



Review Body on Senior Salaries

REPORT No. 65

Thirtieth Report on Senior Salaries 2008

Chairman: Sir John Baker, CBE



Review Body on Senior Salaries

REPORT No. 65

Thirtieth Report on Senior Salaries 2008

Chairman: Sir John Baker, CBE

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

June 2008

© Crown Copyright 2008

The text in this document (excluding the Royal Arms and other departmental or agency logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

For any other use of this material please write to Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU or e-mail: licensing@opsi.gov.uk

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;

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 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:

Sir John Baker, CBE, *Chairman* (until 31 March 2008)
Bill Cockburn, CBE, TD *Chairman* (from 1 April 2008)
Mark Baker, CBE
Mary Galbraith
Professor David Greenaway
Mei Sim Lai, OBE, DL
Mike Langley
Jim McKenna
Sir Peter North, CBE, QC
Richard Pearson
Paul Williams

The Secretariat is provided by the Office of Manpower Economics.

Summary and recommendations

Introduction

1. Our remit has been extended to include certain senior managers in the National Health Service (NHS). In February 2008 the Government asked us to consider a three-year recommendation for the senior civil service (SCS). Consequently we had to take further evidence, deliberate and amend our report. As a result we have completed this report some two months later than planned and – to our regret – after the start of the first financial year it addresses.
2. The groups of people whose remuneration is our concern are the leaders of several of the pillars on which British society is built: the law; the armed forces; the civil service; and the National Health Service. They command billions of pounds of national resource and the work of millions of people. We detect signs that the pay of our remit groups is falling increasingly behind that of comparable groups in the wider public and private sectors, and that this is beginning to cause problems of recruitment, retention and morale.
3. We recognise the presentational difficulty of giving bigger increases to senior groups, particularly when the Government is seeking to constrain public expenditure, and we have therefore again proposed moderate increases this year. However, we believe it would be against the public interest in the longer term if the quality or performance of the State's senior managers and judges were to deteriorate because their pay had fallen too far below that available elsewhere. We identify some steps to address this risk in our report and urge the Government to use the opportunity of reviews now under way, or due in the next few years, to deal with the problem more systematically. The benefits of ensuring that the small groups of leaders of vital public services are of the highest quality and are well motivated far outweigh the costs.
4. We were very disappointed that awards were again staged last year, since this obviously reduced their value to individuals in year and there was evidence that it damaged morale while having no material benefit in terms of saving public expenditure or controlling inflation.

Pensions

5. Pensions constitute an important part of the total reward package of our remit groups. For this report we have engaged consultants to reassess the value of those pensions to see whether there have been significant changes since the last valuation in 2003. Broadly speaking, the results from the latest review show that the comparative value of the pension scheme has improved somewhat for the senior military and for the judiciary and remained the same for the SCS over the last four years. All three groups continue to benefit from defined benefit pension schemes at a time when such schemes have become far less common in the private sector. We believe that, on the whole, pension arrangements for our remit groups are better than, or at least on a par with, those of most senior employees in the private and public sector.

The senior civil service

6. We received evidence from the Government, the trade unions (FDA and Prospect) and the Civil Service Commissioners. The latter drew attention to the possibility that successful internal candidates in open competitions could be paid below the advertised range, while some external candidates managed to negotiate salaries well above the advertised maximum. We agree with the Commissioners that this is unfair to internal candidates and could deter good candidates from applying who would have been interested if they had known that a higher salary was available.

Recommendation 1: We recommend that the Government urgently review the practices of allowing successful candidates to negotiate salaries substantially above those advertised and of forcing existing civil servants successful in open competitions to accept salaries substantially below those available to similarly qualified external candidates.

7. We were pleased to learn during this year that a team led by Sir David Normington is to conduct a review of the SCS to provide long-term direction to SCS workforce and reward strategy. The review is due to report in time for us to take account of its findings in our next report. Given the problems we have identified with the SCS pay and performance management system in this and previous reports, we welcome the review and the intention that we be kept closely in touch with the work throughout.

Recommendation 2: We recommend that the Government publish as soon as possible a timetable for development and promulgation of an SCS workforce and reward strategy so that we can take the strategy into account in our next annual review of SCS pay.

8. We have some reservations about the Government's proposal for a three-year settlement for the SCS, but we note that the trade unions agree to it in principle. We are therefore prepared to recommend a three-year arrangement subject to the important provisos that we wish to re-examine the position each year and that we do not accept that any costs flowing from the Normington Review must necessarily be contained within the proposed 7 per cent 'envelope'. In our view that 'envelope' (plus recyclables) is intended to cover the normal pay rounds. Additional restructuring costs would need to be separately funded.

Recommendation 3: We recommend that:

- for the period 2008-2011 there should be an indicative envelope of 7 per cent for the SCS pay bill (not pay bill per head) plus recyclables (estimated to be 1 per cent a year) available for normal base pay increases and increasing the bonus pot to 10 per cent;
- the costs of implementing the outcome of the Normington Review of SCS workforce and reward strategy should be funded by additional money;
- the base pay of the SCS should, on average, increase by 2.5 per cent from 1 April 2008, comprising 1.5 per cent of new money and 1 per cent of recyclables;
- individual SCS base pay increases should again be in the range 0 to 9 per cent and dependent on assessment of performance;
- the Pay Band 1 and 1A minima should be increased by approximately 2 per cent, to £57,300 and £66,600 respectively, to help maintain differentials with the rest of the civil service; and
- the Progression Target Rates (PTRs) for Pay Bands 1 and 1A should be retained at least until we have been able to consider the recommendations of the Normington Review, and for 2008-09 the PTRs should be increased by the same cash amount as the minimum of the relevant pay band, i.e. to £79,740 for Pay Band 1 and £89,040 for 1A.

Recommendation 4: We recommend that the SCS bonus pot for 2008-09 should be increased by 1 per cent (equivalent to a 0.8 per cent increase on the pay bill because bonuses are not pensionable).

Recommendation 5: We recommend that Permanent Secretaries should receive base pay increases in the range 0 to 9 per cent and that the bonus pot should be increased by 1 per cent to 8.6 per cent of the pay bill.

Senior officers in the armed forces

9. We saw evidence this year of a retention problem emerging particularly at 2-star level. There is a perception that the package of terms and conditions is no longer adequate to retain some of the best officers. We recommend action to address this, comprising a restructuring of the pay system to ensure that all officers receive at least a 10 per cent increase on promotion to 2-star rank, plus the extension of an element of the X-factor payment received by lower ranks to 2- and 3-star officers, to reflect their increasing operational involvement.

Recommendation 6: We recommend that 2- and 3-star officers receive X-factor, with payments of 15 per cent of the cash value at the top of the OF4 scale (£1,364) in 2008-09, 20 per cent in 2009-10 and 25 per cent from 2010-11.

Recommendation 7: We recommend that the pay scale below apply for 2-star officers with effect from 1 April 2008.

2-star	2008-09	2009-10	2010-11
	(£)	(£)	(£)
	Base pay¹	Base pay¹	Base pay¹
7	109,415	111,604	113,649
6	107,117	109,259	111,421
5	104,817	106,914	109,236
4	102,517	104,567	107,094
3	100,217	102,222	104,994
2	98,291	100,257	102,936
1	96,835	98,771	100,917

¹ Base pay will be augmented by X-factor at the rate of £1,364 in 2008-09, £1,818 in 2009-10 and £2,273 in 2010-11, the sums for the last two years being subject to any uprating of the OF4 pay scale.

Recommendation 8: We recommend that the pay scales below apply for 3- and 4-star officers respectively with effect from 1 April 2008.

3-star	2008-09	2009-10	2010-11
	(£)	(£)	(£)
	Base pay¹	Base pay¹	Base pay¹
6	142,359	145,207	146,166
5	137,793	140,549	141,908
4	133,225	135,889	137,775
3	128,659	131,232	132,476
2	121,436	123,865	126,168
1	114,213	116,497	120,160

¹ Base pay for 3-star officers will be augmented by X-factor at the rate of £1,364 in 2008-09, £1,818 in 2009-10 and £2,273 in 2010-11, the sums for the last two years being subject to any uprating of the OF4 pay scale.

4-star	2008-09 (£)	2009-10 (£)	2010-11 (£)
6	170,791	174,206	180,140
5	167,440	170,789	176,608
4	164,159	167,442	173,145
3	160,939	164,158	168,922
2	157,784	160,939	164,802
1	154,700	157,794	160,782

Recommendation 9: We recommend the following pay scale for the CDS with effect from 1 April 2008:

CDS	2008-09 (£)	2009-10 (£)	2010-11 (£)
4	235,969	240,688	245,815
3	231,342	235,969	240,995
2	226,805	231,341	236,269
1	222,359	226,806	231,637

Recommendation 10: We recommend that, as set out in the following tables:

- 2-star MODOs should be paid a differential of 5 per cent above the top of the 1-star MODO scale;
- 3-star MODOs should be paid a differential of 5 per cent above 2-star MODOs;
- 2- and 3-star MODOs should receive X-factor at 15 per cent of the cash value at increment level 22 of the Consultant pay scale (OF3 – 5) in 2008-09, rising to 20 per cent in 2009-10 and 25 per cent in 2010-11.

Rank	Rate (£) ¹	Differential
MODO 3-star	139,667	5%
MODO 2-star	133,016	5%
Level 7 of MODO 1-star	126,682	–

¹ Base pay will be augmented by X-factor at the rate of 15 per cent of the cash value of X-factor at increment level 22 of the Consultant pay scale (OF3 – 5) in 2008-09 (£2,242), rising to 20 per cent in 2009-10 and 25 per cent in 2010-11.

The judiciary

10. In an earlier report we asked the administrations to consult with us on how to provide evidence on changes in case weight, case management, management responsibilities and any other significant elements of the overall job weight and efficiency of members of the judiciary. As part of their evidence, the Ministry of Justice have provided figures on the number of criminal cases heard by different levels of judge in England and Wales. This shows that there is some 'trickledown' or 'cascade' effect leading to an increase in job weight at the lower levels of the judiciary. Unfortunately no similar analysis of civil cases is available at this time. Consequently, there is still insufficient evidence to assess properly the effect of 'trickledown' and we would like to see more comprehensive data on this subject in the future.

Recommendation 11: We recommend that the administrations in England and Wales, Scotland, and Northern Ireland should make collection of job weight information a priority and work with the judiciary over the next year to collect meaningful data.

11. We received mixed evidence on recruitment. The Ministry of Justice reported there was generally no difficulty in filling vacancies with good calibre candidates but other evidence pointed to difficulties in filling some specialist posts and concerns that some suitable candidates were not applying for judicial offices. We need information on candidates' incomes to help us judge whether pay is adequate for recruitment purposes.

Recommendation 12: We recommend that the judicial appointment organisations in England and Wales, Scotland, and Northern Ireland collect information on earnings of candidates for judicial office.

12. For 2008-09 we recommend an increase averaging slightly over 2.5 per cent for almost all judicial groups. Bearing in mind the effect of judicial pensions on total reward, we have suspended for this year our practice of recommending an additional amount to take account of the judicial spot rate pay system, but we expect to resume it next year unless new evidence indicates otherwise.

Recommendation 13: We recommend that with effect from 1 April 2008 the salaries for the judiciary should be:

Group 1	£236,300
Group 1.1	£211,000
Group 2	£203,800
Group 3	£193,800
Group 4	£170,200
Group 5	£136,500
Group 6.1	£126,400
Group 6.2	£119,000
Group 7	£101,400

Very Senior Managers in the NHS

13. We heard a number of concerns about the pay and performance management system for very senior managers (VSMs) from managers themselves, NHS Employers, and the Managers in Partnership trade union. We therefore welcome the fact that the Department of Health is currently reviewing the pay framework for VSMs.

Recommendation 14: We recommend that the Department of Health's review of the VSM pay framework include the following areas:

- Job grading, including job evaluation and the degree of rigidity in the current system. Agenda for Change is based on job evaluation and we are surprised that this is not part of the framework.
- VSMs in London who are not covered by the pay framework and remain on their original terms and conditions. The review should consider whether VSMs not on the framework should continue to receive base pay increases or be 'red-circled' until the framework rates catch up.

- Recruitment and retention, including the payment of premia. There needs to be a balance between adapting to local needs and maintaining control over pay which could otherwise be bid up by competition between trusts.
 - Performance pay, including the design of the system and level of payments required to meet the objectives of the bonus scheme. A comparative study of bonus scheme design and effectiveness, carried out by Towers Perrin and mentioned in our report last year, concluded that the SCS scheme rewards rather than acts as an incentive. It also pointed out that the impact of such schemes does not appear to have been assessed. The current system for VSMS seems to have similar problems to the SCS scheme, discussed in paragraphs 3.15 and 3.16 of our last report.
 - Banding of organisations and the seemingly arbitrary differences in pay between similar organisations.
 - The scope for anomalies and disparity between trusts covered by the framework and those left to set their own pay levels.
 - Organisations in 'D' category. The review should consider whether it is appropriate to give no pay increase to all VSMS in organisations that are failing to meet their financial targets.
14. This is the first year we have considered the pay of VSMS and there are several issues which require more investigation to help us understand this group better. We therefore make what may be regarded as 'holding' recommendations for this year but expect to comment more extensively on the pay system and levels in our next report.
15. We are not convinced that the performance pay arrangements are fulfilling their purpose and we do not believe we should recommend any increase to the bonus pot this year, ahead of the review of the pay framework.
16. On base pay, we are not persuaded by the Government's arguments on affordability and our recommendation is made in the light of settlements for other groups in the NHS and the review now under way.

Recommendation 15: We recommend that from 1 April 2008 there should be a 2.2 per cent increase in the pay of VSMS covered by the pay framework.

Contents

	<i>Paragraph</i>	<i>Page</i>
		v
	Summary and recommendations	
<i>Chapter 1</i>	Introduction and sources of evidence	1
	Introduction	1.1 1
	Background	1.7 3
	<i>Our terms of reference</i>	1.7 3
	<i>Our previous report</i>	1.8 3
	<i>Last year's awards</i>	1.9 4
	Timescale	1.10 4
	Economic and affordability evidence	1.12 4
	Recruitment and retention	1.25 9
	Motivation	1.30 9
	Pensions	1.34 10
	Conclusion	1.35 10
<i>Chapter 2</i>	Pensions	11
	Introduction	2.1 11
	Methodology	2.5 11
	Assumptions	2.6 12
	Results	2.9 12
	Changes since 2003	2.11 13
	Comparison with other schemes	2.14 14
	Conclusion	2.18 17
<i>Chapter 3</i>	The senior civil service	19
	Introduction	3.1 19
	The SCS – issues of pay and workforce strategy	3.4 19
	The SCS pay system	3.10 21
	Pay Progression	3.14 22
	The SCS bonus scheme	3.19 23
	Equal pay	3.26 25
	Diversity	3.29 26
	Age discrimination	3.30 26
	Pensions	3.31 26
	Evidence	3.32 27
	<i>Government evidence</i>	3.33 27
	<i>SCS Unions</i>	3.36 28
	<i>Civil Service Commissioners</i>	3.38 28
	<i>Discussion groups</i>	3.42 29
	<i>SCS visit</i>	3.43 30
	Progress towards a workforce and reward strategy for the SCS	3.44 30
	Pay recommendations for 2008	3.51 32
	<i>A three-year settlement</i>	3.55 33
	<i>Base pay recommendations for 2008-09</i>	3.59 34
	<i>Bonus arrangements for 2008-09</i>	3.61 35
	<i>Possible additional bonus scheme for certain</i> <i>SCS members</i>	3.65 36
	Permanent Secretaries	3.67 37
<i>Chapter 4</i>	Senior officers in the armed forces	39
	Introduction	4.1 39
	Our remit group	4.2 39

	Our last report	4.3	39
	Evidence	4.4	39
	Pensions	4.7	41
	Military visit	4.10	41
	Recruitment, retention and morale	4.11	41
	The Performance Management Pay System (PMPS)	4.17	42
	Pay on promotion to 2-star	4.21	43
	X-factor	4.22	44
	Conclusion	4.26	44
	2008 pay award	4.27	45
	<i>X-factor</i>	4.27	45
	<i>2-star pay scale</i>	4.28	45
	<i>3- and 4-star officers</i>	4.29	46
	<i>CDS</i>	4.30	47
	<i>Senior medical and dental officers (MODOs)</i>	4.31	48
Chapter 5	The judiciary		49
	Introduction	5.1	49
	The 2006-07 review	5.3	50
	Evidence	5.4	50
	Other issues the Review Body has considered	5.9	51
	<i>The judicial pay system</i>	5.9	51
	<i>Judicial pensions</i>	5.11	51
	<i>Affordability</i>	5.14	52
	<i>Morale and motivation</i>	5.17	53
	<i>Job weight</i>	5.20	53
	<i>Recruitment and retention</i>	5.22	54
	<i>The role of the Lord President</i>	5.29	55
	<i>London allowances</i>	5.30	55
	Recommendations	5.31	55
Chapter 6	Very Senior Managers in the National Health Service		57
	Introduction	6.1	57
	Background	6.3	57
	Our remit group	6.5	58
	Remuneration	6.7	58
	<i>Basic pay</i>	6.9	59
	<i>Development pay</i>	6.11	60
	<i>Additional payment for additional responsibilities</i>	6.12	60
	<i>Recruitment and retention premia</i>	6.13	60
	<i>Performance pay</i>	6.14	60
	<i>Pensions</i>	6.16	61
	Oversight of pay arrangements	6.18	61
	Evidence	6.20	62
	<i>Basic pay</i>	6.28	64
	<i>Development pay</i>	6.34	65
	<i>Additional payment for additional responsibilities</i>	6.35	65
	<i>Recruitment and retention premia</i>	6.36	65
	<i>Performance pay</i>	6.37	65
	<i>Pensions</i>	6.39	66
	Review of the pay framework	6.40	66
	Affordability	6.42	67
	Conclusions and pay recommendations	6.43	67
	<i>Bonus pot</i>	6.44	67
	<i>Base pay</i>	6.46	67

<i>Appendix A</i>	List of those who gave evidence to the SSRB	69
<i>Appendix B</i>	List of NHS Organisations employing VSMs in SSRB's remit group	70
<i>Appendix C</i>	Website references for publications	73
<i>Appendix D</i>	Existing salaries for the four remit groups (as at March 2008)	74
<i>Appendix E</i>	Existing base salaries of Permanent Secretaries in £5,000 bands (as at March 2008)	77
<i>Appendix F</i>	Recruitment to the senior civil service	79
<i>Appendix G</i>	Judicial salary structure at 1 April 2007	81
<i>Appendix H</i>	Recruitment to the judiciary 2006-07	85
<i>Appendix I</i>	Previous reports in this series	89
<i>Appendix J</i>	Glossary of terms and abbreviations	91

Chapter 1

Introduction and sources of evidence

Introduction

- 1.1 Our thirtieth annual report considers and makes recommendations on the pay of the senior civil service (SCS), senior officers in the armed services, the judiciary, and senior managers in certain National Health Service (NHS) organisations in England.
- 1.2 The Secretary of State for Health asked us in July 2007 to include certain NHS senior managers in our remit, and our terms of reference have been amended accordingly (see the Foreword to this report). This is therefore the first time we have considered and reported on the pay of those NHS senior managers. We describe this new remit group in Chapter 6.
- 1.3 In presenting this year's (delayed) report on the pay of the SCS, the senior military, the judiciary, and certain senior managers in the NHS, we wish to draw attention to serious concerns that might otherwise be overlooked in the chapters on each of our remit groups. We believe that, at least partly as a result of pay, the motivation and morale of our remit groups are suffering, in some cases potentially seriously. We have drawn attention to these growing concerns with increasing emphasis in recent years but without effect. So we now wish to leave no room for ambiguity. We consider:
 - (i) The groups of people whose remuneration is our concern are the leaders of several of the pillars on which British society is built: the law; the armed forces; the civil service, and (now added) the NHS. They command billions of pounds of national resource (of which their own pay is a tiny fraction) and the work of millions of people. Their quality, efficiency and motivation can improve our public services and save the taxpayer millions of pounds. The nation rightly expects these people to perform at the very highest level of their capability and that incompetent performance should not be tolerated or rewarded. These hugely dedicated people do not expect to receive the financial rewards of comparable leaders and senior managers in the private sector in return for this vital work, but they do expect recognition of the value of what they do, respect for their commitment to public service and fair pay. We are becoming increasingly concerned by signs in our discussions with them that they do not believe they are getting this recognition or respect, and that they believe their reward systems and pay are not fair.
 - (ii) The levels of remuneration of most of our remit groups have fallen so far behind those of their private sector comparators that we no longer feel able to make a credible read-across. Their pay is also falling behind other parts of the public service, such as senior management in local authorities. So far, recruitment and retention of talent in our remit groups has stood up remarkably well, but there is evidence of growing problems, most obviously in the SCS where external recruits are typically paid much more than those promoted internally. In well directed organisations, the quality of leadership is seen as a crucial – probably **the** crucial – factor in ensuring the success of the enterprise. Talented leaders are a scarce resource. Competition for them means that senior salaries tend to rise faster than average earnings. Yet we do not see evidence that the risks to future leadership capability that concern us are recognised or that any priority is given to responding to them.

(iii) Our remit groups comprise fewer than 8,000 people. In the context of a public sector workforce of 5.8 million, their aggregate pay can have no direct impact on inflation and is insignificant in terms of total public expenditure. However, the Government argues that their pay increases must be held down as part of its policy of maintaining low inflation and controlling public expenditure. Those economic policy objectives are valid and we take them seriously into account in reaching our judgements on pay, but it is not credible that pay awards to such small groups can of themselves threaten the Government's macroeconomic policies. Our terms of reference require us to take account of economic evidence, recruitment, retention, motivation and other factors, including the funds available to departments. Consequently, the awards we have proposed in recent years have been modest. Nevertheless, the Government staged our last two recommended awards for some of the remit groups, even though those awards were moderate, in order to hold down the cost in year to the figure it had originally proposed, and in one case to below the figure it had proposed. That risks sending messages to us and, more importantly, to the senior civil servants, judges and senior officers on whose pay we advise, namely that:

- the Government appears to regard this small group of leaders and senior managers as exactly the same, for pay purposes, as all other public sector workers, even though the impact of what they do and the pool from which they are drawn are quite different;
- the gap between their pay and that of comparators in or linked to the private sector will continue to widen; and
- hence the value for them of having an impartial and independent review body to recommend on their pay is also eroded.

