counsel.
NHS Very Senior Managers	
AT	Ambulance Trust.
DH	Department of Health.
MiP	Managers in Partnership.
PCT	Primary Care Trust.
SHA	Strategic Health Authority.
SpHA	Special Health Authority.
VSMs	Very Senior Managers.