(iv) It is not surprising, therefore, that we find increasing cynicism and frustration amongst our client groups and signs of problems with recruitment and retention. Cynicism and frustration run counter to the high morale we would want to see in these cadres if they are to provide excellent leadership and high efficiency now and in the future. We repeat our view that the modest adjustments to pay required to get remuneration right for these groups so as to secure the long-term quality of the people and what they do are trivial in any consideration of inflation or public expenditure, but could be fundamental to securing and sustaining high quality public services and savings for the tax payer.

(v) We believe that the reason for treating senior pay in this narrow way is fear that higher awards for our remit groups will lead to irresistible pressure from other, larger groups of public sector workers. In this view of the world 'signalling' becomes the dominant consideration. However, taking this approach over a number of years, as the Government has been doing, ignores changes in the labour market, creates increasing anomalies and the potential for equal pay claims, and can put the quality of our remit groups at risk. Not addressing these problems is likely to lead to inability to recruit, retain and motivate adequate numbers of high quality people and we believe that point is approaching. We do not subscribe to the view that it is impossible for the Government for presentational or signalling reasons to address the issues affecting senior pay. Unions, employees and the public all understand that it is necessary to pay more for the best performers. This is true in public service management as it is in other fields.

- 1.4 In this situation we need to consider each of our remit groups separately. For the SCS we put great weight on the outcome of the Normington Review¹ of the pay and workforce strategy. We consider it vital that what we expect to be necessary adjustments to the SCS pay system identified by the review are fully funded by the Government, and our later recommendations make our position on this quite clear. For the senior military, we believe action is necessary to address an emerging problem of retention and we make proposals below for a phased package of restructuring. For the judiciary we make no particular proposals this year but note that, in the normal course of events, we would expect them to be the subject of another major review, including comparison with the relevant part of the labour market, in the next two or three years. Finally, for senior NHS managers, we note that they too are the subject of a review now under way and due to report in time for findings to be included in evidence to us for the next round.
- 1.5 At this preliminary stage in these various reviews we wish to flag up the need to provide that where outcomes require funding to implement them or to make a longer term sustainable difference, then that funding must be treated as additional to normal pay settlements. Unless that is accepted, there is a real risk that the reviews will be artificially constrained from the outset, or the implementation of recommendations will be delayed even though, as we have pointed out, they concern the effectiveness of key leaders of major organs of the State.
- 1.6 In the interim we have, of course, had to consider this year's pay round on the basis of all the evidence available to us, taking full account of our terms of reference and recognising yet again the pressures on departmental budgets as well as considerations of current recruitment, retention and motivation. We make modest proposals for the increase in pay of our remit groups.

Background

Our terms of reference

- 1.7 With the inclusion of certain NHS senior managers, our main terms of reference are now:

"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 NHS²; and other such public appointments as may from time to time be specified."

Our previous report

- 1.8 There were 11 recommendations in our previous report³, of which six were recommendations for pay and bonus increases for our remit groups. The Government accepted all those recommendations, although it staged the increase for the judiciary, with 1.5 per cent paid from April 2007 and the overall balance of 0.9 per cent from November, and it delayed payment of SCS bonuses until November in order "to ensure affordability within existing spending limits and consistency with continuing control of public finances." (Prime Minister's written statement of 2 March 2007).

¹ Sir David Normington is chairing a team reviewing SCS workforce and reward strategy to be undertaken in the first half of 2008. We discuss this further in Chapter 3.

² 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, who are covered by the pay framework in Strategic Health Authorities; Special Health Authorities; Primary Care Trusts; and Ambulance Trusts.

³ Twenty-Ninth Report on Senior Salaries 2007, Cm 7030. London. The Stationery Office. 2007.

Last year's awards

- 1.9 We were very disappointed that awards were again staged last year, since this obviously reduced their value to individuals in year and there was evidence that it damaged morale while having no material benefit in terms of saving public expenditure or controlling inflation. When pay review bodies were set up, the then Government undertook to accept their recommendations unless there were exceptional circumstances. We have seen no evidence to suggest that exceptional circumstances obtained last year. If the Government abates review body awards regularly, whether by staging or otherwise, the whole system of independent pay review bodies will be undermined. Additionally, we are concerned that if the Government applies the same approach to senior remuneration as it seeks to apply to public sector pay in general, the result can only be to continue to widen the gulf between the remuneration of our remit groups and that of external public and private comparators.

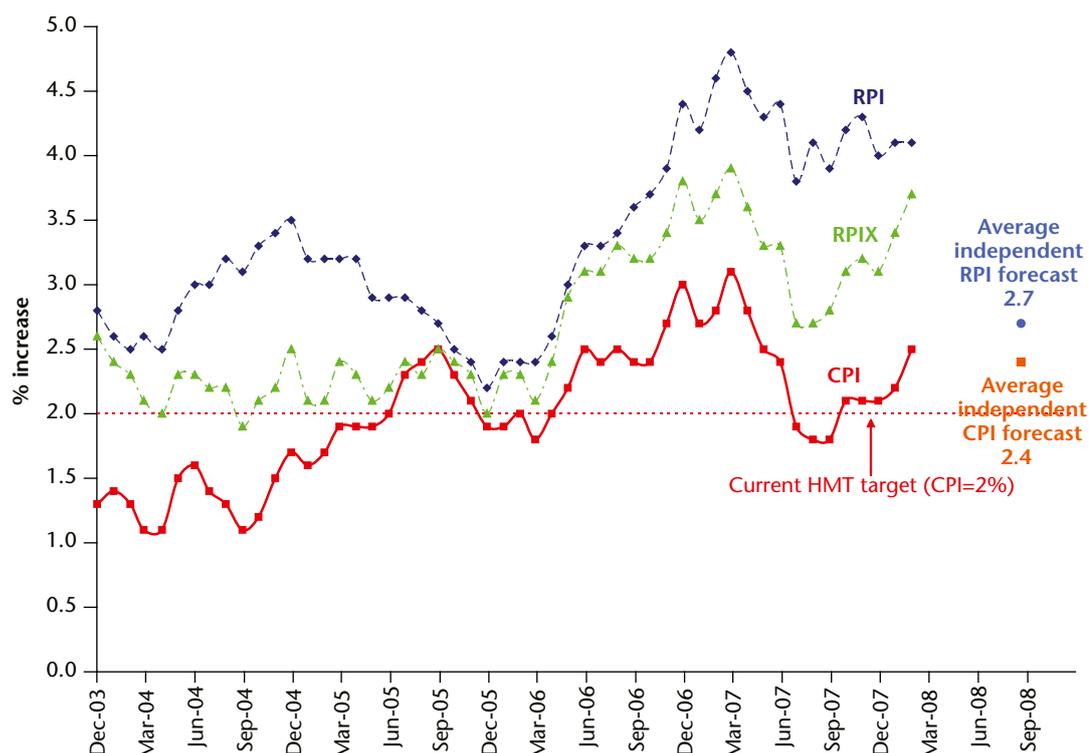
Timescale

- 1.10 As is our usual practice, our pay recommendations for the judiciary are for the financial year 2008-09. Our recommendations for the new group of very senior managers in the NHS are also for the financial year 2008-09. For the senior officers in the armed forces we make pay recommendations to restructure their pay scales and extend the payment known as X-factor (see Chapter 4) to some of our remit group. We propose a three-year programme to implement these changes. In a departure from our usual practice and in response to additional written and oral evidence from the Government and the unions, our recommendations for the SCS also cover the full 2007 Comprehensive Spending Review period i.e. the financial years 2008-09, 2009-10 and 2010-11.
- 1.11 We did not receive the additional evidence on the SCS until February and March and at that time the Government asked us to submit a single report on all four remit groups once we had examined the latest evidence on the SCS. This thirtieth annual report has been completed some two months later than expected and – to our regret – after the start of the first financial year it addresses.

Economic and affordability evidence

- 1.12 Macro-economic data in recent months and forecasts to the end of 2008 provide part of the background against which we reach our recommendations. Data show the economy in 2007 grew at an above trend annualised rate of 3.1 per cent. The expectation for 2008 is for something of a slowdown to around 1.7 per cent, reflecting factors such as tighter credit, and growing uncertainty around consumer spending and business investment. In these circumstances, forecasters also expect some weakening in the UK labour market.

Figure 1.1: Inflation measures



1.13 Inflation on both measures that we examine has been volatile in recent months; this can be seen in **Figure 1.1**. As forecast by the Bank of England in its February 2007 *Inflation Report*⁴, the path of the Consumer Prices Index (CPI), the Government’s preferred measure of inflation, was far from smooth during 2007, touching a high of 3.1 per cent in March and a low of 1.8 per cent in August and September. It stood at 2.5 per cent in March 2008. Looking ahead, the central projection in the Bank of England’s February 2008 *Inflation Report*⁵ sees CPI exceeding its target in 2008 because of higher energy prices and other import prices, and limited spare capacity in the economy.

1.14 The all-items Retail Prices Index (RPI) has shown similar volatility, with additional upward pressures from earlier increases in mortgage interest rates. The rate of increase in March 2008 was 3.8 per cent which was 1.3 percentage points above CPI. The average of independent forecasts⁶ is now for RPI to be at 2.9 per cent in the fourth quarter of this year, principally on the expectation of the combination of earlier interest rate rises dropping out of the index and expected cuts in interest rates in 2008. Independent forecasters⁶ suggest that the gap between CPI and RPI will narrow during 2008. However, we note there are already signs that higher energy and food prices, coupled with dearer imports caused by a weaker pound, may in fact lead to inflation being higher than currently forecast, at least on the CPI measure which does not include items such as mortgages directly affected by interest rates. Moreover, one effect of the ‘credit crunch’ appears to be that Bank of England interest rate cuts no longer impact so quickly and predictably on mortgage interest.

⁴ <http://www.bankofengland.co.uk/publications/inflationreport/ir07feb.pdf>

⁵ <http://www.bankofengland.co.uk/publications/inflationreport/ir08feb.pdf>

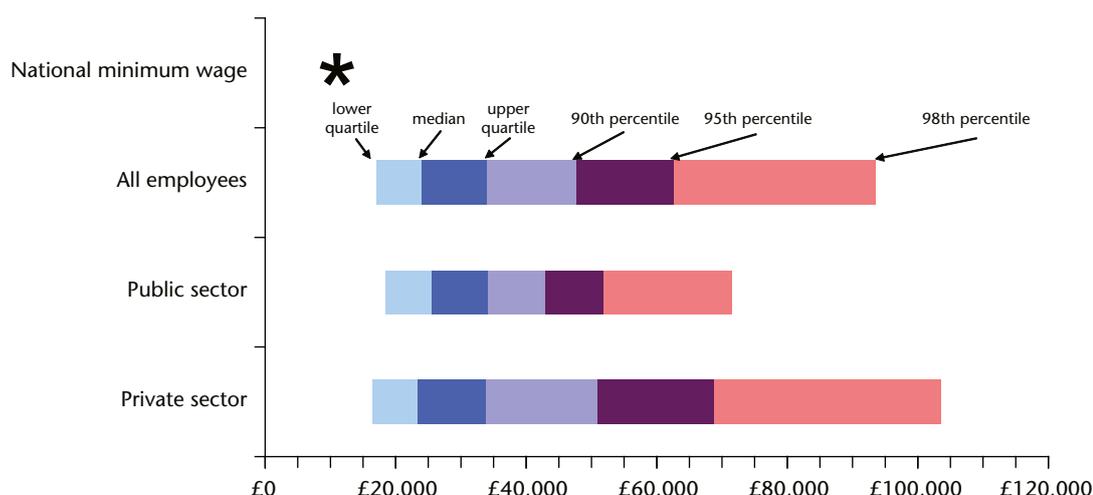
⁶ <http://www.hm-treasury.gov.uk/media/B/2/200804forcomp.pdf>

- 1.15 In recent months the median of base pay settlements across the economy has tended to lie at or close to 3.5 per cent, with half of all settlements lying within a range of 3 to 4 per cent. Both the median and the range are around half a percentage point higher than twelve months ago. We note continued variation in the levels of awards across different organisations and sectors, reflecting their different economic circumstances. In particular, awards in the public sector, having been broadly in line with the private sector median in recent years, are now lower.
- 1.16 Recent data show headline average earnings, including bonuses, growing at 3.7 per cent in the three months to February 2008. The rates of growth in the public and private sector earnings (including bonuses) converged on 3.7 per cent after some two years during which pay had risen faster in the private sector. The average earnings index excluding bonus effects – what the Bank of England calls ‘regular pay’ – is at 3.8 per cent, which we note is well within the maximum rate of earnings growth the Bank considers compatible with the inflation target (see below and footnote 6).
- 1.17 Most of the Review Body Chairmen met the Chancellor of the Exchequer and the Governor of the Bank of England in September 2007, before we began to take evidence. The Chancellor and Governor emphasised that in their view our recommendations should be compatible with the Government’s inflation target of 2 per cent as measured by the CPI, although they agreed that this did not mean that all awards have to be at that level. They acknowledged that there was scope for variation within and between remit groups. However, the overall result should be compatible with, though not necessarily identical to, the inflation target.
- 1.18 The Pay Review Bodies subsequently received written evidence from the Treasury on the Government’s perception of the general economic context. The Treasury evidence noted that public sector pay makes up about a quarter of government expenditure and argued that pay review body recommendations have a significant impact on overall Government pay strategy, public finances, the Government’s ability to meet other spending pressures and the level of inflation in the wider economy.
- 1.19 The Treasury evidence again emphasised that public sector pay awards should be compatible with the Government’s inflation target of 2 per cent as measured by the CPI. In the past⁷ the Bank of England has indicated that it did not consider earnings increases to pose an inflationary threat provided that, on average across the economy as a whole, they were at or below the level of the inflation target plus the rate of increase in national productivity. This implies that earnings in the whole economy could increase by up to 4.5 per cent a year without causing an increase in inflation. At present whole economy earnings growth is well below this level. National productivity, measured as whole economy output per worker, was also rising at an above trend rate. However, in the fourth quarter of 2007, the latest quarter for which data are available, it dropped to 1.7 per cent.
- 1.20 Many commentators have questioned the proposition that public sector pay must be restrained in order to hold down inflation. They point out that inflation is a monetary phenomenon and that public sector pay rises cannot cause price inflation in the way that private sector pay increases might. It could be argued that public sector pay rises send signals to private sector pay negotiators, but there is no evidence that our remit groups have that effect. Indeed, the fact that pay rises in the private sector have recently been outstripping those of our remit groups is evidence of the reverse.

⁷ Speech by Mervyn King to the Employment Policy Institute, 1 December 1998. Available from: <http://www.bankofengland.co.uk/publications/speeches/1998/speech29.htm>

- 1.21 The Treasury evidence also drew attention to slower growth in public expenditure over the coming years. Under the 2007 Comprehensive Spending Review, some government departments, such as the Ministry of Justice, are facing cuts in their funding in real terms over the next three years, while others, such as the Department of Health and Ministry of Defence, will see significantly lower growth in real terms than in recent years. For example, after allowing for inflation, the average growth in the NHS budget over the next three years will be 3.7 per cent compared with 6.1 per cent between 1997-98 and 2007-08.
- 1.22 We also received evidence on affordability from the Cabinet Office, the Department of Health, the Ministry of Defence, the Ministry of Justice, the Northern Ireland Court Service and the Scottish Executive. All emphasised that the economy is entering a period of lower increases in public spending.
- 1.23 While the evidence on the economy and affordability sets the overall context for our review, we must again emphasise our view (see paragraph 1.3 above) that the Government's arguments in paragraphs 1.17 – 1.19 above have only limited relevance to our particular, small remit groups. Pay awards for our remit groups can have no discernible direct impact on inflation and are insignificant as a proportion of total public expenditure. It is also clear that the pay of senior people in the wider economy with whom our remit groups are comparable has normally risen faster than the average. However, the Government sees our remit groups as having an emblematic importance and it is reluctant to see them receive higher awards than other, related groups such as the main body of civil servants or the military ranks covered by the Armed Forces' Pay Review Body. It seems particularly anxious that awards to them do not signal any departure from the disciplines it seeks to impose on the public sector as a whole.
- 1.24 Nevertheless, we must look at our remit groups in accordance with the full extent of our terms of reference and on their own merits, bearing in mind that it is well established that pay at the most senior levels in the public sector is substantially lower than for comparable senior jobs in the private sector. This can be seen in **Figure 1.2**. Moreover, there is evidence elsewhere (for example the study of the SCS market carried out by Hay and reported in our 2006 report⁸) that the pay of at least some of our remit group members is lower than elsewhere in the public sector.

Figure 1.2: National pay distribution in 2007



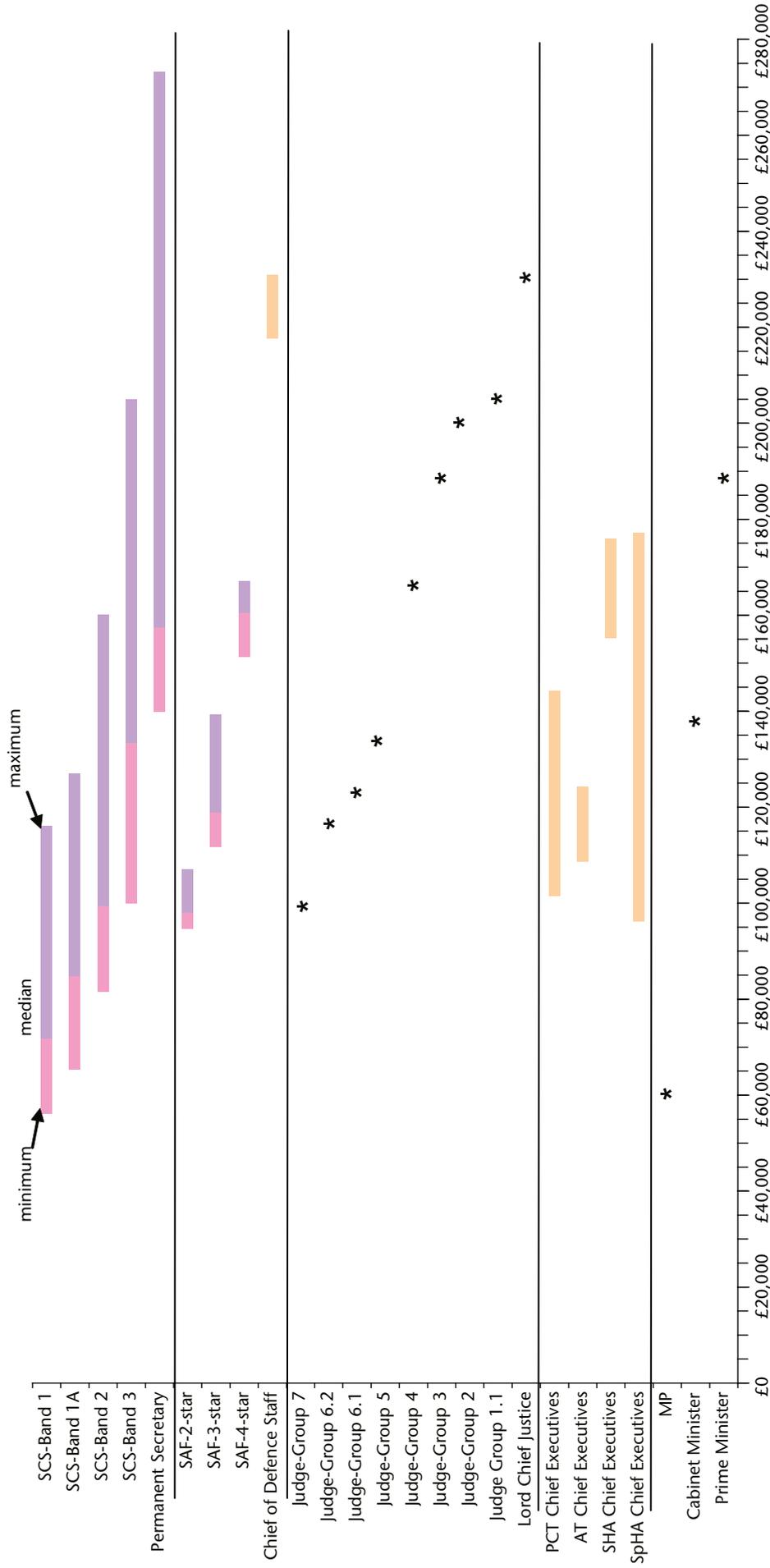
Sources: The Low Pay Commission and the Office for National Statistics.

Notes

1. Basic pay for all public and private sector employees at April 2007.

⁸ Twenty-Eighth Report on Senior Salaries 2006, Cm 6727

Figure 1.3: Basic pay rates or ranges of SSRB remit groups in 2007



Sources: Cabinet Office, Ministry for Defence, Ministry of Justice, NHS Employers and the United Kingdom Parliament.

Notes

1. Data are as at 1 November 2007.
2. The judiciary, MPs and ministers are paid spot rate salaries.
3. The ranges for AT and SHA Chief Executives do not include London pay rates.

Recruitment and retention

- 1.25 The position on recruitment and retention is part of our remit and, unsurprisingly, differs across our remit groups. We deal with these issues in more detail in the individual chapters but the main points are as follows.
- 1.26 Departments continue to find it necessary to pay external recruits to the SCS much more than those who have progressed to the SCS from within the civil service. This creates a number of problems, including resentment on the part of existing SCS members, and equal pay issues. The Civil Service Commissioners have also drawn attention to problems with the recruitment process which enables some external candidates to negotiate starting rates well above those advertised for posts, while successful internal applicants are forced to accept rates well below those advertised. This may be an extreme example of “what the market will bear” but in our view it is unfair and unacceptable, and raises growing concerns about equal pay and equity. Nevertheless, overall the SCS seems to be able to recruit and retain sufficient staff of suitable quality.
- 1.27 We have this year detected worrying signs of a retention problem beginning to emerge for senior military officers. We suspect that pay is only part of the cause but we propose some changes to the pay structure as a partial response.
- 1.28 We heard that the new, independent appointment procedures for the judiciary are still bedding in and there are concerns that some very well qualified people are being deterred from applying by the new system, particularly at the most senior levels, because of the delays and uncertainties surrounding decisions on appointments. Nevertheless, despite some problems with implementation of the new procedures and emerging evidence of difficulty in filling some vacancies, recruitment and retention of the judiciary still appear generally satisfactory.
- 1.29 We received evidence of pay-related problems in the recruitment and retention of senior NHS managers, with some trusts not being able to recruit at the normal rates, particularly in London. The system does not include supplements for high cost areas but does allow additional payments for additional responsibilities and for recruitment and retention. These are used extensively in some regions, which suggests that the underlying pay levels are inadequate. The Department of Health is about to conduct a review of this group’s pay system and we believe salary data and other evidence on recruitment and retention should form an important part of that review.

Motivation

- 1.30 Motivation is another of the factors we are required to consider under our terms of reference. The SCS attitude survey shows very high individual job satisfaction but much lower scores for questions related to issues such as pay, total reward, fairness and transparency of the appraisal system. This bears out our own perceptions from discussion groups and visits, that the SCS on the whole very much enjoy their work and are resigned to being paid less than those in the private sector. However, we detect growing resentment in the SCS of the perception that pay elsewhere in the public sector is increasing faster than in the SCS.
- 1.31 As noted earlier, we have also detected signs of growing dissatisfaction among the senior military with their terms and conditions. The introduction of systematic interviews within the remit group and the feeder group, requesting members’ views on all aspects of their jobs including the remuneration for their work, has helped to provide hard evidence on morale and we encourage the MoD to extend this practice.

- 1.32 The position in the judiciary is broadly similar to the SCS. The judges we meet typically express great satisfaction with the nature of their work, but frustration with the lack of support and in some cases with poor IT. The repeated staging of their pay awards has also clearly affected morale.
- 1.33 We have not yet been able to form a properly substantiated view of the motivation and morale of senior NHS managers. A new pay system was put in place for them by the Department of Health as recently as July 2006. That, and the recent reorganisation of many trusts (with a reduction in the number of jobs in many cases), have caused problems. In London, for example, hardly any managers have transferred to the new pay framework: almost all remain on their previous contracts. We also heard complaints about the bonus system, which some said does not provide sufficient incentive, and about other allegedly counter-productive aspects of the pay system. We discuss these in Chapter 6.

Pensions

- 1.34 As announced in our previous report, we commissioned a further review of the pensions of our remit groups, because the value of pensions is an important part of total reward. We present the detailed findings in Chapter 2 and deal with the specific results in the individual remit group chapters. Overall, our consultants advise us that the judiciary and senior military have the benefit of pension arrangements which are more favourable than the average private and public sector schemes and close to the upper quartile of private sector schemes. In both cases the value of the pension, expressed as a percentage of pay, has increased since the last survey although this is mainly because of changes in the average age of scheme members and the assumption of increased life expectancy, rather than changes to the schemes themselves. All our remit groups continue to have defined benefit schemes. We note, however, that in the private sector, in contrast, active membership of defined benefit schemes is estimated to have fallen from 5.6 million in 1991 to 3.3 million in 2006. Since August 2007 new entrants to the civil service can no longer join a final salary scheme, but one which provides a pension based on career average earnings and with a pension age of 65, compared to 60 in the old schemes. From 1 April 2008 new entrants to the NHS will also have a retirement age of 65 and all senior managers will pay higher contributions.

Conclusion

- 1.35 We are increasingly concerned that mechanistically applied public expenditure controls are threatening to undermine the commitment and motivation of our remit groups and the ability to recruit and retain people of sufficient quality. The Government is again applying a public sector pay policy which has the effect of limiting earnings increases to well below both the private sector rate and the RPI. It argues in effect that the public expenditure constraints are now even tighter than in recent years and in the light of the three-year comprehensive spending review we expect the trend to continue. Our recommendations in the following chapters reflect our view of the balance of all the factors we are required to consider. However, we cannot offer full solutions to the problems if our remit groups remain restricted to overall increases of the order of 2 per cent.

Chapter 2

Pensions

Introduction

- 2.1 Our terms of reference require us to 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”. For most public sector workers, pension entitlement is normally the second largest element of their total reward after pay. There are few other readily quantifiable benefits for most public sector workers, since it is hard to put a value on matters such as job security and job satisfaction. The value of our remit groups’ pensions to the individual members is therefore an important point for us to consider. This is not the same as the cost to the employer or taxpayer of providing the pension.
- 2.2 It is well documented that in the private sector the value of pension provision has reduced in recent years. This change has affected new members to the greatest degree since it is much more common for new members to enter defined contribution schemes whilst longer serving colleagues may remain members of defined benefit schemes. However, even at the senior levels corresponding to our remit groups, there is a pattern of employers moving from defined benefit to defined contribution schemes and, in many cases, with reduced employer contribution.
- 2.3 The previous review of the pension provisions for our remit groups was completed in 2003¹. In our report last year we noted our intention to obtain an up-to-date assessment for this round. We determined that this assessment would need to show how the different pension provisions for our (then) three remit groups compared with each other and with external comparators in the light of all the changes that had taken place both within the relevant schemes and in pensions generally.
- 2.4 We therefore commissioned Watson Wyatt to review the pension arrangements of the senior civil service (SCS), senior officers in the armed forces and the judiciary². This review was carried out across the last three months of 2007 and the full report can be found on our website³. An important part of the review was to identify the changes which had taken place during the four years since the previous review.

Methodology

- 2.5 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

¹ <http://www.ome.uk.com/downloads/LinkagePensionsreport01.pdf>

² NHS senior managers had not been added to our remit group when we commissioned this work and were not covered in the previous pension review. However, Watson Wyatt have provided some information on the NHS pension scheme in their latest report to us.

³ <http://www.ome.uk.com/downloads/Report%20on%20the%20comparison%20of%20the%20pension%20schemes%20of%20the%20Senior%20Civil%20Service%20Judiciary%20and%20Senior%20Military%202007>

level⁴. It also enables the value of the pension to be added to salary and other quantifiable benefits to arrive at total reward. This is the same as the methodology used in 2003.

Assumptions

- 2.6 Determining the value of each pension scheme means forecasting what benefits will be paid, when they will be paid and for how long. A number of assumptions were necessary in order to estimate this. These included assumptions about how the value of the pension would increase over time through future increases in pay that arise both through pay rises and promotion, as well as in increases to pensions in payment and increases to deferred pensions. Other assumptions were made about how long is spent in post accruing a pension by making assumptions about the expected age of entrance into the scheme and the age of leaving through retirement or earlier exit, and about the number of years the pension will be claimed, i.e. the life expectancy of pensioners.
- 2.7 The most significant assumption is the investment return assumption used to discount future benefit payments. This assumption was calculated to be consistent with the average long-term rates of return on a broad mix of asset classes⁵. The same approach was adopted in 2003. Overall in nominal terms, the assumptions were half a percentage point higher than assumptions made in 2003 because inflation (as measured by the retail prices index (RPI)) was expected to be half a percentage point higher on average for future years than in 2003. The economic assumptions were the same in 'real' terms (i.e. relative to price inflation) as in the earlier review and therefore changes in these did not affect results.
- 2.8 Pay progression, however, was assumed to be 1 per cent a year lower for the judiciary than for the other two groups. This assumption was made primarily because pay of the senior military and the SCS includes performance increases (such as performance-related increments for the senior military and performance pay for the SCS) and increases on promotion, whereas members of the judiciary are paid a spot rate, do not receive performance-related increases and are less likely to be promoted within the judicial system. In other words, for a member of the judiciary the annual increase in earnings is normally equal to the pay settlement for that year, whereas for members of the SCS and senior military (as with most employees) individual earnings will tend to increase faster than settlements.

Results

- 2.9 Applying these assumptions provided results for broad groups within the SCS, the senior military and the judiciary which are given in **Table 2.1**. These results can also be compared to the 2003 study. We find that the average value of the pension scheme is worth most to the judiciary (35 per cent of salary overall), slightly less to the senior military (32 per cent of salary overall) and significantly less for the SCS (22 per cent of salary overall). The value as a percentage of salary is greater, on average, for the more senior members of each of these groups. Additionally, the value has increased since 2003 for the senior military (an average increase of 7 percentage points) and to a lesser extent for the judiciary (an average increase of 4 percentage points) – see paragraphs 2.11 to 2.13 for an explanation of these changes.

⁴ However, there are other methods which can be used to calculate the value of a pension scheme, or its cost for accounting purposes, and different methods may produce different results.

⁵ Other assumptions can be used and different assumptions may produce different results.

Table 2.1: The average¹ value of benefits expressed as a percentage of pensionable pay for members of the remit groups: 2003 and 2007

Group	Senior Civil Service		Senior Military ²		Judiciary ³	
	2003	2007	2003	2007	2003	2007
Members	Pay band 2		2-star		District Judges	
Average value	22%	22%	25%	31%	30%	34%
Members	Pay band 3		3-star		Circuit Judges	
Average value	22%	23%	25%	32%	33%	36%
Members	Permanent Secretaries		4-star		High Court Judges	
Average value	23%	25%	25%	34%	32%	36%
Average value overall	22%	22%	25%	32%	31%	35%

¹ It should be noted that the value for individual members can vary widely from these averages. In particular, these values do not show the impact of members having reached their maximum pensionable service.

² The senior military results for the two years are not directly comparable. This is because at the time of the 2003 review all senior officers were members of the AFPS 1975 scheme with an accrual rate which stepped down after 16 years service. By 2007 some three quarters of senior officers had joined the new AFPS 2005 scheme which has a level accrual rate.

³ A lower assumption was made for pay increases for the judiciary in 2007 as they do not receive performance-related bonuses or performance-related pay increases and are promoted less frequently than members of the other two remit groups. Watson Wyatt reproduced their 2003 results for the judiciary using this lower (1 per cent) assumption for this table so that a comparison of like with like could be made. Note that the original 2003 report assumed that all remit groups' pay increased by 2 per cent above inflation each year.

2.10 As part of this review, a comparison was made with a number of public sector schemes including the NHS pension scheme. Consequently, we also have those comparable results for the NHS in general which are presented later in this chapter. However, our NHS remit group, which covers a sub-set of the Very Senior Managers (VSMs), was not examined separately from the rest of the NHS, so there are no results to be included in Table 2.1 for the VSM remit group.

Changes since 2003

2.11 The SCS pension scheme percentage value is unchanged since 2003 because an increase in value resulting from an assumption that members are living longer, and therefore drawing their pensions for longer, has been offset by a decrease because more members are likely to be affected by the retained Earnings Cap⁶ in their scheme.

2.12 The senior military pension scheme percentage value has increased by 7 percentage points since 2003 for two reasons. First, it has been assumed, as with the SCS, that members will live longer. Second, a new pension scheme has been introduced for this group with a higher accrual rate for members with longer service (the Armed Forces Pensions Scheme 2005) to which three-quarters of the senior military transferred. Although the new scheme provides a similar level of total benefit over a member's career to the old scheme, the old scheme features an accrual rate which steps down after 16 years service, whereas the new scheme provides a level accrual rate. Therefore, for members already with long service, the pension built up each year in the new scheme is greater than in the old scheme.

⁶ Before 5 April 2006, the Earnings Cap placed a limit on the pensionable salary on which contributions and pension benefits could be based in a registered scheme. The Earnings Cap did not apply to members who joined their current scheme on or before 31 May 1989. As part of the provisions of the Finance Act 2004, the Earnings Cap was removed with effect from 6 April 2006. However, many schemes elected to retain an earnings cap and HMRC continues to publish the updated level. For the 2007-08 tax year the level is £112,800 and is expected to increase each year in line with RPI.

2.13 The pension scheme percentage value for the judiciary has increased by 4 percentage points since 2003 from a combination of two factors. Again, part of the increase is because it has been assumed that members are living for longer. Secondly, the average age of this group is now slightly higher and as can be seen in **Figures 2.1 and 2.2** below, the pension value as a percentage of pay increases with age. The cost increases with age because the older the pension scheme member, the closer to retirement age and therefore the shorter the period for which contributions in the current year will (notionally) be invested before retirement. Since 2003 the judiciary pension scheme has become non-registered, which has had the effect of avoiding a significant increase in the tax liability of some judges. This is dealt with in paragraphs 2.16 to 2.17.

Comparisons with other schemes

2.14 The pension schemes for the three remit groups compare favourably with most other public and private sector comparators. A number of specific comparators are given at **Table 2.2** below and shown in **Figures 2.1 and 2.2**.

Table 2.2: The average¹ value of benefits expressed as a percentage of pensionable pay for members of other public and private sector schemes given at the average age of members of the three remit groups.

Type of Comparator	Remit group	Senior Civil Service	Senior Military	Judiciary
	Average value for remit group	22%	32%	35%²
	<i>Average age of remit group used for comparison</i>	<i>50 years</i>	<i>53 years</i>	<i>58 years</i>
Value of benefits for members of other schemes at the average ages of the three remit group schemes				
Public Sector	Police (1987 scheme)	46%	51%	n/a
	Local Government	18%	20%	22%
	Teachers	17%	19%	21%
	NHS	17%	18%	21%
Private Sector	A: Defined benefit (upper quartile of senior employees ³)	38%	40%	43%
	B: Defined benefit (lower quartile of senior employees ⁴)	15%	16%	18%
	C ⁵ : Cash supplement (20% of pay as cash)	21%	21%	21%
	D ⁶ : Defined contribution (18% of pay contribution)	16%	17%	18%
	E ⁶ : Defined contribution (10% of pay contribution)	9%	9%	10%

Source: Watson Wyatt

¹ It should be noted that the value for individual members can vary widely from these averages.

² For comparison with the other schemes, a pay increase assumption of 1% above price inflation has been used for the judiciary in this table but not the following charts. A pay increase assumption of 2% per annum above price inflation would give an average value of 38%.

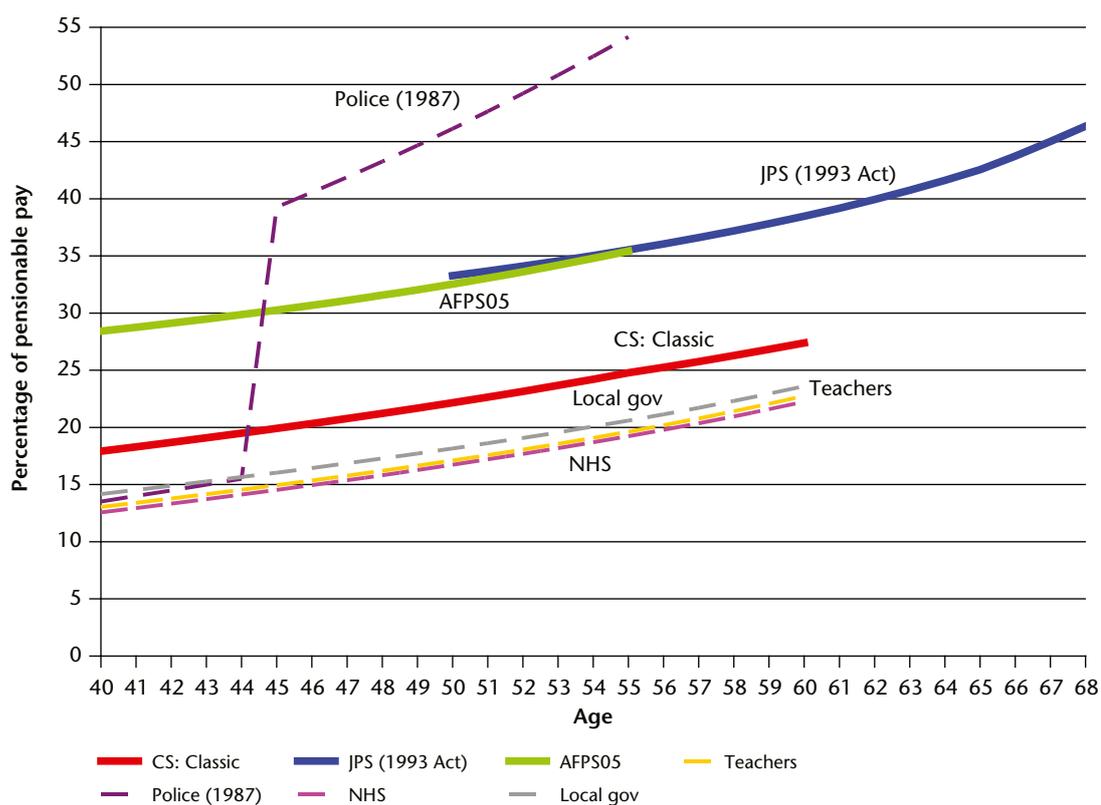
³ This is an arrangement in the upper quartile of defined benefit schemes available to private sector senior employees.

⁴ This is an arrangement in the lower quartile of the defined benefit schemes available to private sector senior employees.

⁵ The reason the values shown are 21% rather than 20% is that allowance has been made for the accrual of the State Second Pension (net of additional National Insurance contributions paid by the individual). Where pension schemes are not contracted-out of the State Second Pension (the judicial schemes, civil service partnership and defined contribution schemes D and E), allowance has also been made for this.

⁶ The reason the values shown are different to the defined contribution rates is that the employer contributions are adjusted downwards to reflect annuity conversion terms and the value of any risk benefits and State Second Pension benefits are added to the adjusted employer contributions.

Figure 2.1: Values¹ of remit group pension schemes² compared with other public sector schemes for the average³ member.



¹ These values are calculated using the projected unit method which is net of member contributions.

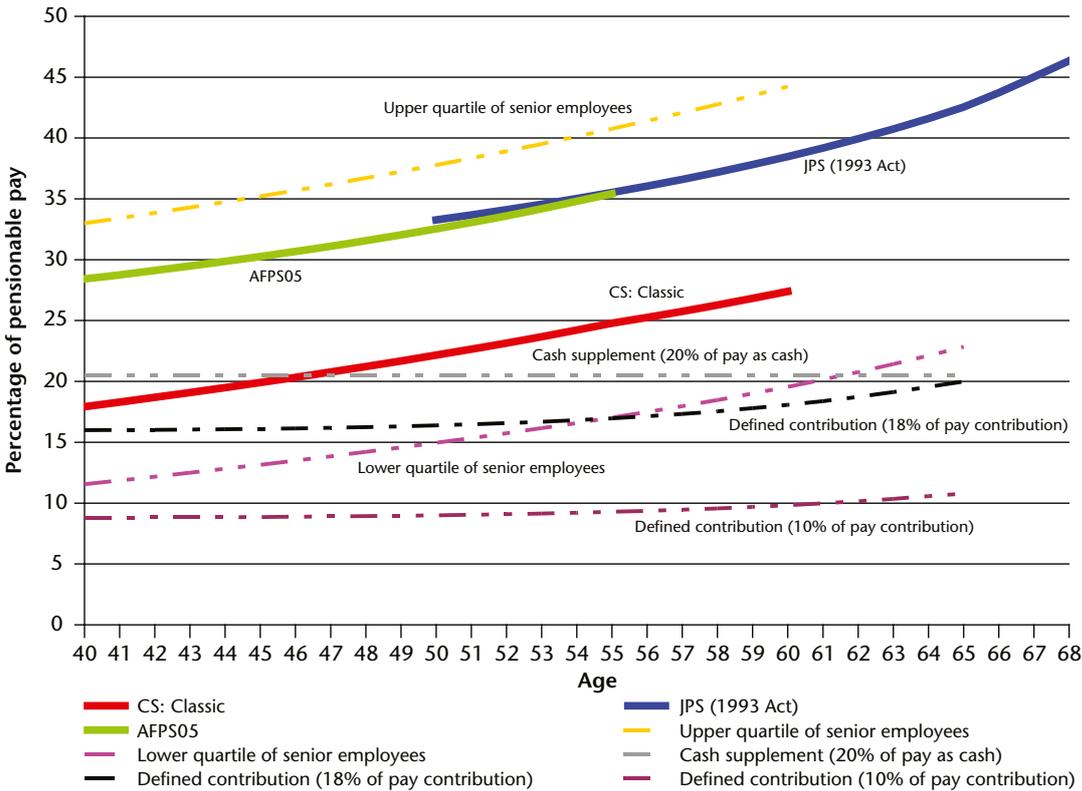
² The values for the judiciary use a pay increase assumption of 2 per cent above price inflation instead of the 1 per cent used in the tables. This is to make comparisons with the other groups on a like for like basis. Additionally, it should be noted that a quarter of the senior military are on the older (AFPS75) pension scheme which has a lower value at the higher ages (see 2.12).

³ It should be noted that the value for individual members can vary widely from these averages.

Key for pension scheme names

AFPS05	=	Armed Forces Pension Scheme 2005 (including the Early Departure Payments Scheme)
JPS (1993 Act)	=	Judicial Pension Scheme (Judicial Pensions and Retirement Act (1993))
CS: Classic	=	Civil Service: Classic Pension Scheme
Local gov	=	Local Government Pension Scheme
NHS	=	NHS Pension Scheme
Police (1987)	=	The Police Pension Scheme 1987
Teachers	=	Teachers' Pension Scheme

Figure 2.2: Values¹ of remit group pension schemes² compared with private sector schemes for the average³ member.



¹ These values are calculated using the projected unit method which is net of member contributions.
² The values for the judiciary use a pay increase assumption of 2 per cent above price inflation instead of the 1 per cent used in the tables. This is to make comparisons with the other groups on a like for like basis. Additionally, it should be noted that a quarter of the senior military are on the older (AFPS75) pension scheme which has a lower value at the higher ages (see 2.12).
³ It should be noted that the value for individual members can vary widely from these averages.

2.15 It is clear that for senior civil servants, senior officers in the armed forces and the judiciary their pension value is a substantial part of total reward, particularly if comparison is made on a percentage of salary basis with some private sector pension schemes. However, in making comparisons with roles within the private sector it is important to consider two issues. The first is that measuring pension relativities as a percentage of pay does not provide any comparability in cash value terms where groups are paid different salaries. Comparable private sector employees are likely to have significantly higher base salaries than our remit groups so their pension schemes may be worth as much or more in absolute terms, even if the value as a percentage of salary is lower. The second is the need to take account of all other elements of remuneration including performance bonuses, share options and other benefits. Comparisons between different groups of workers, whether in the public or private sectors, should be made only on the basis of total remuneration. Senior workers in the private sector may receive benefits such as health insurance, share options, cars or car allowances, not available to our remit groups.

- 2.16 It is important to note that the judicial pension scheme is now non-registered⁷ and the impact of this also needs to be taken into consideration. Contributions to non-registered schemes do not attract tax relief, while lump sums paid under such schemes are liable to tax. When the judicial scheme became non-registered, the contribution rates were reduced and additional lump sums were paid so that, after taking account of tax, members were in the same financial position as before. In other words, adjustments were made to achieve neutrality in terms of the amounts members paid and received. Therefore the change has no impact on the value of the pension to members. However, the purpose of changing the scheme to a non-registered one was to ensure that members with total benefits above the Lifetime Allowance⁸ would not face an additional tax charge. We do not know which members this will affect, but it is likely to be the more senior members of the judiciary who had built up substantial pension entitlement during their earlier careers as leading barristers or solicitors.
- 2.17 For those judges with total benefits that exceed the Lifetime Allowance, the exemption increases the relative value of the benefits (in net terms) by around 8 per cent of salary compared to a registered arrangement. For those whose income is taxed at the top rate and whose benefits are over the Lifetime Allowance, the net value of 8 per cent of pensionable pay is equivalent to a gross value of 13 per cent of pensionable pay ('grossing-up' to allow for 40 per cent income tax) or to pension benefits of gross value of 17 per cent of pensionable pay ('grossing-up' to allow for the tax charge of 25 per cent and the income tax of 40 per cent on the remainder). It is not possible to estimate how many of the judiciary this affects as no information is available on their retained benefits.

Conclusion

- 2.18 Placing a value on pension schemes is a complex undertaking and depends on many assumptions. However, broadly speaking, the results from this review by Watson Wyatt show that the comparative value of the pension scheme has improved somewhat for the senior military and for the judiciary and remained the same for the SCS over the last four years. All three groups continue to benefit from defined benefit pension schemes at a time when such schemes have become far less common in the private sector. We believe that, on the whole, pension arrangements for our remit groups are better than, or at least on a par with, those of most senior employees in the private and public sector.

⁷ A pension scheme which is registered is eligible for some tax relief on certain benefits and, in the case of funded schemes, investment returns and contributions. Benefits in registered schemes count towards the Lifetime Allowance whereas benefits in non-registered schemes do not.

⁸ The Lifetime Allowance represents the total capital value of pension arrangements that an individual can receive from registered pension arrangements without paying an additional tax charge. All of the registered pension benefits received by an individual count against the Lifetime Allowance. State benefits and unregistered benefits do not count. The Lifetime Allowance is £1.6 million for the 2007-08 tax year; it was introduced with effect from 6 April 2006.

Chapter 3

The senior civil service

Introduction

- 3.1 In our previous report we noted our growing concerns about the functioning of the senior civil service (SCS) pay and performance management system. We believed the time had come to urge the Government to consider substantial reforms. Such reforms should be embodied in a proper pay and workforce strategy for the SCS, linked with a commitment to provide the means to implement it. We therefore asked the Cabinet Office to provide us with a report on the development of such a pay and workforce strategy by the end of June 2007. We received an update in the summer and the Cabinet Office has subsequently announced a thorough review of the SCS, the output of which is intended to constitute a new workforce and reward strategy. We say more about this below.
- 3.2 The Government formally submitted evidence to us in early December 2007 with its proposals for the 2008 award and background information¹. We had been preparing this report on the basis of that evidence, with the intention of submitting it to Government in late February, as usual. However, as explained in paragraph 1.10 above, early in 2008 we were alerted to the possibility that, as part of a wider strategy to seek public sector pay deals for the period of the current comprehensive spending review, the Government might revise its evidence and ask us to recommend an award for the SCS for the period 1 April 2008 to 31 March 2011. This was subsequently confirmed and the Government formally submitted revised evidence to us on 27 February 2008². We of course needed time to consider the new evidence and to have further discussions with both the Government and the trade unions representing the SCS. Our report has consequently been delayed by some two months.
- 3.3 In this chapter we first include our usual description, based on data from the Cabinet Office, of how pay and performance management for the SCS evolved in the year 2006-07. We discuss the evidence provided by the Government, the Civil Service Commissioners and the trade unions, and our own findings through discussion groups and meetings with SCS members, including HR managers. We then describe and comment on the Cabinet Office's update and its response to our proposals for major reform. Finally, we consider the Government's proposal for a settlement for the SCS lasting three years and make our recommendations.

The SCS – issues of pay and workforce strategy

- 3.4 Our remit group comprises all the members of the SCS. Senior staff in the Diplomatic Service are not part of our remit group, although we understand that the Diplomatic Service broadly follows our pay recommendations. The SCS has grown by over 37 per cent since 1999. However, the rate of increase has tended to slow over the last three years.

¹ www.civilservice.gov.uk/documents/doc/pay_reward/SSRB_Evidence_2007.doc

² http://www.civilservice.gov.uk/iam/cs_policy/pay_reward/pay_arrangements.asp

Table 3.1: Total SCS staff in post by year

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
SCS in post	2,963	3,108	3,331	3,507	3,700	3,893	3,906	4,031	4,075
% change on previous year	n/a	4.9	7.2	5.3	5.5	5.2	0.3	3.2	1.1

Source: Cabinet Office

- 3.5 We commented in our previous report that it was noteworthy that SCS numbers continue to increase although overall civil service numbers have been declining since 2005. We have heard some views this year that the growth in the SCS may be at least in part because more senior staff are needed to manage relations with bodies to which work formerly done by civil servants has been out-sourced. Another suggestion is that there has been an expansion of specialist functions at SCS level, for example in communications, IT and finance. Changes in classification may also have had an effect on the numbers; for example, the inclusion of HM Courts Service in the Ministry of Justice caused an increase in the size of the SCS.
- 3.6 Whatever the reasons for the increase, we have no evidence to show whether or not SCS productivity is changing. Moreover, the growth in SCS over the last eight or so years appears to have been largely unplanned at the centre. We believe that growth has resulted both from the ability of departments to create new SCS posts subject only to their overall budgetary limits and from a lack of an overall conception of the role, purpose and composition of the SCS.
- 3.7 Our deliberations in this round have also been informed by:
- the House of Commons Public Administration Select Committee Report *Skills for Government*³ and the Government's response⁴; and
 - the Government's departmental capability reviews⁵.
- 3.8 *Skills for Government* deals with the whole civil service (and indeed with Ministers) but its findings support many of our own concerns about the SCS. The Report considers methods to boost skills in the Civil Service and concludes that:

"the various programmes lack overall coherence. There should be a clear focus on the [Civil Service] growing its own talent, and the service could do more here. Departments should get central aid and encouragement to run internal fast-track schemes, and to equip their staff with suitable vocational or academic qualifications to allow considered workforce planning...

At the moment, the value of external recruitment to improving the Civil Service may be overemphasised. Unless it is targeted correctly, bringing in outsiders can cause as many problems as it solves. As a rule, external recruitment should not be taking place at the highest echelons of the service, and should not focus predominantly on the private sector."

³ www.publications.parliament.uk/pa/cm200607/cmselect/cmpublicadm/93/93i.pdf

⁴ www.publications.parliament.uk/pa/cm200708/cmselect/cmpublicadm/89/89.pdf

⁵ www.civilservice.gov.uk/about/accountability/capability/index.asp and Annex to *Skills for Government*

3.9 Capability reviews examined departments' performance under three broad headings: leadership, strategy and delivery. All departments showed room for improvement in some areas. Of the 15 departments covered by the reviews, none achieved the top mark, 'strong', for performance management and only four were 'well placed'. Clearly there is room for improvement in many areas and we believe it is an important part of the task of the Normington Review to ensure that the workforce and reward strategy identifies both the skills needed in the SCS and the means of providing those skills. However, we also concur with the conclusion of the Public Administration Select Committee that, although "performance can, and must, be improved, we should not lose sight of the very many excellent things that are done by excellent people every day. It is a sign of the professionalism of the existing Civil Service that we take so many of these for granted."

The SCS pay system

3.10 The SCS operates a broad band pay structure, using three main pay bands plus the group of permanent secretaries and equivalents. Some departments use a fourth, intermediate Pay Band (1A). In the past we have encouraged greater use of this band, to increase pay flexibility, but the numbers remain very low. The current numbers and pay ranges for each band are set out in the following table.

Table 3.2: SCS pay ranges 2007

Pay Band	No. in band	Pay range	Median salary	Mid-point of range	Progression target rate
1	2,930	£56,100 – £116,000	£71,918	£86,050	£78,540
1A	202	£65,280 – £127,000	£84,068	£96,140	£87,720
2	713	£81,600 – £160,000	£100,000	£120,800	n/a
3	156	£99,960 – £205,000	£135,241	£152,480	n/a
Permanent Secretaries	40	£139,740 – £273,250	n/a	£206,740	n/a

Sources: Cabinet Office, OME

Note: The above total of SCS members (4,041) is lower than the total staff in post in table 2.1 (4,075). The difference of 34 appears to comprise SCS members with non-standard pay bands, for example those paid at NHS rates.

3.11 There is no automatic pay progression for SCS members. Annual base pay increases and any bonus payments are entirely performance-related⁶. In 2007 we recommended that increases should be in the range 0 to 9 per cent. The outturn was an average increase in base pay of 2.7 per cent. Broadly speaking, the size of increase was directly related to the performance tranche in which an individual was placed after his or her annual appraisal, where those marked on the top tranche received an average increase of 4 per cent, those in the middle tranche received 2.5 per cent and those in the bottom tranche 1.1 per cent on average. In 2007 4.7 per cent of SCS members received no increase. There has been a 'forced distribution' into performance tranches whereby SCS members are assessed on their relative, not absolute, merit. The Cabinet Office issues guidance on the target distribution which departments are urged to achieve. For 2007 the target distribution was: Tranche One (the top tranche): 25 per cent; Tranche Two: 65 to 70 per cent; Tranche Three: 5 to 10 per cent. The actual outturn by pay band was as follows:

⁶ The only exception is where the bottom of the range is increased, when the pay of those currently paid below the new minimum will move to that figure.

Table 3.3: SCS tranche markings by pay band 2007

Pay Band	Tranche One %	Tranche Two %	Tranche Three %
1	23.2	70.7	6.1
1A	27.2	62.2	10.5
2	26.6	69.5	3.9
3	33.0	64.9	2.1
All SCS	24.3	70.0	5.8

Source: Cabinet Office

Notes: Figures exclude 662 SCS members for whom no tranche marking is available or who are on non-standard pay arrangements. Totals may not sum to 100 owing to rounding.

3.12 It is clear that pay increases are on the whole related to the assessment of performance, although it is also apparent from the above figures that the forced distribution has been applied more strictly to the lower pay bands. Only two members of Pay Band 3 were placed in the bottom tranche and they nevertheless received an average increase of 5.7 per cent whereas the average increase for members of Pay Bands 1, 1A and 2 placed in the bottom tranche was less than 1.1 per cent. The Cabinet Office's draft guidance for 2008-09 states that departments should continue to rank SCS members' performance from the strongest to the weakest within an appropriate peer group. Once ranked, they should then be allocated to one of four performance groups:

- Group 1 – top 25 per cent of performers
- Group 2 – next 40 per cent of performers
- Group 3 – next 25 to 30 per cent of performers
- Group 4 – bottom 5 to 10 per cent of performers.

3.13 The guidance leaves departments free to decide how to differentiate base pay awards within the overall permitted envelope subject to the principle that better performers should receive higher increases and action should be taken to address poor performance, including the drawing up of a Performance Improvement Plan.

Pay progression

3.14 Pay progression for internal members of the SCS (i.e. those not recruited to their post from outside the civil service) remains disappointingly slow, such that most members of the SCS are still well below the mid-point of their pay band. When the current SCS pay system was designed, we recommended that the Progression Target Rate (PTR) should be set at about the mid-point of each pay range and that reaching the PTR should take three to four years for consistently top performers and around ten years for other fully effective performers. Instead, however, the Government set the PTRs only at about a third of the distance between the minimum and maximum of each range. In 2006 the PTRs for Pay Bands 2 and 3 were abolished as part of a move to more individualised pay arrangements for SCS in those bands. The Government proposes to abandon PTRs in 2008-09 for Pay Bands 1 and 1A. We return to this below in our recommendations.

3.15 In its evidence, the Cabinet Office argued that median pay is now more than 80 per cent of the mid-point in each pay band. However, these figures are distorted by the recruitment of a growing number of SCS members from outside the civil service on salaries significantly higher than those of internal recruits. Those higher salaries push up the median which therefore does not accurately reflect the rate of pay progression of internal recruits. This can be seen in the following table:

Table 3.4: SCS median salary by pay band and origin, 2007

Pay Band	Median salary – all members £	Median salary – external recruits £	Difference between external and all %
1	71,820	80,000	11.4
1A	84,850	95,000	12.0
2	99,386	121,800	22.6
3	133,380	175,000	31.2

Sources: Cabinet Office, OME

Note: The median salaries differ from those in table 3.2 because that table relates to all staff in post whereas the figures in table 3.4 exclude SCS members with non-standard pay arrangements, for example those paid at NHS rates.

- 3.16 As the Cabinet Office itself notes in its evidence, “although external recruits make up only a fifth of all the SCS, they constitute just over half (50.4 per cent) of the top decile earners and just 5 per cent of the bottom decile earners” and “the median salary of all internal SCS as a proportion of external SCS continues to fall at a rate of 3 percentage points a year” and now stands at 85 per cent. **We therefore request the Cabinet Office to provide in its evidence to us next year the median salary by pay band of internal recruits as well as of external recruits and internal and external combined.**
- 3.17 We have drawn attention in previous reports to the ‘two-tier’ nature of the SCS pay system which has emerged as a result of external recruitment on salaries higher than those paid to existing, internally promoted SCS members. The Civil Service Commissioners have related concerns and we return to these in paragraphs 3.34 – 3.35 below.
- 3.18 It is clear to us that the very slow rate of pay progression for the large majority of internally appointed SCS and the growing disparity in pay between internal and external appointments are demotivating the SCS workforce. The system is not doing what it set out to do; disparities are increasing, and the gap between SCS pay and both private sector pay and other public sector pay is widening. In short, the SCS pay system is seen increasingly to lack credibility.

The SCS bonus system

- 3.19 SCS members are eligible for non-consolidated bonus payments as well as performance-related increases in base pay. The Government’s objective was to build up a bonus pot worth 10 per cent of SCS salaries by 2008. Following our recommendations, the bonus pot stood at 7.6 per cent of the SCS salary bill in 2007-08.
- 3.20 The purpose of bonus is to reward in-year achievement of objectives, and is intended to be distinct from base pay increases which should reflect growth in longer-term potential. However, this distinction still appears to be poorly understood both by some SCS members and by some departments. This can be seen in those departments which conflated the base pay and bonus decisions by making them both dependent on the tranche marking, whereas it should have been possible for someone with a bottom tranche marking to receive a bonus if he or she achieved the objectives agreed at the beginning of the year.

- 3.21 The SCS bonus system differs from typical private sector schemes for senior employees, as we set out in our last report where we recorded the conclusions of a study by Towers Perrin⁷. In the private sector, bonuses for senior staff typically represent a larger proportion of salary and the conditions for the payment of bonus tend to be fixed in advance so that employees know what targets they have to meet in order to receive a bonus. In the SCS, however, departments have hitherto been encouraged to apply a quota for bonuses, and the decision on whether to award a bonus has been made at the end of the year by departmental pay committees, on the recommendation of line managers, taking account of relative performance. In other words, it has been possible for an SCS member to achieve all his or her objectives for the year but not to receive a bonus because other colleagues in the management unit were judged to have performed better. Thus the SCS bonus scheme can be seen as a means of rewarding better performers retrospectively – a merit scheme rather than a bonus scheme. Managers have not hitherto been able to guarantee that someone will receive a bonus for achieving objectives, so the incentive effect of bonus was weakened. Moreover, in contrast to the private sector, SCS bonuses have not hitherto been linked to performance of the organisation as a whole or of units within the organisation.
- 3.22 In 2007 nearly 71 per cent of the SCS received a bonus – over 95 per cent of those in the top tranche, 72 per cent of the middle tranche and 18 per cent of those placed in the bottom tranche. Departments have used the growing bonus pot both to pay bonuses to more SCS members – 4 per cent more than in 2006 – and to increase the size of bonuses. In 2007 the top 10 per cent of SCS members received a bonus of at least 14 per cent of salary. The minimum value of a bonus was £3,000, the maximum 20 per cent of salary, and the average value of bonuses in 2007 was as follows:

Table 3.5: Average value of SCS bonus by pay band 2007

Pay Band	Average bonus £	Percentage of median salary %
1	7,296	10.1
1A	8,090	9.6
2	9,443	9.4
3	13,451	9.9

Sources: Cabinet Office, OME

- 3.23 The Cabinet Office proposes to introduce changes to the bonus scheme for the year 2008-09. These are discussed in paragraphs 3.54 – 3.56 below. In its supplementary evidence the Government used the term “conditional performance related element” instead of bonus scheme – and also referred to the “annual non-consolidated performance related pay award”. We were advised that this reflected a desire to emphasise that this element of pay was entirely dependent on performance. We believe a change in terminology will simply cause further confusion and we advise against it. In this report we therefore continue to refer to bonuses and the bonus scheme.
- 3.24 The Cabinet Office’s draft guidance to departments for 2008-09 drops specifications about the size of bonuses and the proportion of the SCS to receive them and leaves departments free to differentiate, as with base pay, subject to the proviso that individuals in Group 4 (see paragraph 3.12 above) should not receive a bonus. Given that there is an expectation that 5 to 10 per cent of SCS will be placed in performance Group 4 and not receive a bonus, it appears possible that some SCS members could still achieve their objectives for the year but not receive a bonus because they are judged to be among the weakest performers.

⁷ <http://www.ome.uk.com/downloads/Towers%20Perrin%20report%20on%20Bonus%20Scheme%20Design%20and%20Effectiveness.pdf>

- 3.25 The Government has asked us to consider a new, additional bonus scheme for some 200 SCS members who are most closely involved with delivery of Public Service Agreements⁸. We discuss this further in paragraphs 3.65 – 3.66 below.

Equal pay

- 3.26 After widening slightly in 2006, the pay gap between men and women in the SCS has fallen in 2007 from 4.7 to 4.4 per cent. (The 2006 figure has been revised down from 4.9 per cent.) The Cabinet Office attributes the fall to female SCS members being slightly more likely than men to be placed in the top performance tranche, and receiving slightly larger base pay increases than men in the same performance tranche. The average base pay award was 2.9 per cent for women and 2.7 per cent for men. The Cabinet Office suggests that women are benefiting from departments' policies of giving larger percentage increases to those lower in the pay ranges.
- 3.27 In our last report we recommended that the Government investigate the reasons for and implications of the difference between median starting salaries of men and women in SCS posts, and especially the higher salaries paid to male external recruits. We asked for a report this year on the findings and action taken. We did not receive such a report. However, the Cabinet Office's evidence shows that the pay gap between male and female starting salaries has reduced by approximately half:

Table 3.6: Difference between median starting salaries of men and women in SCS in 2005-06 and 2006-07

Route to post	Female median 2006-07	Male median 2006-07	Difference (as % of female median)	Female median 2005-06	Male median 2005-06	Difference (as % of female median)
Internal	£67,081	£69,232	3.2%	£64,130	£67,708	5.6%
External ¹	£83,000	£87,465	5.4%	£76,868	£85,490	11.2%

Sources: Cabinet Office, OME

¹ The 2005-06 figures relate to those joining through open competitions whereas the 2006-07 figures are for all those joining the SCS from outside the civil service, whether or not through open competition, so the figures for the two years are not directly comparable.

- 3.28 We are disappointed that the Government did not respond to our specific request for a report on starting salaries, but we are pleased to see that the gap on which we commented last year has been narrowed. We should be interested to learn how this was achieved. We ask the Government to continue to monitor the starting salaries of male and female recruits and to report to us next year on developments. Meanwhile, we are also pleased to note that the pay gap in the SCS is much smaller than in the private sector. The April 2007 Annual Survey of Hours and Earnings showed that across the whole economy men's full-time earnings were on average 17.2 per cent higher than women's, while the latest Institute of Directors annual rewards survey found that on average female company directors earned 22 per cent less than male directors.

⁸ Public Service Agreements are the key priority outcomes which the Government wishes to achieve over the comprehensive spending review period 2008-11. For more information see http://www.hm-treasury.gov.uk/pbr_csr/psa/pbr_csr07_psaindex.cfm

Diversity

3.29 The Government has set diversity targets to be reached in 2008 for the SCS. The table below shows progress to date:

Table 3.7: Diversity in the SCS

Measure	April 2005	April 2006	April 2007	2008 target
% of women in SCS	29.1	30.4	32.1	37
% of top management posts held by women	25.5	26.3	27.5	30
% of SCS from ethnic minority backgrounds	2.8	3.1	3.2	4
% of SCS with disabilities	2.9	2.8	2.8	3.2

Source: <http://www.civilservice.gov.uk/about/diversity/monitoring.asp>

Age discrimination

3.30 For the second year, the Cabinet Office has provided a breakdown of top tranche awards and percentage receiving bonus by age. The profile is similar to last year and shows that the probability of receiving both a top tranche marking and a bonus falls with increasing age. The Cabinet Office said it in its evidence to us that it was investigating with the help of experts whether there is direct or indirect age bias in the performance management and pay system.

Table 3.8: Breakdown of SCS median salary, Tranche One markings and percentage receiving bonus by age

Age	Median Salary	% of age band in Tranche One	% of age band receiving a bonus
<30	£58,972	46	77
30-34	£62,862	31	72
35-39	£68,691	28	74
40-44	£72,193	25	72
45-49	£74,295	22	73
50-54	£78,540	20	72
55-59	£79,395	17	67
60-64	£83,350	9	58
65+	£81,903	10	30

Pensions

3.31 As noted in Chapter 2, the value of the SCS pension as a percentage of salary remains unchanged at 22 per cent since the review in 2003. The SCS pension schemes are not as favourable as those of the judiciary and senior military, and new entrants are now on a career average rather than a final salary scheme. However, for SCS members still on the final salary scheme, the lower value as a percentage of salary is broadly offset by the fact that they are eligible for bonus payments, currently 7.6 per cent of pay bill and likely to rise to 10 per cent over the next few years. A secure, defined benefit pension may be regarded as compensating to an extent for lower salaries than those available in the

private sector, although the Watson Wyatt report suggests that the SCS pension is less valuable than the best private sector pensions both as a percentage of salary and in cash terms. We therefore see no reason to abate pay awards for the SCS because of the pension.

Evidence

3.32 This year, as in previous years, we took both written and oral evidence from a number of sources. The main written evidence we received about the SCS can be found on the respective websites of the bodies which submitted it. A list of those website addresses is at Annex C. A list of those who gave written and oral evidence is at Annex A.

Government evidence

3.33 We have discussed the Government's economic evidence in Chapter 1. We also received written evidence specifically relating to the SCS and this was supported by oral evidence from the Cabinet Secretary and officials from the Cabinet Office. The Government's original proposals for SCS pay were:

- a 'headline' increase of 1.5 per cent of new money on the base pay bill, with additional recycling savings of 1 per cent, resulting in an average of 2.5 per cent increase in base pay with, as in previous years, base pay awards ranging from 0 per cent to 9 per cent depending on performance;
- an increase in the bonus pot of 1 per cent to 8.6 per cent of the SCS pay bill;
- an increase in the minima of Pay Bands 1 and 1A of approximately 2 per cent, but no increases in the pay band maxima; and
- the removal of Progression Target Rates for Pay Bands 1 and 1A.

3.34 In its subsequent, supplementary evidence asking us to consider a three-year settlement for the SCS the Government proposed for the period 2008-2011:

- a limit of 7 per cent on the increase in SCS pay bill per head over the three-year period;
- an increase in the "conditional performance related element" (i.e. the bonus pot) to 10 per cent of pay bill;
- over the three-year period the balance of pay bill per head (plus recyclables) should be used to increase base pay;
- headline base pay increases should be limited to 1.5 per cent each year.

3.35 In oral evidence we heard about a review of SCS workforce and reward strategy to be conducted by a team led by Sir David Normington. We deal with this further at paragraph 3.45 below. In addition, the Government evidence described the intention to strengthen performance management as well as developing leadership within the SCS. One initiative involves holding a three day induction seminar, known as 'base camp', for new entrants to the SCS to develop focus on civil service-wide objectives. We also heard that the Government is taking steps to improve the balance of men and women in the SCS by recruiting and retaining more female SCS members through measures such as greater use of flexible working. We were told that, on present trends, women could outnumber men in the SCS by 2020 although it may take longer for equality to be reached at the most senior levels.

SCS unions

- 3.36 We received written and oral evidence from the First Division Association and Prospect. The unions' written evidence this year was helpfully focused on the issues within our remit and we were grateful for their efforts. The unions offered no views on the exact level of increases they wished to see but proposed that the minima for Pay Bands 1 and 1A should be substantially increased and the PTRs for these bands be retained until the Cabinet Office puts forward proposals for a reformed reward structure. They also raised concerns about current arrangements for starting pay for internal appointees to the SCS (because of the overlap between some departments' Grade 6 pay scales and Pay Band 1) and the potential for equal pay claims caused by the 'two-tier' pay structure. The unions welcomed the Government's proposals to develop a workforce and reward strategy for the SCS.
- 3.37 The unions also gave us written and oral evidence on the Government's supplementary proposal for a three-year settlement. While not opposed in principle to such an arrangement, the unions argued that it should be possible to re-open the settlement if there were a significant increase in the rate of inflation over the three year period or a need to address equal pay problems. The unions also argued that any costs arising from the Normington Review should be "decoupled from the annual pay round". The unions therefore thought that even with a three-year settlement we should review SCS pay each year and they should have the opportunity to submit evidence to us on any of these elements.

Civil Service Commissioners

- 3.38 For the first time in recent years the Civil Service Commissioners, represented by the First Commissioner and the Secretary, provided oral evidence in support of their written evidence. We found that the oral evidence was a useful supplement to the Commissioners' written evidence and hope that it will be repeated in 2008. The Commissioners said that overall they were satisfied with the quality of candidates appointed but that fewer competitions than in the preceding year produced an appointable reserve candidate (61 per cent compared with 68 per cent) and seven competitions (out of 97) failed to produce an appointable candidate at all. The Commissioners concluded that the civil service is attractive to outsiders for reasons other than remuneration and some of those appointed from the private sector give up "salaries and benefits far in excess of anything they could ever possibly achieve as civil servants". However, the Commissioners acknowledge that in seven competitions where the first choice candidate turned the job down or was not subsequently appointed, the salary on offer may have been a factor.
- 3.39 The Commissioners drew two particular issues to our attention. First they were concerned that some successful external candidates were negotiating starting salaries well above those specified in the job advertisements. The First Commissioner gave an example of where a post had been advertised at a salary of £130,000 but the successful candidate had managed to negotiate a salary of £205,000. Such candidates might be seeking to match their previous earnings, although the Commissioners did not know whether departments actually verified candidates' previous salaries. In any case, it was wrong in principle to negotiate a salary for the successful candidate above the level advertised since other people who might have been better fitted could have been deterred from applying by the advertised salary but might have been interested if they had known that a higher salary was available. This practice was not conducive to obtaining the best value for money. The Cabinet Office subsequently told us that departments have now been instructed not to do this. The Commissioners were concerned that the staff in departments who carried out such salary negotiations with candidates were not sufficiently senior or expert.

- 3.40 The second problem was the converse: where an existing civil servant was successful in an open competition, he or she would normally receive a lower salary than that advertised. One civil servant who had successfully applied for a job advertised at a salary of £140,000 had been paid only around £80,000. The Commissioners said they had raised this issue with the Cabinet Office which argued that external candidates faced more risks than those already in the SCS and that higher starting salaries were therefore justified. However, in its evidence to us the Cabinet Office says it recognises the concerns voiced by the Commissioners and is working with them to develop best practice guidance on recruitment and pay.
- 3.41 We strongly agree with the Commissioners that these are both unacceptable practices and we recommend the Government to review them urgently. Allowing successful external candidates to negotiate salaries substantially higher than those advertised runs counter to the policy of matching pay to individual job weight, while it is clearly damaging to SCS morale – and quite simply unfair – that an existing civil servant successful in an open competition should not receive a salary reasonably close to that advertised. We accept that there will be instances where, on promotion, a civil servant might be started at a small discount to the rate for the job where he or she does not have all the relevant experience and that a fully experienced outsider might start on a modest premium. However, where internal and external candidates have commensurate skills and experience, then in principle their starting salaries should be the same. We believe that all posts subject to open competition should be job evaluated before they are advertised and that the salary offered should be linked to job weight, with any necessary market adjustment for particular skills or experience. The salary subsequently paid to the successful candidate, whether internal or external, should be consistent with the advertisement. We also ask the Government to ensure that staff negotiating individual salaries are of appropriate seniority and experience and that the previous earnings of external candidates are verified as part of the negotiations.

Recommendation 1: We recommend that the Government urgently review the practices of allowing successful candidates to negotiate salaries substantially above those advertised and of forcing existing civil servants successful in open competitions to accept salaries substantially below those available to similarly qualified external candidates.

Discussion groups

- 3.42 As well as receiving evidence from official sources, we are keen to meet members of our remit group and hear first hand their views on the pay system, recruitment and retention, morale, and other relevant issues. In July 2007 some of our members held discussion groups with members of the SCS from Pay Bands 1, 1A, 2 and 3, as well as a session with departmental HR Directors to listen to the views of those operating the system. Points made included the following:
- the relative performance system was unfair: some people were placed in the bottom tranche not because their performance was unsatisfactory but simply because others did better. This was demotivating and bad for morale;
 - pay progression was very slow and the PTRs seen as unreachable leading to cynicism about the whole pay system and a sense of lack of respect for the SCS;
 - the bonus scheme was unsatisfactory and demotivating for various reasons, including the size of bonuses and lack of transparency as to the basis on which they were awarded;

- views on external recruits were mixed with some career civil servants questioning the value for money of external recruits;
- there was some confusion about the different criteria for base pay increases and award of bonus; and
- for some, the whole working of the performance pay system for the SCS still seemed to be a “black box”, again leading to cynicism about the claims made for the system.

We found the sessions most useful and are grateful to all those who attended, some of whom also provided written observations.

SCS visit

- 3.43 In 2007 we continued our practice of visiting members of the SCS based outside London to gauge the issues and pressures faced by those working there and predominantly in delivery rather than policy roles. This year we visited Bootle to meet members of the SCS from the Health and Safety Executive and Department for Work and Pensions. Again we extend our thanks to those who attended the discussions and to those who helped to organise the visit.

Progress towards a workforce and reward strategy for the SCS

- 3.44 As noted in paragraph 3.1 above, we called in our last report for the Government to develop a pay and workforce strategy for the SCS and to give us a progress report by June 2007. In the update submitted to us in the summer of 2007 the Cabinet Office agreed with much of our analysis but said that more work was needed to develop responses to the points we had identified and more information would be provided in the Government’s evidence later in the year.
- 3.45 Subsequently, in the Government’s oral and written evidence and meetings between our SCS sub-committee and Cabinet Office officials, we have received information about a substantial review, designed to result in a long term workforce and reward strategy for the SCS. The review will be led by Sir David Normington, Permanent Secretary at the Home Office, and the main element will be completed in time for the results to be included in the Government’s evidence to SSRB in 2008. The Government expects the review to lead to a programme of reform lasting two or three years. The terms of reference of the review are:

“To provide long term direction to Senior Civil Service (SCS) workforce and reward strategy having regard to the needs of the civil service, observations made by the Senior Salaries Review Body (SSRB) in recent reports and public sector pay policy.

Issues in scope

Issues to cover include, but are not necessarily limited to:

- what is expected of senior leadership in the civil service and what this means for future talent requirements;
- what roles are part of senior leadership and what this implies for the levels and size of the SCS, and the interface with the non-SCS workforce;
- how SCS talent should be recruited, developed, deployed, directed and rewarded;
- what reward structures would enable senior leadership in the civil service to be appropriately recognised and incentivised for contribution and performance; and,
- how senior reward should be funded and administered to ensure the optimal balance between individual centred pay decisions, control and transparency.

Undertaking the review

The review will be undertaken in a consultative style:

- Civil Service Steering Board (CSSB) and Permanent Secretaries Management Group (PSMG) to receive regular reports on emerging issues and direction;
- SSRB to be kept in close touch with the work throughout; and
- departments to be consulted through HR directors and Permanent Secretaries.

Timing

The review is to be undertaken in the first half of 2008 in order to support decisions by CSSB and PSMG ahead of submitting evidence to SSRB in the autumn.”

3.46 Given our concerns about the lack of a pay and workforce strategy for the SCS, and the weaknesses in the current SCS pay system, we obviously welcome this review and hope we will be able to contribute to its work. Nevertheless we need to flag up two worries we have about the review:

- the first is that it is to be done in a very short time and with the bare minimum of support; and
- the second is that there appears to be an assumption that either the changes to the pay of the SCS we believe are likely to be required are to be funded within the proposed three-year settlement or their implementation is to be delayed until money can be found.

3.47 In these circumstances the review risks being a major lost opportunity. The Review, we suggest, needs to recognise the transformational role that can be played by an aggressive workforce and reward strategy. As we say in Chapter 1, the SCS are responsible for billions of pounds of public expenditure and the leadership of hundreds of thousands of civil servants. The benefits of achieving excellent performance by incumbents and of being able to recruit new people of the very highest quality will far outweigh the cost of necessary changes to SCS pay levels and systems. It would be most short-sighted of the Government to try to contain those necessary costs within predetermined pay budgets which, so far as we can see, take no account of the particular role and importance of the SCS. We see this issue as our foremost consideration in relation to the proposed three-year pay settlement.

3.48 On points of detail for the Review, we again draw attention to matters we have raised before:

- The Cabinet Office and departments should evaluate the extent to which external recruitment to the SCS on higher salaries is providing value for money and whether the individuals concerned consider the jobs they are doing and the environment in which they work are in line with their expectations. (The Cabinet Office’s latest evidence on this point was inconclusive and it plans further research. However, our concerns about value for money of external recruits have increased in the light of the Civil Service Commissioners’ evidence that some external recruits have negotiated starting salaries well above those advertised in open competitions, while internal SCS candidates successful in such competitions receive salaries substantially below those advertised – a practice we consider unjustifiable.)
- Departments should pursue the policy of moving to individualised pay arrangements at Pay Bands 2 and 3 and at Permanent Secretary level.

- The Government should consider whether to apply separate pay schemes for Pay Band 1 and the rest of the SCS, and whether the individualised pay approach should be extended to Pay Band 1A, or that band should be treated like Pay Band 1.
- The Government should consider whether it would be possible to find a way of judging departmental performance and moderating the bonus pot for each department accordingly.
- The Government should consider redesigning the bonus system so that the award (but not necessarily the amount) of a bonus is guaranteed if a post holder achieves all agreed objectives for the year.

3.49 In addition to these points, we emphasise the following:

- There must be adequate staffing (in terms of both numbers and expertise) to support the Normington Review and to implement its findings.
- We believe the review must address the question of who is responsible for the SCS workforce and reward strategy. While we understand that different departments and agencies have different needs, we are concerned that there is growing fragmentation and divergence of practice across the civil service. One example is whether departments still use Job Evaluation of Senior Posts (JESP) systematically. If the SCS is to remain a unified body, we believe there is a need for greater central direction, and this may well require a strengthening of the Cabinet Office role and capability.
- The resulting workforce and reward strategy must be clear on the planned size and composition of the SCS.

3.50 We agree with the unions that there needs to be a firm, published timetable for the development of the SCS workforce and reward strategy, but we are also concerned that the Review as currently envisaged may be unnecessarily rushed.

Recommendation 2: We recommend that the Government publish as soon as possible a timetable for development and promulgation of an SCS workforce and reward strategy so that we can take the strategy into account in our next annual review of SCS pay.

Pay recommendations for 2008

3.51 As noted above, the Government's proposals to us were for:

- a 'headline' increase of 1.5 per cent on the pay bill, with additional recycling savings of 1 per cent resulting in an average of 2.5 per cent increase;
- an increase in the bonus pot of 1 per cent to 8.6 per cent of the SCS pay bill;
- as in previous years, base pay awards ranging from 0 per cent to 9 per cent depending on performance;
- an increase in the minima of Pay Bands 1 and 1A of approximately 2 per cent, but no increases in the pay band maxima;
- the removal of the PTRs for Pay Bands 1 and 1A;

and for the period 2008-11:

- a limit of 7 per cent on the increase in SCS pay bill per head;
- an increase in the bonus pot to 10 per cent of pay bill;
- over the three year period the balance of pay bill per head (plus recyclables) should be used to increase base pay; and
- headline base pay increases should be limited to 1.5 per cent each year.

- 3.52 The trade unions did not make specific proposals beyond a substantial increase in the minima of Pay Bands 1 and 1A, and retention of the PTRs for those bands.
- 3.53 The Cabinet Office acknowledges in its evidence that SCS “pay levels – base and bonus – not only are significantly lower than the private sector, but they also trail pay levels in other parts of the public sector”. The evidence goes on to argue that, nevertheless, “overall we continue to recruit, retain and motivate the talent we need” but “our ability to sustain this position must be a cause [for] concern”. This seems to us to summarise the situation accurately and succinctly. We are becoming increasingly concerned at the implications of the way in which SCS pay is falling behind that in the wider public sector, and has lost contact with the private sector. We believe that unless corrective action is taken there will be adverse effects on recruitment, retention and motivation, and hence the performance of the SCS and the leadership it gives to the civil service as a whole. There is a limit both to the extent to which job interest and satisfaction can compensate for lower pay and to how long Government can continue to trade on the goodwill of senior civil servants. The ‘two-tier market’ for internal and external recruits, discussed above, is a clear symptom of the emerging problems.
- 3.54 We believe the pay gap between the SCS and the wider public sector is one of the issues which must be addressed as part of the development of the workforce and reward strategy, not least because of the growing and desirable interchange between other public sector bodies, such as the NHS and local government, and the SCS, in order to get the best people for the jobs that need to be done.

A three-year settlement

- 3.55 We have considered carefully the Government’s supplementary evidence asking us to make recommendations for a three-year period. The Government says that “multi-year pay arrangements support [its] goal of entrenching economic stability by holding down inflation expectations, helping to lock in the hard won economic stability we have seen over the past decade.” Normally, one would expect a three-year deal to be effective when a period of economic stability is in prospect, rather than when the economic outlook is uncertain. We are not persuaded that a three-year settlement for the SCS will itself have any discernible effect on economic stability given the small size of the remit group. Multi-year pay deals may also typically be used to implement agreed pay restructuring. We believe it would be wrong to enter into a rigid three-year arrangement before the Normington Review has reported. We must avoid creating a strait-jacket that risks prejudging the outcome of the review by forcing radical solutions off the table and delaying implementation of what could be vital reforms until the three-year settlement period has ended.
- 3.56 Nevertheless, we can see that if no arrangement is put in place now for the coming three years, then the Government may well feel further constrained in 2009 and 2010, as a result of current economic uncertainties, and may seek lower increases than those currently on offer. Moreover, there is obviously some sense in a settlement for the period of the current comprehensive spending review (subject to the funding of the outcome of the Normington Review). We also note that the unions are not opposed in principle to a three-year settlement. We are therefore prepared to work within the Government’s proposed 7 per cent pay envelope for three years although we will continue to review SCS pay each year. Our support for a proposed three-year settlement is, however, limited to applying it to the normal pay round and we would expect to review the settlement once we have seen the outcome of the Normington Review.

3.57 We find the Government's detailed proposals for the three-year settlement in its supplementary evidence to be somewhat muddled and in part contradictory:

- the principal constraint proposed by the Government is that the SCS **pay bill per head** should not increase by more than 7 per cent over the three year period. However, paragraph 18 of the supplementary evidence states that:

“departments will be incentivised to consider all decisions that affect spending on SCS pay including the size of their SCS workforce – decisions that increased workforce size could reduce the money available for pay and vice versa.”

This is not consistent with a limit on the pay bill per head; and

- it seems to us to be unnecessarily prescriptive, and contrary to the overall approach of defining an 'envelope' for the three year period, to specify what is called a headline base pay increase of at most 1.5 per cent each year. The only meaningful allocation of money within the envelope is between base pay and the bonus pot. We support the increase in the bonus pot over the three years to 10 per cent of base pay. It follows that what is left of the combination of the 7 per cent of new money plus recyclables must be applied to base pay, which is accordingly likely to increase by around 2.5 per cent a year on average, assuming, as we are advised, that recyclables are estimated at about 1 per cent a year.

3.58 We therefore conclude that:

- for the period 2008-11 there should be an indicative envelope of 7 per cent for the SCS pay bill (**not** pay bill per head) plus recyclables (estimated to be 1 per cent a year) available for normal base pay increases and increasing the bonus pot to 10 per cent;
- the costs for implementing the outcome of the Normington Review of SCS workforce and reward strategy should be funded by additional money; and
- we shall accordingly wish to take evidence annually and make further recommendations on the three-year settlement once the reforms from the Normington Review are available to us, currently expected to be available in the second half of 2008.

Base Pay Recommendations for 2008-09

3.59 In the light of our conclusions on the proposed three-year settlement, we now consider our specific recommendations for 2008-09. Although the evidence from both the Government and the Civil Service Commissioners acknowledges some pay-related problems with recruitment, it is clear that the SCS is able to find satisfactory internal or external recruits for almost all posts at rates within the existing pay bands, despite the fact that, according to the Government's own evidence median SCS salaries are significantly below those in the private and wider public sectors. The Government evidence suggests that “the less tangible benefits of SCS jobs are important, especially for applicants from the private sector whose salaries we are often unable to match...”. Nevertheless, as we have recorded above, problems are mounting and the motivation of many SCS is fragile, with concerns about pay and the working of the pay system at the heart of the problem. The Government has provided evidence on issues of affordability and the need for settlements to be consistent with inflation targets, though, as we point out, our remit groups are far too small to have any direct impact on these considerations in the light of all this evidence. We recommend that:

- the base pay of the SCS should, on average, increase by 2.5 per cent from 1 April 2008, comprising 1.5 per cent of new money and 1 per cent of recyclables;

- individual SCS base pay increases should again be in the range 0 to 9 per cent and dependent on assessment of performance; and
- the Pay Band 1 and 1A minima should be increased by approximately 2 per cent to help maintain differentials with the rest of the civil service. The scales are set out below:

Pay Band	1		1A		2		3	
	2007	2008	2007	2008	2007	2008	2007	2008
Ceiling	£116,000	£116,000	£127,000	£127,000	£160,000	£160,000	£205,000	£205,000
Minimum	£56,100	£57,300	£65,280	£66,600	£81,600	£81,600	£99,960	£99,960

3.60 We have considered the Government's arguments for removing the PTRs for Pay Bands 1 and 1A. Although we recognise that the existence of PTRs may be demoralising given the slow pace of pay progression, we do not see the case for removing them from these pay bands now, unlike for Pay Bands 2 and 3 where there is, at least in theory, a move to more individualised pay:

- we therefore recommend retaining the PTRs for Pay Bands 1 and 1A at least until we have been able to consider the recommendations of the Normington Review, and that for 2008-09 the PTRs should be increased by the same cash amount as the minimum of the relevant pay band.

Recommendation 3: We recommend that:

- for the period 2008-11 there should be an indicative envelope of 7 per cent for the SCS paybill (not paybill per head) plus recyclables (estimated to be 1 per cent a year) available for normal base pay increases and increasing the bonus pot to 10 per cent;
- the costs of implementing the outcome of the Normington Review of SCS workforce and reward strategy should be funded by additional money;
- the base pay of the SCS should, on average, increase by 2.5 per cent from 1 April 2008, comprising 1.5 per cent of new money and 1 per cent of recyclables;
- individual SCS base pay increases should again be in the range 0 to 9 per cent and dependent on assessment of performance;
- the Pay Band 1 and 1A minima should be increased by approximately 2 per cent, to £57,300 and £66,600 respectively, to help maintain differentials with the rest of the civil service; and
- the Progression Target Rates (PTRs) for Pay Bands 1 and 1A should be retained at least until we have been able to consider the recommendations of the Normington Review, and for 2008-09 the PTRs should be increased by the same cash amount as the minimum of the relevant pay band, i.e. to £79,740 for Pay Band 1 and £89,040 for 1A.

Bonus arrangements for 2008-09

3.61 The Cabinet Office proposes to change the bonus arrangements for 2008-09 while keeping the same arrangements (subject to the size of the bonus pot) for the year ending 31 March 2008. Because SCS members have their objectives for the reporting year (April to March) set at the beginning of the year, any change in the bonus arrangements needs to be signalled at the beginning of the year, even though bonuses are not paid until the following year, after the appraisal and moderating process.

3.62 For 2008-09 the Cabinet Office proposes to set principles rather than parameters for the operation of the bonus scheme, and to remove the current limitations on minimum (£3,000) and maximum (20 per cent of salary) bonuses and the proportion of the SCS receiving a bonus. The Cabinet Office has issued provisional guidance to departments on the following lines:

- Bonuses should be used as a reward for in-year performance against objectives.
- Bonuses can be a mixture of individual and corporate bonuses, aligned to business need (for example making greater use of corporate bonuses in response to issues emerging from Departmental Capability Reviews – the Department for Work and Pensions is trialling this approach this year).
- Bonus awards should continue to be differentiated at the individual level so that the strongest performers get the highest awards.
- Bonus pots could also be differentiated at the organisational level so that departments have the flexibility to differentiate the size of the bonus pot between different directorates or groups within a department on the basis of their relative performance.

3.63 We have recorded serious concerns about the workings of the bonus scheme based on evidence that it has been divisive and demotivating. We have considered whether to recommend a pause in the progression of the bonus pot towards 10 per cent of pay bill pending resolution of these problems. However, the revised bonus arrangements in the Cabinet Office's draft guidance seem to us to be on the right lines and likely to address some of the weaknesses we have previously identified with the existing bonus scheme (though not the relatively small size of bonuses).

- We therefore recommend that the bonus pot for 2008-09 should be increased by 1 per cent (equivalent to a 0.8 per cent increase on the pay bill because bonuses are not pensionable).

Recommendation 4: We recommend that the SCS bonus pot for 2008-09 should be increased by 1 per cent (equivalent to a 0.8 per cent increase on the pay bill because bonuses are not pensionable).

3.64 We note that our proposals for 2008-09 will take 2.3 per cent of the 7 per cent envelope we have accepted for the three-year period 2008-09 to 2010-11 leaving 4.7 per cent for the subsequent two-years, together with anything to be added as a consequence of the Normington Review.

Possible additional bonus scheme for certain SCS members

3.65 The Cabinet Office also proposes introducing a number of additional measures aimed at strengthening accountability for the delivery of Public Service Agreements (PSAs – cross-departmental targets) over the comprehensive spending review period. It seeks our endorsement of the creation of a new, separate bonus scheme for the 200 or so SCS members (Senior Responsible Officers and Delivery Board Members) most directly responsible for the delivery of the 30 PSAs. It proposes taking about 5 per cent (£1.1 million) of the current bonus pot for this purpose.

3.66 It is not clear to us why a separate bonus scheme is needed for PSAs. Moreover, it seems potentially divisive given that the scheme will apply to only around 200 out of some 4000 SCS members, and we understand that those 200 will remain eligible for the main bonus scheme. We also have concerns about whether progress on the PSAs, and the contribution of individuals towards that progress, can be satisfactorily measured in all

cases and year by year. We therefore do not feel that we can support such a scheme without reservation and suggest to the Government that its objectives may be achievable through the existing scheme. However, we have seen little evidence on the proposed new scheme so far (and that evidence is not published so the unions have not been able to read and comment on it) and we should be willing to consider further evidence if the Government wishes to submit it to us.

Permanent Secretaries

3.67 The Cabinet Office proposes that the Permanent Secretary pay bands and bonus pot be increased in line with the increases in the SCS system and expects that Permanent Secretary pay will continue to be determined broadly in line with the SCS. We therefore recommend that Permanent Secretaries should receive base pay increases in the range 0 to 9 per cent, dependent on assessed performance, that the average increase, bearing in mind the small numbers involved, should be close to that for the SCS as a whole. There should be no increase in the pay range this year (i.e. the pay range remains at £139,740 to £273,250) but the bonus pot should be increased by 1 per cent to 8.6 per cent of the pay bill.

Recommendation 5: We recommend that Permanent Secretaries should receive base pay increases in the range 0 to 9 per cent and that the bonus pot should be increased by 1 per cent to 8.6 per cent of the pay bill.

Chapter 4

Senior officers in the armed forces

Introduction

4.1 This year, as in previous years, we received evidence from the Ministry of Defence (MoD) and held discussions with members of our remit group. In both the evidence and our direct contacts with senior officers we detected a marked drop in satisfaction with their terms and conditions of service, including remuneration, in comparison to previous years. We discuss this more fully below.

Our remit group

4.2 Our senior military remit group consists of 137 senior officers at 2-star level and above, as at 1 July 2007. The numbers have risen slightly since last year because the UK currently provides EU and NATO representation which is required at a senior level on a rotational basis. However, the total number of senior officers is expected to decrease in coming years because of restructuring in the services, for example the amalgamation of military headquarters. **Table 4.1** provides a breakdown of numbers in rank for the current year as well as 2005 and 2006.

Table 4.1: Senior military posts in 2005 – 2007

	July 2005	July 2006	July 2007
4-star (including CDS)	12	12	12
3-star	24	25	32
2-star	98	94	93
Total	134	131	137

Source: MoD

Our last report

4.3 In our 2007 report we recommended that performance-related pay scales for 2-star officers and above be increased by 2 per cent; the 5 per cent differential between ranks for senior medical and dental officers be maintained; and the bottom level of the 2-star pay scale should be deleted in order to create a higher rate of pay on promotion from 1-star rank. The Government accepted the first two recommendations but has not yet implemented the third – MoD informed us that it would prefer to look at pay on promotion to 2-star in the context of a wider review of pay on promotion for all ranks, together with the review of X-factor¹, foreseen in our last report, which was completed towards the end of 2007.

Evidence

4.4 We received written evidence from the MoD and took oral evidence from the Chief of Defence Staff (CDS), the Permanent Under Secretary, Chief of the General Staff, Chief of the Naval Staff and Chief of the Air Staff. The written evidence covered a number of subjects including:

- staffing levels;

¹ 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. At present the members of our remit group do not receive X-factor.

- recruitment, retention and morale;
- the Performance Management Pay System (PMPS);
- X-factor; and
- the level of award.

4.5 We welcome MoD's commitment to initiate an annual survey of senior military officers and hope the results will be included in the evidence for the 2009-10 round. However, as part of MoD's evidence for this round it has submitted the results from a series of interviews conducted with 63 officers – 46 per cent of the remit group. This is a useful addition to the evidence. Some of the subjects discussed during these interview sessions were:

- overall remuneration package – only 24 per cent of those interviewed were satisfied with either their overall remuneration package or their level of base pay. With one exception, all those interviewed considered their civilian counterparts received better packages than those offered in the armed forces;
- pay on promotion – two-thirds of senior officers felt the pay on promotion did not adequately reflect the significant increase in job responsibility involved at the higher level;
- X-factor – 71 per cent of those interviewed expressed dissatisfaction that they were ineligible to receive a rate of X-factor;
- Performance Management Pay System (PMPS) – 64 per cent of those interviewed were dissatisfied with the PMPS, saying that increments were too small to act as an incentive;
- job security – 49 per cent of officers were dissatisfied with the job security offered at senior level;
- current job – 93 per cent of interviewees were satisfied with their current post; and
- working conditions – over half those interviewed were satisfied with their working hours and 60 per cent were satisfied with their work-life balance.

4.6 The MoD's evidence also contained a number of proposals for 2008-09 and these can be summarised as follows:

- the pay for CDS should be increased over the next three years to ensure it is better aligned to the salaries of the Lord Chief Justice (LCJ) and Cabinet Secretary, and thus maintaining the broad pay comparability at the top of the three groups which we have set as one of our principles;
- the salary scales for 3- and 4-star officers should be increased over a three year period to maintain pay differentials within the structure;
- the 2-star pay scale should be restructured to ensure that nearly half of 1-star officers (i.e. those who are promoted from level 3 of the 1-star scale) receive at least a 10 per cent increase on promotion;
- the increments in the 2-star pay scale should be restructured to set the same uplift between each increment;
- the overall pay uplift should be guided by the Government's target rate for Consumer Prices Index (CPI) inflation of 2 per cent and we should consider the linkage to the Armed Forces' Pay Review Body's (AFPRB) recommendations; and
- a tapered X-factor payment should be extended to 2- and 3-star officers.

Pensions

- 4.7 As detailed in Chapter 2 of this report, we commissioned Watson Wyatt to undertake a review of the pension schemes for the senior civil service, senior military and judiciary – our three long-standing remit groups. Their report enabled us to look at the pension benefits for these groups as part of their overall remuneration package. Members of the Armed Forces Pension Scheme 2005 have an accrual rate of 1/70th for each year of service and the earliest age at which they can retire is 40.
- 4.8 The report shows that the average value of pension benefit for senior officers at 2-, 3- and 4-star level is 32 per cent of salary. This is higher than the average value of the SCS pension benefit at 22 per cent, but slightly less than the average judicial pension benefit of 35 per cent. However, when comparing the total reward of these three groups, it is important to note that the earnings potential of the SCS is greater than the other two as they are eligible for both performance-related pay and bonuses, whereas the senior military are eligible only for performance-related pay and the judiciary receive a spot rate of pay.
- 4.9 Watson Wyatt report that the value of benefits for the senior officer pension scheme has increased more significantly (from 25 to 32 per cent) than the values for the other two groups since 2003 – the last time that these pension schemes were reviewed. The reasons for this increase are two-fold:
- members are expected to live longer; and
 - a new pension scheme has been introduced for this group with a higher accrual rate for members with longer service (the Armed Forces Pensions Scheme 2005). The old scheme had a higher accrual rate for the first 16 years than the following 18 years. The new pension scheme is therefore not directly comparable as the accrual rate is now the same in each year of service. This means that the scheme is not as much of an improvement as Table 2.1 in Chapter 2 implies. The higher accrual rate in later years is offset by lower accrual in earlier years.

Military visit

- 4.10 This year we continued our practice of visiting a military establishment in order to meet senior officers and hear their views on pay and related matters. For the second year we visited HMS President in September 2007 and held a discussion with 15 senior officers at either 2- or 3-star level (over a tenth of the remit group). We are grateful to all those who attended and also to the officers who sent us views in writing.

Recruitment, retention and morale

- 4.11 The officers we met this year were markedly more critical of their overall terms and conditions than in previous years. The causes of this change in attitude are complex. Whereas in the past the inherent interest and satisfaction of the job compensated to some extent for lower pay and benefits, that is less true now. Operational stretch puts greater burdens on some members of the armed forces and their families. The Defence Analytical Services Agency's survey of working hours for senior officers (i.e. 2-star and above) shows that they work longer hours than officers in the AFPRB remit group at an average 66.6 hours per week compared to 54.9. They also experience a greater number of unsocial hours and are on duty for longer. However, in the interviews described in paragraph 4.5 above only 24 per cent of senior officers said they were dissatisfied with their working hours.
- 4.12 The pay differentials between 1-star and 2-star and indeed at the higher levels below the CDS are remarkably small, as we have pointed out previously, in relation to the additional responsibilities.

- 4.13 Like the rest of society, military officers are tending to marry and have families later. On appointment to 2-star rank, officers are required to give up the right to serve until age 55 and instead are guaranteed only one appointment. This reduction in job security is understandably unwelcome, particularly to those with children still in education, and we heard of a 1-star officer who had declined promotion for this reason.
- 4.14 Senior officers, including those in the feeder ranks for our remit group, have valuable skills and experience. They are increasingly aware of their earnings potential in the private sector. In part this is because some tasks formerly carried out by the military are now contracted out and civilians running those operations are perceived – although we have not been able to verify this – as having significantly better reward packages than the senior officers who previously did so. During discussions with senior officers we found that some of them work closely with civil servant counterparts and perceive the latter’s reward packages to be better than their own. The MoD’s interviews also showed that all but one of the officers questioned felt that private sector reward packages were better or much better than their own. Indeed, MoD’s evidence states that during the last year eight 2-star officers left the services prematurely, compared with just two in the previous year. The MoD also says that evidence provided by key personnel who left the services prematurely this year suggests that the average remuneration package being offered to a 2-star officer leaving the services is around £120,000, with the potential for bonus payments, share options, a generous relocation package, a car, and commensurate expense accounts. A similar pattern is found among the feeder group at 1-star level, with 23 officers leaving prematurely last year, compared with 12 in the previous year.
- 4.15 As in earlier years we heard from senior officers that they are subject, along with other ranks in the armed forces, to a high operational tempo, with deployments in Iraq and Afghanistan placing a heavy demand on resources. MoD’s evidence states that at any one time a minimum of four 2-star and one 3-star officers will be deployed in these operational areas.
- 4.16 As well as the series of interviews with senior military mentioned above, the RAF conducted a separate round of discussion groups with Wing Commanders and Group Captains to gain a better understanding of their views on retention. The RAF found this group has a clear perception that their support package has been eroded and their pay is not as competitive as that of their civilian counterparts. Additionally, service accommodation, lifestyle and family support were cited as adversely affecting retention. We accept that this cadre do not fall within our remit, or even form part of the direct feeder group, but it is interesting to note that their views on the service package are similar to those expressed at senior level and may be indicative of a growing retention problem among officers at most levels within the armed forces.

The Performance Management Pay System (PMPS)

- 4.17 The PMPS has been in operation since April 2002 and provides members of the senior military with the opportunity to progress through an incremental pay band subject to performance. A separate band exists for each of the senior ranks in our remit group, consisting of either six or seven steps (four for the CDS). Following the performance appraisal, each officer receives either zero, one or two increments. The Senior Officers’ Remuneration Committee, consisting of the Permanent Under Secretary for the MoD acting as Chair, the CDS, the single service Chiefs of Staff and an independent member, meets in June each year to decide increments. In 2007 the Committee awarded 11 double increments and one zero increment. All other eligible senior officers received a single increment.

- 4.18 In our last report we mentioned that feedback from the senior military suggested that the PMPS had settled down and was understood by those within it as well as those operating it. However, results from the MoD's interview exercise, as set out above, report dissatisfaction with the PMPS process among those interviewed, with increments seen as too small to motivate. The size of increments was also raised as a concern during discussions we held at HMS President, although conversely the same officers raised no complaints over the PMPS process itself and added that they were receiving sufficient feedback on appraisals. Their concerns seemed to be that increments were too small to justify the effort of operating the system, and that criteria for deciding whether to award a single or double increment were not clear.
- 4.19 We also heard that some officers found themselves at the top of the pay scale with no opportunity to gain further increments. Although MoD offers no proposal to address this issue, we note in its evidence that it intends to look at the efficacy of the PMPS and the possible use of non-consolidated bonuses. We note the suggestion that increments are not sufficiently large to motivate and we believe our proposed restructuring of the pay scales below goes some way to addressing that criticism. Nevertheless, we believe that an element of performance-related pay is right in principle. Moreover, we consider that incremental scales, with progression subject to performance, are an aid to retention because they provide foreseeable increases to officers remaining in the service. It would therefore be wrong to abolish them.
- 4.20 The pay award for 2007-08 saw the final year of a three-year rolling programme of pay scales for the senior military designed to achieve a coherent pay structure for the most senior ranks and broad comparability between the CDS and his counterparts in the judiciary and civil service – the Lord Chief Justice and Cabinet Secretary respectively. Achieving broad comparability at the top of our three remit groups is part of our terms of reference. In our 2007 report we asked MoD to come back to us on the pay system to see if the structure needed further adjustment. MoD suggests in this year's evidence that the pay of CDS is still behind that of the Lord Chief Justice and propose this differential be rectified by a further three-year rolling programme of the CDS pay scale. MoD also proposes that the 3- and 4-star pay scales be increased accordingly to maintain pay differentials between ranks. MoD's proposals for the 2-star scale are discussed in the next paragraph.

Pay on promotion to 2-star

- 4.21 As mentioned above, our 2007 report recommended withdrawing the first level of the 2-star pay scale to generate a higher increase on promotion from the top of the 1-star scale – an increase of nearly 9 per cent as opposed to 7.4 per cent at 2006-07 rates. Instead of accepting the recommendation MoD decided to review the matter in tandem with its review of X-factor, which was completed toward the end of 2007. In its evidence for this round, MoD proposed that the first increment level of the 2-star scale be withdrawn (effectively making the second increment the first) thus creating sufficient headroom to ensure that approximately 50 per cent of 1-star officers who are promoted (usually at level 3 of their scale) achieve a 10 per cent increase on promotion. MoD also proposed that the remaining increments in the 2-star pay scale be revalorised to ensure increments of £2,178 between each level (at current rates).

X-factor

- 4.22 The purpose of X-factor is to compensate for the net disadvantages of the service lifestyle such as disruption to home life, separation, danger etc., although it also takes account of positive elements such as training and opportunities for adventure and sport. It is a taxable and consolidated part of basic military pay. In 2007-08 it was applicable to 1-star officers and below (those outside our remit). The full rate of X-factor was set at 13 per cent of pay for all other ranks and officers up to Lieutenant Colonel (OF4) on level 5 of their pay scale. It then tapered to two-thirds of the cash value at OF4 level 5 for ranks up to and including Colonels (OF5). Brigadiers (OF6 or 1-star officers) received one-third of OF4 level 5 cash value.
- 4.23 We mentioned in our last report that the AFPRB was undertaking a review of X-factor and that the results should be available for consideration in this report. In its Thirty-Seventh Report² the AFPRB recommended a 1 per cent increase to X-factor (i.e. to 14 per cent), increased taper levels at OF5 and OF6, and pay restructuring to allow appropriate pay on promotion and progression in rank.
- 4.24 Although the X-factor review was designed to cover service personnel in the AFPRB's remit, we asked that it also consider whether there was a case for X-factor to apply at the senior level. Having considered the findings to emerge from the X-factor review, namely the changes in advantages and disadvantages of a service lifestyle compared to that of a civilian lifestyle, we are persuaded that a rate of X-factor is now appropriate at senior level. MoD's written evidence supports this view, stating that "When compared to civilians, it would appear that the disadvantages outweigh the advantages and X-factor is appropriate [for the senior military], albeit at a reduced level." The findings from the X-factor review are consistent with the evidence we gathered for this round which suggests that the senior military are increasingly seeing a deterioration in the overall 'package' of life in the armed forces. We received evidence to suggest that 2- and 3-star officers are now more frequently deployed in operational theatres. We therefore agree with MoD's proposal that those officers should now receive an element of X-factor.
- 4.25 MoD offered several options for how the tapering of X-factor could apply to the officer cadre, but only one option for 2- and 3-star officers, namely a flat sum calculated as 15 per cent of the cash value of X-factor at the top of the OF4 pay scale. The cash value at this point, as recommended in the AFPRB's latest report and accepted by the Government, is £9,090, so 15 per cent of that would be £1,364. 1-star officers previously received one-third of the cash value but following the AFPRB's recommendation, this has now increased to a half. There is no explanation of why the taper should be so abrupt for 2- and 3-star officers and in our recommendation below we set out the case for moving, in stages, to a higher level of payment.

Conclusion

- 4.26 We explain above that we have detected a distinct change in senior officers' perceptions of their overall remuneration package and of the relative benefits of life in the armed forces. To a large degree these views have been reflected and supported in both the written evidence from MoD and our own contacts with the senior military. We have noted earlier that there has been an increase in officers at 2-star level leaving the armed forces prematurely and the feeder group (the three ranks immediately below our remit group) is also starting to experience retention problems. Unlike our other remit groups, the armed forces cannot buy in individuals with skills and experience when needed at this level and any shortfall in expertise will have to be filled by promotion. If such a situation were to continue, the forces could find themselves losing good quality officers

² Armed Forces' Pay Review Body Thirty-Seventh Report 2008, <http://www.ome.uk.com/downloads/AFPRB%2037th%20Report.pdf>

and having to fill vacancies with officers who are inexperienced or not yet of the required standard. This would be undesirable in any organisation but for the armed forces it could endanger lives as well as jeopardise operations and national security. We note the Government's arguments on affordability which state that an award above 2 per cent would have to be funded from savings in other areas of the Defence Programme, but we have to balance this with other parts of our terms of reference and in particular the "need to recruit, retain and motivate suitably able and qualified people...". After considering all the evidence placed before us, we feel the armed forces face a problem with retaining officers at senior level as well as those in the feeder group. Our recommendations below attempt to address this and underpin pay levels that will aid retention.

2008 pay award

X-factor

4.27 As mentioned above, our findings lead us to believe that X-factor should now apply to officers at 2- and 3-star level, but with a continuation of the taper that already applies to officers immediately below those ranks. However, we disagree with MoD's suggested rate of 15 per cent X-factor for 2- and 3-star officers and recommend that 25 per cent of X-factor would be more appropriate, given that the AFPRB has recommended 50 per cent for 1-star officers in their 2008 report. Although a rate of 25 per cent would equate to £2,273 (at 2008-09 levels) a year, we suggest that it be phased in as part of the wider pay restructuring and to ensure that overall increases for the most senior officers are broadly consistent with those for lower ranks, with payments of 15 per cent of the cash value at the top of the OF4 pay scale in 2008-09 (i.e. £1,364), 20 per cent in 2009-10 (£1,818 subject to any uprating) and 25 per cent from 2010-11 (£2,273, subject to uprating).

Recommendation 6: We recommend that 2- and 3-star officers receive X-factor, with payments of 15 per cent of the cash value at the top of the OF4 scale (£1,364) in 2008-09, 20 per cent in 2009-10 and 25 per cent from 2010-11.

2-star pay scale

4.28 Given the clear evidence of retention problems at 2-star level, as well as dissatisfaction with the small pay increase on promotion (particularly when accompanied by the loss of specialist pay and some specific allowances, together with reduced job security) in relation to the extra responsibility, we believe a substantial restructuring of the 2-star scale is necessary. In our last report we recommended removal of the bottom step of the scale as a means of creating a larger increase on promotion. On reflection we believe more radical restructuring is necessary and that removal of an incremental step would have the unwanted effect of increasing the number of officers who reach the top of the scale and cannot receive further increments. Clearly this would not aid retention (although as noted in paragraph 4.19 above, the MoD is considering ways of addressing this problem). We therefore withdraw that recommendation. Instead we propose a restructuring of the 2-star pay scale intended to ensure that, once the restructuring is complete, all officers receive at least a 10 per cent increase in base pay, plus an element of X-factor as set out in Recommendation 6 above, on promotion to 2-star rank. As with the introduction of X-factor, we propose that the restructuring be phased over three years as part of the wider pay restructuring and to ensure that overall increases for the most senior officers are broadly consistent with those for lower ranks. The resulting pay scale is set out in Recommendation 7 below. The rates for 2009-10 and 2010-11 will need to be revalorised in line with increases to the top of the 1-star scale in those years, in order to achieve the minimum 10 per cent increase in base pay on promotion by 2010-11.

Recommendation 7: We recommend that the pay scale below apply for 2-star officers with effect from 1 April 2008.

2-star	2008-09	2009-10	2010-11
	(£)	(£)	(£)
	Base pay¹	Base pay¹	Base pay¹
7	109,415	111,604	113,649
6	107,117	109,259	111,421
5	104,817	106,914	109,236
4	102,517	104,567	107,094
3	100,217	102,222	104,994
2	98,291	100,257	102,936
1	96,835	98,771	100,917

¹ Base pay will be augmented by X-factor at the rate of £1,364 in 2008-09, £1,818 in 2009-10 and £2,273 in 2010-11, the sums for the last two years being subject to any uprating of the OF4 pay scale.

3- and 4-star officers

4.29 It follows from our proposals for 2-star officers that some restructuring of the 3- and 4-star pay ranges is necessary to maintain pay differentials. We have considered whether there should also be a 10 per cent increase in base pay on promotion from 2- to 3-star and from 3- to 4-star. MoD advises us that:

- most of the officers who reach 3-star rank are promoted well before reaching the top of the 2-star scale; and
- MoD does not see impending problems of retention at 3- and 4-star level, in contrast to the 2-star rank.

We therefore propose a limited restructuring of the 3- and 4-star scales to maintain a coherent structure for the remit group. Again the rates for 2009-10 and 2010-11 will need to be revalorised to take account of any increases for lower ranks.

Recommendation 8: We recommend that the pay scales below apply for 3- and 4-star officers respectively with effect from 1 April 2008.

3-star	2008-09 (£)	2009-10 (£)	2010-11 (£)
	Base pay¹	Base pay¹	Base pay¹
6	142,359	145,207	146,166
5	137,793	140,549	141,908
4	133,225	135,889	137,775
3	128,659	131,232	132,476
2	121,436	123,865	126,168
1	114,213	116,497	120,160

4-star	2008-09 (£)	2009-10 (£)	2010-11 (£)
6	170,791	174,206	180,140
5	167,440	170,789	176,608
4	164,159	167,442	173,145
3	160,939	164,158	168,922
2	157,784	160,939	164,802
1	154,700	157,794	160,782

¹ Base pay for 3-star officers will be augmented by X-factor at the rate of £1,364 in 2008-09, £1,818 in 2009-10 and £2,273 in 2010-11, the sums for the last two years being subject to any uprating of the OF4 pay scale.

CDS

4.30 We agree with MoD that the pay of the CDS should be kept broadly in line with that of the Cabinet Secretary and Lord Chief Justice, as we have recommended in the past, while bearing in mind that each has a different pay system and pension scheme. Our objective is that the head of each of the three remit groups should be paid roughly the same amount over a four year period. Again the rates for 2009-10 and 2010-11 will need to be revalorised. The new pay scale is set out below.

Recommendation 9: We recommend the following pay scale for the CDS with effect from 1 April 2008:

CDS	2008-09 (£)	2009-10 (£)	2010-11 (£)
4	235,969	240,688	245,815
3	231,342	235,969	240,995
2	226,805	231,341	236,269
1	222,359	226,806	231,637

Senior medical and dental officers (MODOs)

- 4.31 Our senior MODO remit group comprises five 2-star officers and one 3-star. We note that MODOs are paid substantially more than other officers of the same rank and broadly in line with their civilian medical counterparts. This is understandable as there could otherwise be serious retention problems but it reinforces our view that the pay of non-medical officers and most other members of our remit groups is falling well behind that of comparable senior staff in the wider public and private sectors.
- 4.32 As in previous years, MoD has proposed maintaining a 5 per cent differential between the top of the 1-star MODO scale and the 2-star spot rate, and between the 2- and 3-star MODO rates. We accept that proposal. We also recommend that X-factor should be extended to 2- and 3-star MODOs in the same way as to other senior officers. The AFPRB has recently recommended³ revised X-factor taper arrangements for MODOs below 2-star rank with a taper starting above increment level 22 for Consultants, General Medical Practitioners, General Dental Practitioners and Non-Accredited Medical Officers. We therefore recommend that 2- and 3-star MODOs should receive 15 per cent of the cash value at increment level 22 of the Consultant pay scale (OF3 – 5) in 2008-09 (£2,242), rising to 20 per cent in 2009-10 and 25 per cent in 2010-11.

Recommendation 10: We recommend that, as set out in the following tables:

- 2-star MODOs should be paid a differential of 5 per cent above the top of the 1-star MODO scale;
- 3-star MODOs should be paid a differential of 5 per cent above 2-star MODOs; and
- 2- and 3-star MODOs should receive X-factor at 15 per cent of the cash value at increment level 22 of the Consultant pay scale (OF3 – 5) in 2008-09, rising to 20 per cent in 2009-10 and 25 per cent in 2010-11.

Rank	Rate (£) ¹	Differential
MODO 3-star	139,667	5%
MODO 2-star	133,016	5%
Level 7 of MODO 1-star	126,682	–

¹ Base pay will be augmented by X-factor at the rate of 15 per cent of the cash value of X-factor at increment level 22 of the Consultant pay scale (OF3 – 5) in 2008-09 (£2,242), rising to 20 per cent in 2009-10 and 25 per cent in 2010-11.

³ Armed Forces' Pay Review Body, Service Medical and Dental Officers, Supplement to the Thirty-Seventh Report 2008

Chapter 5

The judiciary

Introduction

5.1 Our judicial remit comprises 2,151¹ salaried members in over 70 categories of post across the United Kingdom. The figure of 2,151 includes both full-time and part-time salaried members of the judiciary. Not included are the many fee-paid, part-time judicial members, some of whose fees are calculated by reference to the relevant salary level. However, SSRB is also currently reviewing the pay structure, including fee levels, of judiciary within the Tribunals Service (see paragraph 5.8 below). For remuneration purposes, salaried judicial posts are divided into nine salary groups. In contrast to many pay systems, each member of a judicial salary group is paid the same spot rate. The current salary group structure and numbers in post are set out in **Table 5.1**.

Table 5.1: Judicial salaries and numbers in post

Salary group	Salary from 1 November 2007	Numbers in post on 1 April 2003	Numbers in post on 1 April 2004	Numbers in post on 1 April 2005	Numbers in post on 1 April 2006	Numbers in post on 1 April 2007	Change in numbers in post 2006-2007
1	£230,400	1	1	1	1	1	–
1.1	£205,700	4	4	4	4	4	–
2	£198,700	14	14	15	16	15	–1
3	£188,900	47	48	50	47	49	2
4	£165,900	137	139	140	143	141	–2
5	£133,100	86	84	91	87	85	–2
6.1	£123,200	770	767	792	793	803	10
6.2	£116,700	40	44	33	16	20	4
7	£98,900	943	962	957	994	1,033	39
Total		2,042	2,063	2,083	2,101	2,151	50

Sources: Ministry of Justice; Scottish Executive; Northern Ireland Court Service.

5.2 The total headcount of the salaried judiciary has increased by nearly 2.5 per cent over the twelve months to 1 April 2007. This follows a long-term trend of gradual increases. The Department for Constitutional Affairs (DCA), the predecessor of the Ministry of Justice (MoJ), had argued in recent years that any pay increases above 2 per cent would have adverse affects on delivery. However, the MoJ did not provide evidence of any adverse impact of previous years' settlements; and although judicial salaries have increased above 2 per cent in recent years the number of judges has continued to increase.

¹ This figure is as at 1 April 2007.

The 2006-07 review

- 5.3 In our previous report we recommended an overall increase of 2.4 per cent in the pay of the judiciary (2 per cent for group 6.2). The Government chose to stage this award, paying 1.5 per cent from 1 April 2007 and the balance from 1 November 2007. We heard in evidence this year that members of the judiciary were disappointed by the Government's decision to stage the award and we share that disappointment.

Evidence

- 5.4 For this round we received written evidence from the Lord Chief Justice, the Lord Chief Justice of Northern Ireland, the Lord President of the Court of Session, the Chancellor of the High Court, the Council of Her Majesty's Circuit Judges, the Association of District Judges, MoJ, the Courts Directorate of the Scottish Executive, the Northern Ireland Courts Service, and the Judicial Appointment organisations for Scotland and Northern Ireland. The Judicial Appointments Commission for England and Wales (JAC (E&W)) came into existence on 1 April 2006 and advised us, for the second year running, that it was still not in a position to provide independent evidence for this round. However, the MoJ's evidence included the Commission's annual report. Evidence on recruitment to the judiciary forms a vital part of the review process and we welcomed the information provided by Scotland and Northern Ireland this year; we would be very disappointed if the JAC (E&W) did not provide evidence next year to aid our deliberations for the 2009 SSRB report.
- 5.5 We heard oral evidence from the Lord Chief Justice, the Chancellor of the High Court, Mr Justice Tomlinson, the Lord Chancellor/Secretary of State for Justice, and the Permanent Secretary from MoJ. For the first time, we also heard oral evidence from the judicial appointment organisations for Scotland and Northern Ireland. This helped us greatly in understanding the new appointment arrangements and the issues which arise from them. Unfortunately the JAC (E&W) declined to provide oral evidence. A full list of those who supplied evidence is at Appendix A.
- 5.6 During the summer of 2007 Review Body members visited Manchester Crown Court, Bow County Court, and a number of Tribunals including Asylum and Immigration Tribunals, a Lands Tribunal, an HM Land Registry Tribunal and a Pensions Appeal Tribunal to meet members of the judiciary and see them at work. Visits enable us to observe court and tribunal procedures, to see the judiciary's working environment and to hear at first-hand their views on pay and related matters. We are grateful to all our hosts and to those who helped us with the visit arrangements.
- 5.7 The Northern Ireland Court Service reports that the system of 'Diplock' trials (where judges sit alone without juries) changed on 31 July 2007, as expected. New provisions were introduced so that the default is for terrorist trials to be heard with a jury but the Director of Public Prosecutions can specify that such a trial be held without a jury. County Court judges in Northern Ireland are currently paid at salary group 5 rather than 6.1 in recognition of this greater responsibility in trials held without juries. The Northern Ireland Court Service evidence proposes that the current status of County Court judges in Northern Ireland should be maintained until the effects of the new arrangements can be assessed. We accept this suggestion but will review the position next year and expect to receive evidence on this issue, including numbers of non-jury trials since the change in the system.
- 5.8 At the request of what is now the MoJ, the SSRB is carrying out an independent review of the tribunals' judiciary remuneration. The trigger for this review is the bringing together of over 30 different active tribunals – with different terms and conditions – in the Tribunals Service. The aim of the review is to propose a pay structure for the tribunals' judiciary, including fee levels and formulae for determining future fee levels for

fee-paid judicial (legal, non-legal professional and lay) office holders. The review is currently in progress and we do not expect to report until the middle of the year. We are currently considering responses to consultation. Consequently, we make no attempt in this report to anticipate any possible findings on tribunals.

Other issues the Review Body has considered

The judicial pay system

- 5.9 The judiciary, unlike other members of our remit group, are paid a spot rate with no prospect to earn performance-related increments or other performance-related pay. This reflects a view that such elements would run counter to their constitutional position and judicial independence, and that uniform pay rates help to maintain collegiality. Additionally, members of the judiciary have limited prospects for career progression. We have previously sought to compensate the judiciary for this by awarding them on average 0.5 per cent more than the increases awarded to the SCS and senior military salary structures in each of the last five years to ensure that members of the judiciary receive roughly the same pay increase as the average received by members of the other groups. Had we not done so, we should have been faced with the need to recommend a much larger 'catch-up' award, with all its political difficulties, when we carried out the last major review.
- 5.10 In the past we have carried out major reviews of the judicial pay system every four or five years. The results of the last such review were included in our 2006 report. We note that some members of the judiciary are already looking forward to the next review and considering what evidence will be needed. We agree that it is sensible to start planning now and have asked our secretariat to work with the MoJ, the Lord Chief Justice and the devolved administrations to ensure that the necessary evidence, for example on changes in job weight, is collected as far as possible.

Judicial pensions

- 5.11 As explained in Chapter 2, we commissioned Watson Wyatt to re-assess the relative benefits of the different pension schemes of our three longstanding remit groups: the senior civil service, the senior military and the judiciary. The main details are provided in Chapter 2. Members of the judiciary belong to different pension schemes depending on their date of entry. However, in broad terms they pay a contribution of between 1.8 and 2.4 per cent of salary to accrue a final salary pension at the rate of 1/40th for each year of service up to twenty years.
- 5.12 It is important to assess the value of the pension as this is a substantial part of the total reward package. To an average member of the judiciary, the value of pension entitlement accrued in the current year is around 35 per cent of salary – more for the most senior judiciary, less for those in the lower salary groups. The increase in value since the previous assessment in 2003 seems to result from two developments which affect the actuarial valuation: an increase in the actuarially assessed life expectancy of scheme members and an increase in the average age of members of the judiciary. The first development means that, on average, judges will draw their pensions for longer. The second does not actually affect judges' benefits but it increases the notional cost of providing benefits because the method of valuation used ('the projected unit method') calculates the proportion of salary that would have to be invested in a typical funded scheme to provide the benefits accrued in the year in question. The cost rises with age because the older the scheme member, the shorter the period for which contributions in the current year will (notionally) be invested before the pension begins to be drawn.

5.13 We do not consider that the changes in pension value arising from increased longevity and the higher average age of members affect the judiciary's total reward significantly. However, a third development since 2003 is the non-registered status of the judicial pension schemes, referred to in paragraph 2.13 above. The effect of this non-registered status is to protect members of the judiciary with pension entitlement above the Lifetime Allowance from the tax they would otherwise be liable for if they were in a registered scheme. While it can be argued that this non-registered status has not made any members of the judiciary better off, it has protected them from a tax liability that will apply to any other members of our remit groups who accrue pension entitlement above the Lifetime Allowance and they have been compensated in full for the tax consequences of deregistration. Watson Wyatt calculate that non-registered status could be worth some 8 per cent of salary to a member of the judiciary with pension entitlement above the Lifetime Allowance. We do not know how many judges are affected since that will depend in large measure on the extent (if any) of their pension entitlement accrued before they joined the judiciary. Nevertheless, it is clear that it is the most senior judges who are most likely to benefit and this should be borne in mind when considering their total reward.

Affordability

5.14 The MoJ in its evidence to us proposed an increase of 2 per cent for the whole judicial structure and said that "a settlement in excess of 2 per cent would be at the expense of other priorities". The MoJ argued that a higher increase was not necessary on grounds of recruitment, retention, motivation or morale. The MoJ also argued that the settlement should be no lower than 2 per cent as this would result in slippage in comparison with other groups which received progression or performance-related pay. The Northern Ireland Court Service and the Scottish Executive also argued that a 2 per cent increase was acceptable and the maximum affordable because of pressure on overall funding. The total salary bill for the judiciary in the United Kingdom is around £340 million. Clearly the size of an affordable increase will be influenced by different factors, notably the overall increase in the relevant departments' budgets, pressure from other sources, and changes in the numbers of the judiciary.

5.15 The Lord Chief Justice wrote to the Constitution Committee of the House of Lords earlier this year stating that the judiciary could not be treated as part of the system that is subject to management of the MoJ "because they are, and must remain, a distinct and separate branch of government, whose duty it is to ensure a fair and independent determination of issues and to uphold the rule of law as laid down by Parliament"². The Lord Chief Justice's evidence to the Constitution Committee included a letter to the Members of the Judges' Council which emphasised this point: "the cost of the ministry's other responsibilities, and in particular, that of the prison service and offender management, must not be permitted to put at risk the proper funding of the court service"³. We agree with this argument. As a point of principle, pressures on other parts of the MoJ budget should not affect judicial pay. Judges, and therefore their salaries, should be independent of the effects of their judgements.

5.16 As in previous years, we are not persuaded by arguments about affordability. Judges' pay represents a very small proportion of the total cost of the legal system and it is simply not credible that even a small increase above 2 per cent would necessitate significant cuts elsewhere. Moreover, we believe it is wrong in principle to treat pay as the residual of what can be afforded after all other claims on the budget. The whole legal system cannot function properly without sufficient judges with the necessary level of skill and

² <http://www.parliament.uk/documents/upload/Letter%20from%20the%20Lord%20Chief%20Justice%20to%20the%20Committee.pdf>

³ <http://www.parliament.uk/documents/upload/Letter%20from%20the%20Lord%20Chief%20Justice%20to%20the%20Judges'%20Council.pdf>

knowledge. Planning for the judicial workforce ought therefore to be one of the highest priorities in setting the budget for the courts services. Nevertheless, we recognise that the growth in public spending will slow markedly during the next comprehensive spending review period of 2008-11.

Morale and motivation

- 5.17 We heard in both written and oral evidence that the Government's staging of our recommendations had adversely affected judicial morale. The Lord Chief Justice, the Lord President, the Lord Chief Justice of Northern Ireland and the Chancellor of the High Court all made this point and the MoJ acknowledged it. Staging the award saved very little money in practice but was perceived by the judiciary and possibly others as sending an unfavourable signal about how the Government viewed the judiciary's role and contribution.
- 5.18 The Northern Ireland Court Service was concerned that a review of travel security arrangements for the judiciary might also affect morale.
- 5.19 The MoJ and the Scottish Executive felt there were no general problems with motivation and morale.

Job weight

- 5.20 In our twenty-eighth report on Senior Salaries (2006), we asked the administrations in England and Wales, Scotland and Northern Ireland to consult with us on how to compile and include in future evidence quantified information on changes in case weight, case management, management responsibilities and any other significant elements of the overall job weight and efficiency of members of the judiciary. As part of their evidence, the MoJ have provided figures on the number of criminal cases heard by different levels of judge in England and Wales. This shows that there is some 'trickledown' or 'cascade' effect leading to an increase in job weight at the lower levels of the judiciary. The decision to cap the number of High Court judges in England and Wales at 108 has led to a concentration on the most serious cases (for example those related to terrorism) at that level, with a consequent shift of other cases to the lower courts. Over the last six years there has been an increase in the proportion of class 1 and 2 cases (i.e. murders and serious sexual assaults) heard by Circuit Judges and a decrease in the number heard by the High Court. This point is also made in the written evidence submitted to us by the Council of Circuit Judges. However, the MoJ in its written and oral evidence argued that class 1 cases were not necessarily more difficult for the judge than some other cases, and that in any case it did not accept that increasing job weight should automatically lead to higher pay. Whilst we accept that automatic adjustment is not appropriate, paying the rate for the job as indicated by job weight comparisons is a fundamental part of any logic-based remuneration system.
- 5.21 Unfortunately no evidence is available for similar analysis of civil cases at this time. Consequently there is still insufficient evidence to assess properly the effect of trickledown and we would like to see more comprehensive data on this subject in the future. We recommend that the administrations in England and Wales, Scotland and Northern Ireland should make collection of information that could be used for assessing job weight a priority and work with the judiciary over the next year to collect meaningful data.

Recommendation 11: We recommend that the administrations in England and Wales, Scotland, and Northern Ireland should make collection of job weight information a priority and work with the judiciary over the next year to collect meaningful data.

Recruitment and retention

- 5.22 Considering whether pay is adequate to recruit and retain sufficient people of suitable quality is arguably the most important part of our remit. The Lord Chief Justice said he believed there was some difficulty recruiting sufficient suitable people, particularly at High Court level. He was also concerned that the new approach used by the JAC (E&W) was deterring some suitable candidates from applying for office. This was in part because the new recruitment process required candidates to make an active decision to apply, rather than waiting to be approached, and in part because the appointment process was unnecessarily prolonged. Candidates could be effectively precluded from taking on larger new briefs in the period between applying and learning whether they had been successful and this might deter some suitable candidates from applying at all. The Lord Chief Justice said that everything possible should be done to eliminate unnecessary delay in the appointment process.
- 5.23 The Lord President said there was continuing anecdotal evidence that some suitably qualified members of the legal profession were not applying for appointment to the bench in Scotland. He therefore thought it desirable that increases in judicial pay should keep pace with the increase in earnings of legal practitioners, and at the very least should be linked to the actual or expected level of inflation rather than the inflation target.
- 5.24 The Lord Chief Justice of Northern Ireland shared the concerns of the Lord Chief Justice of England and Wales and thought that the new approach used by the Northern Ireland Judicial Appointments Commission was deterring some suitable candidates from applying for office. He also argued that remuneration could be more attractive as those appointed at the higher levels generally take a pay cut on appointment.
- 5.25 The Chancellor of the High Court noted that there were difficulties in recruiting in specialised fields. This was echoed by the Association of District Judges, which was concerned about the quality of candidates for judicial office. The Council of Her Majesty's Circuit Judges believed there was a need for research into why some suitably qualified people do not apply for appointments.
- 5.26 The MoJ reported there was generally no difficulty in filling vacancies with good calibre candidates. However, their written evidence included a list of selection exercises where two posts, a Specialist Chancery Circuit Judge and a Chief Social Security and Child Support Commissioner, were not filled by the selection procedure. A third exercise, for a Special Immigration Appeals Commission Chairman, resulted in only one application although this candidate was successful. Additionally the MoJ's statement conflicted with evidence that the number of Circuit Judges assessed as required was 37 more than were actually in post in England and Wales as at 31 March 2007. It is not clear whether these vacancies result simply from delays and the slow nature of the recruitment process, or from a lack of suitable candidates applying for the posts. The Secretary of State in oral evidence shared the Lord Chief Justice's concerns that delays in the appointments process were deterring suitable candidates and that action should be taken by the JAC. He said that the MoJ was doing what it could to remove unnecessary delays, for example by arranging for medical examinations to take place earlier in the recruitment process. The Scottish Executive reported no concern with recruitment at Sheriff and part-time level but some difficulties at Court of Session judge level. Evidence from the Northern Ireland Judicial Appointments Commission continued to suggest that not all the very well qualified candidates were applying for judicial positions, with particular concern at High Court level.

5.27 The Judicial Appointments Board for Scotland and the Northern Ireland Judicial Appointments Commission also reported generally successful recruitment exercises. There were no comparable data for England and Wales. Recruitment evidence is included at Appendix H. The Northern Ireland Judicial Appointments Commission collects information on previous earnings which we found very helpful. We recommend that the Judicial Appointments Board for Scotland and Judicial Appointments Commission for England and Wales collect this information in future. It does not need to be made available to those taking appointment decisions but can be stored and processed anonymously, together with diversity information already provided by candidates. We need information on candidates' incomes to help us judge whether pay is adequate for recruitment purposes. Only appointments bodies can provide that information. The Civil Service Commission collects this information for SCS candidates and we have benefited from their evidence.

Recommendation 12: We recommend that the judicial appointment organisations in England and Wales, Scotland, and Northern Ireland collect information on earnings of candidates for judicial office.

5.28 We conclude that there appear to be no major problems with retention at present. However, on recruitment whilst the balance may still be positive there are causes for concern in the future. There is now some evidence on the effects of the new arrangements for judicial recruitment from Scotland and Northern Ireland. The numbers of applications for the more senior posts, particularly in Scotland, were lower than hoped. To some extent this bears out anecdotal evidence that some suitably qualified people are unwilling to submit themselves to the new procedures. Evidence from England and Wales would have been useful to complete the picture for the UK but was not provided this year. We shall continue to watch closely and look forward to receiving evidence from all the judicial appointment organisations on this next year.

The role of the Lord President

5.29 We note constitutional changes are planned in Scotland which, if enacted, will change the role of the Lord President to make the position responsible for running court business and give it authority over administrative support. **We should be grateful for more evidence on this changing role from the Scottish Executive in their evidence next year.**

London allowances

5.30 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 reported in previous years, research carried out for us by Hay suggested that in the private sector London allowances are not usually paid for jobs attracting a salary of £100,000 a year or more. Accordingly we continue not to propose any increase to the salary lead and allowance for Group 7 posts in London and we do not support the extension of London allowances to higher groups.

Recommendations

5.31 Overall the evidence presented to us has not raised any clear concerns which need addressing this year. However, we note that there has been some evidence of difficulty in recruiting sufficient suitable people, particularly at the senior level, in part because the numbers applying are low. We believe that recruitment could become an issue in the future and we shall continue to monitor this area closely. We hope to receive evidence from all the judicial appointment organisations in future years that will enable us to establish whether pay is adequate for recruitment at each level. We also hope to receive firm evidence next year on the effect of trickledown, and in particular whether it is leading to an increase in job weight at the lower levels of the judiciary.

5.32 Turning to the issue of total reward for the judicial salary groups, the review carried out for us by Watson Wyatt showed that the value of the judicial pension schemes continued to be high and, in contrast to the decreased benefits in many other schemes over the last few years, it had, on average, increased in value since the last review in 2003. The judicial schemes remain the most valuable of the schemes for our remit groups. Additionally, while making the schemes non-registered has not increased net benefits for judges, it has protected some, probably mostly senior judges, from a tax charge to which they would otherwise been liable. Thus there is a cost to the taxpayer from the changed status of the schemes. For all the judiciary, the pension is an increasingly valuable part of their total reward when compared with most other workers.

5.33 Having examined all the evidence, we conclude that:

- we are not persuaded by the Government’s argument that 2 per cent is the maximum that can or should be afforded for the judiciary;
- the evidence this year does not appear to us to justify any systematic differentiation of award. We therefore recommend a similar increase for almost all judicial salary groups;
- for 2008-09 we recommend an increase averaging slightly over 2.5 per cent for almost all groups; salaries have been rounded to the nearest hundred; and
- bearing in mind the effect of judicial pensions on total reward, we have suspended for this year our practice of recommending an additional amount to take account of the judicial spot rate pay system (see paragraph 5.9 above) but we expect to resume it next year unless new evidence indicates otherwise.

5.34 As part of the last major review we recommended that group 6.2 should in pay terms be positioned more centrally between groups 6.1 and 7. In order to continue to achieve that effect gradually, we again propose a slightly smaller percentage increase for group 6.2 than for other groups. We recommend no further changes to the judicial salary structure this year. However, when information is collected on the earnings of candidates for judicial posts this will allow us to examine the differential between each of the salary groups and the market rates of applicants. This may lead us to recommend further adjustments to the structure in future years. The next major review of the judiciary will also provide an opportunity to check how judicial pay has evolved relative to that of other comparable groups.

Recommendation 13: We recommend that with effect from 1 April 2008 the salaries for the judiciary should be:	
Group 1	£236,300
Group 1.1	£211,000
Group 2	£203,800
Group 3	£193,800
Group 4	£170,200
Group 5	£136,500
Group 6.1	£126,400
Group 6.2	£119,000
Group 7	£101,400

Chapter 6

Very Senior Managers in the National Health Service

Introduction

- 6.1 After consulting us, the Secretary of State for Health, the Rt Hon Alan Johnson MP, wrote to our Chairman on 26 July 2007 extending our terms of reference to include certain 'very senior managers' or VSMs in the National Health Service (NHS) in England. The VSMs joining the SSRB's remit group are chief executives and executive directors (except medical directors, who are paid as consultants) in Strategic Health Authorities (SHAs), Special Health Authorities (SpHAs) which provide a national service to the whole of England (for example the National Institute for Health and Clinical Excellence), Primary Care Trusts (PCTs) and Ambulance Trusts (ATs). Other senior managers with board level responsibility who report directly to the chief executive in these organisations are also covered if their posts have a sufficient level of responsibility.
- 6.2 We do not cover equivalent senior managers in NHS organisations in Wales, Scotland and Northern Ireland, nor those in other NHS Trusts in England. The NHS Trusts that are not included in the scope of the pay framework are those in secondary and tertiary tiers of care: care trusts, mental health trusts, acute trusts and foundation trusts. Senior managers in Department of Health Executive Non-Departmental Public Bodies (for example the Healthcare Commission) are also excluded from our remit.

Background

- 6.3 In June 2005, the Department of Health (DH) published *Taking healthcare to the patient: Transforming NHS ambulance services*¹ and the following month it published *Commissioning a Patient-Led NHS*² which set out significant changes to the structure of the NHS, affecting SHAs, PCTs, and ATs. These reduced the number of SHAs from 28 to 10 and the number of PCTs from 303 to 152 but 14 PCTs are under joint management. There are now 11 ATs, down from 31. Each AT is coterminous with a single SHA except in the South West where there are two ATs for the South West SHA region.
- 6.4 Since 2006, pay arrangements for VSMs have been governed by a pay framework³. All other senior managers in those organisations (except medical directors) come under Agenda for Change, the single pay system for NHS staff other than doctors, dentists and senior managers above associate director level. DH wanted to develop pay arrangements for VSMs in parallel with the development of Agenda for Change. It consulted chairmen and chief executives in SHAs, SpHAs, NHS Trusts and PCTs before publishing the Very Senior Managers' Pay Framework in July 2006. Following the move from local pay arrangements to a national framework for VSMs, the Government decided that remuneration of VSMs should be considered in the same way as that of other senior staff in the public sector and should therefore be included in the SSRB's terms of reference.

¹ http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4114269

² http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4116716

³ Pay Framework for Very Senior Managers in Strategic and Special Health Authorities, Primary Care Trusts and Ambulance Trusts, updated 26th July 2007, http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_076986

Our remit group

6.5 There are just under 1,400 VSMs in our remit in around 180 NHS organisations in England. **Table 6.1** below gives a full breakdown and provides information on the number of VSMs covered by the pay framework and those who remain on pre-framework contracts. The Trusts and Health Authorities concerned are listed at Appendix B.

Table 6.1: Estimated number of all VSMs in the health organisations covered by the pay framework – December 2007

Organisation	PCT	AT	SHA	SpHA	Totals
Chief Executives	145	11	10	10	176
Directors	1,015	44	50	50	1,159
Total VSMs	1,160	55	60	60	1,335
Total VSMs on framework	930	Not available¹	60	Not available²	–
Total VSMs not on framework	230	Not available	0	Not available	–

¹ All VSMs in ATs outside London are on the framework but there are no figures for those in London.

² SpHAs have only recently begun to implement the framework and so no figures are available.

6.6 As noted in paragraph 6.2 above, our remit group does not extend to Wales, Scotland or Northern Ireland, nor to most secondary and tertiary NHS Trusts in England. When DH developed the pay framework, their research showed that new pay arrangements for foundation trusts and NHS Trusts were not needed because:

- there is a correlation between NHS Trust size/turnover and pay;
- the pay market in NHS Trusts is reasonably well controlled; and
- NHS Trusts are moving to greater autonomy and Foundation status.

However, the pay framework makes it clear that those trusts can adopt the principles of the pay framework arrangements if they wish and Executive Non-Departmental Public Bodies are encouraged to follow them as a benchmark when reviewing the pay arrangements for their own senior executive staff.

Remuneration

6.7 Hitherto DH has set the value of annual base salary uplift and bonuses for senior managers above associate director level in the NHS in England, taking account of the outcome of pay review body recommendations for other senior staff in the public sector (medical consultants and senior civil servants). Pay is not ring-fenced within the budgets of organisations covered by the pay framework.

6.8 The current pay system for VSMs includes:

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

Basic pay

6.9 VSM pay is reviewed every year with effect from 1 April. Chief executives are paid according to the band in which their post falls. This is determined by a weighting factor which differs slightly between the four types of organisation. Chief executives in SpHAs are paid within a range for their grouping, while chief executives in the other organisations covered by the pay framework are paid at a spot rate. The basic pay rates for chief executives rose by 1.3 per cent from 1 April 2007. **Table 6.2** below shows the basic pay of chief executives and explains the banding arrangements.

Table 6.2: Chief executives – basic pay from 1 April 2007

	PCT chief executives ¹	AT chief executives ²	SHA chief executives ¹
Band 1	£101,524	£108,705	£155,293
Band 2	£112,211	£116,987	£165,646
Band 3	£122,897	£124,234	£175,999
Band 4	£133,584	n/a	n/a
Band 5	£144,271	n/a	n/a
London	n/a	£144,940	£196,704
SpHA chief executives (aligned to arrangements for SHA and PCT CEs)³			
	From	To	
Group 1	£157,015	£177,275	
Group 2	£136,755	£157,015	
Group 3	£96,235	£136,755	

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.

6.10 **Table 6.3** below shows the basic pay rates of executive directors. In SpHAs executive directors are paid a percentage of the mid-point of the chief executive's pay range for their organisational grouping. Executive directors in the other organisations covered by the pay framework are paid a percentage of their individual chief executive's basic salary. The percentages range from 55 per cent to 75 per cent and are linked to organisational role.

Table 6.3: Executive directors – examples of basic pay from 1 April 2007

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

Development pay

6.11 A newly promoted executive director may receive payment at a rate below the basic rate for the post during a period of development in the new role.

Additional payment for additional responsibilities

6.12 Additional payments are made where individuals take on significant extra responsibilities. They are linked to the proportion of time that an individual would spend on this additional work and are limited to 10 per cent of basic salary.

Recruitment and retention premia

6.13 Recruitment and retention premia of up to 30 per cent of basic pay may be paid when market pressures prevent the employer from recruiting or retaining staff at the normal basic salary for the post. The pay framework⁴ states that they can be either short term and not pensionable, or long term in which case they are pensionable and also count for other payments linked to basic pay (for example performance bonus payments). Recruitment and retention premia have to be approved by the organisation’s so-called ‘grandparent’. This means the SHA for ATs and PCTs, and DH for SHAs and SpHAs.

Performance pay

6.14 Annual increases and performance bonus payments are based on four levels of performance category, set out in **Table 6.4** below.

Table 6.4: Annual pay award by performance category

Category		Award
A	Outstanding	Annual uplift consolidated into salary plus a 7 per cent non-consolidated bonus
B	Exceeds expectations	Annual uplift consolidated into salary plus a 3 per cent non-consolidated bonus
C	Satisfactory	Annual uplift consolidated into salary
D	Not satisfactory	No increase

⁴ Pay Framework for Very Senior Managers in Strategic and Special Health Authorities, Primary Care Trusts and Ambulance Trusts, updated 26th July 2007, page 13, http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_076986

The bonus pot is currently 5 per cent of pay bill. Bonus payments are determined annually and are non-pensionable, one-off payments. Unlike the pay system for senior civil servants (SCS), the performance pay system does not stipulate the percentage of staff that should fall within each category but does prescribe the normal bonus percentages by category, as shown in Table 6.4 above. Within the 5 per cent ceiling, employing organisations can decide the number of As and Bs. However, if an organisation does not achieve its financial control targets, all the organisation's VSMs are treated as Category D performers and no awards are made.

- 6.15 There is flexibility for some organisations to breach their individual 5 per cent ceiling, as DH has allowed the 5 per cent limit to be pooled at SHA level. SHAs, as 'grandparent' to their PCTs and ATs, must ensure that their organisations collectively do not breach the 5 per cent limit, but can allow a successful trust to exceed the 5 per cent limit provided that any 'overspend' is offset by another trust, for example where control targets had not been met and no bonus is payable.

Pensions

- 6.16 VSMs are covered by the NHS Pension Scheme, a final salary occupational scheme open to all directly employed VSMs, with the following features:

- member contribution rates – 6 per cent;
- employer contribution – 14 per cent;
- benefits based on 1/80th accrual rate;
- lump sum of 3/80^{ths} of pension; and
- normal pension age of 60.

- 6.17 A new final salary pension scheme is being brought in from 1 April 2008 which will introduce a tiered contribution rate dependent on level of earnings. Senior managers earning over £102,500 will contribute 8.5 per cent of pay from that date with senior managers earning less paying 7.5 per cent or 6.5 per cent for those earning less than £65,002. The tiered contribution rate means that VSMs will contribute more towards their pension (an increase of either 2.5 or 1.5 per cent gross on their current contribution, 1.5 or 0.9 per cent after tax relief). The employer contribution will remain at around 14 per cent. In addition, the current scheme will be closed to new entrants and externally recruited VSMs will join the new NHS Pension Scheme with a 1/60th accrual rate, no lump sum (though under the 2006 pensions legislation all employees may commute up to 25 per cent of pension for lump sum) and a normal retirement age of 65. However, existing members can keep the retirement age of 60.

Oversight of pay arrangements

- 6.18 Prior to the introduction of the pay framework, remuneration of senior managers was controlled under a structure which laid out minimum and maximum pay in five pay ranges. Remuneration committees in each organisation considered job weight, skills and market factors to place posts firstly within the appropriate range, and secondly at a pay level within that range, between minimum and maximum. They then made recommendations to local boards on the pay of their executive directors, taking affordability into account.

6.19 The pay framework added a second governance mechanism to ensure consistency in VSM pay. First, remuneration committees continue to be responsible for reviewing and agreeing appropriate terms for chief executives and those who report to them. Terms include salary, bonuses, allowances (recruitment and retention, additional payments), pensions and cars, arrangements for termination of employment and any other contractual matters. Secondly, there are oversight arrangements to ensure that the pay of VSMs complies with the provisions of the pay framework and is affordable. DH exercises 'grandparent' oversight and approval of the work of remuneration committees in SHAs and SpHAs in respect of decisions affecting the chief executive and will take decisions where proposed actions exceed the remuneration committees' delegated financial authority. In turn, the SHA's Accountable Officer, usually the chief executive, has similar oversight responsibilities in respect of remuneration committees in PCTs and ATs in the area covered by their SHA. The 'grandparent' roles ensure pay is implemented within the overall pay envelope limits set by DH each year.

Evidence

6.20 We received written and oral evidence from DH, NHS Employers (an organisation representing English NHS organisations in their capacity as employers) and Managers in Partnership (MiP). NHS Employers are part of the NHS Confederation and negotiate with most NHS staff, but not on VSMs' pay. MiP is a trade union for managers in the health service. It was established jointly by Unison and the First Division Association.

6.21 DH's main points in respect of VSMs were that:

- this is the first year of operation of the new VSM pay framework and it is still bedding down;
- not all the VSMs covered by the framework have transferred to the new arrangements following the reorganisation of the NHS, particularly in PCTs in London, and consequently a high proportion are on pay protection;
- there is no evidence to suggest any significant issues in the pay arrangements for VSMs other than the point made above;
- over one quarter of VSM posts receive recruitment and retention premia at an average level of 10 per cent of base pay; and
- individuals in organisations that fail to meet their financial targets receive no annual pay increases or performance bonus payments.

6.22 NHS Employers and MiP reported that they had not been adequately consulted on the introduction of the pay framework and felt that the arrangements do not offer sufficient local autonomy and flexibility. Both highlighted the dissatisfaction members felt with the performance management arrangements, arguing that pay should not be linked simplistically to the size of the resident population weighted for age and deprivation and that the pay of directors' posts should be based on job weight rather than linked to chief executives' pay. MiP suggested that a job evaluation process would be a fairer way to determine pay. Both made the point that pay flexibility had been lost at the local level. In addition, NHS Employers made the following points:

- basic pay should be increased by 2 per cent for 2008-09;
- the pay system does not reward development and experience gained in post;
- the bonus arrangements are rigid and arbitrary; and
- there are recruitment difficulties in London PCTs.

6.23 DH proposes to commission an independent review and MiP has set out the principles it believes should guide the review⁵. These are set out below:

- 1. Pay levels in the remit group should be compared with jobs in the acute and non-acute NHS trusts and relevant private sector healthcare posts.*
- 2. The banding of organisations should reflect the fullest range of factors and should avoid cliff-edges as far as possible.*
- 3. Regard should be had to the relationship between Agenda for Change and VSM pay.*
- 4. The pegging of jobs in any pay system for VSMs should be based on sound job evaluation. This is totally absent from the present framework.*
- 5. Consistency between NHS organisations must be ensured, regionally and nationally.*
- 6. London weighting and other high cost area allowances should be restored or introduced for VSMs.*
- 7. There should be a balance between reward for individual performance and reward for team and corporate performance.*
- 8. Decision-making as far as possible should be left to the remuneration committees of individual organisations.*

6.24 NHS Employers also strongly support the suggestion that there should be a review of VSM pay arrangements. They believe that new arrangements should include job evaluation to determine job weight and recognition of the complexity of the roles and working environment of VSMs, and that they should be designed to ensure that good performance is rewarded while removing the barriers that currently act as disincentives to managers moving to organisations where they are most needed.

6.25 As part of the evidence-gathering process we visited an SHA, a PCT and an AT and held discussions with VSMs, members of remuneration committees and HR representatives from these organisations and also from other PCTs who came to talk to us. In general, these discussions confirmed the evidence from NHS Employers and MiP that the new framework has significant problems (see below). We are grateful to all who took time to talk to us and increase our understanding of our new remit group.

6.26 DH does not wish to change the overall structure of the current pay arrangements this year and in its evidence asked us to advise only on:

- “the level of annual uplift to the spot rates in the pay scheme; and
- the level of increase to the funds available for the performance bonus scheme.”

We have thus not been asked to look at the structure but having agreed to include VSMs in our remit we are bound to consider matters in our terms of reference which are brought to our attention as part of the evidence gathering process. The VSM pay framework is in its first year of operation and we have heard a number of concerns about its design and operation. We therefore discuss these in more detail but make no recommendations on the structure itself this year. However, we welcome DH’s proposal to commission an independent review which will inform our recommendations for the 2009 report and trust that our concerns will be taken into consideration in the review.

6.27 VSMs in SpHAs came under the framework in July 2007 and the SpHAs have not fully implemented it yet, so the evidence we have received does not cover these organisations.

⁵ ‘MiP gives evidence and outlines principles to the SSRB’, MiP Winter Report, Issue no. 3, Winter 2007, p2.

Basic pay

- 6.28 We heard of difficulties in assigning pay rates to the many directors whose job roles had no direct comparator role in the pay framework (London SHA listed more than 50 different job titles among directors in London PCTs). Those who discussed this issue with us believed that greater flexibility in setting pay rates would be helpful. Even when there was a direct match between the title of the director's post and the role in the pay framework, those we talked to were unclear about how the percentages had been arrived at and the rationale for the pay differentials between roles.
- 6.29 Remuneration committee members also wanted more flexibility in the salaries that could be offered when advertising posts and we heard of frustration with delays to the recruitment process as a result of having to seek SHA approval once the remuneration committee had made recommendations.
- 6.30 Some VSMs and Trust members consider that the weighting factors (set out in the notes to Table 6.2) are an inadequate means of determining pay rates in each organisation and fail to reflect both the complexities of some VSM roles and the particular issues in the area served by the organisation. They pointed out that there are different demands around the country. In London, for example, ethnic diversity places extra pressure on delivery while ageing populations pose different issues in other areas. We heard similar views expressed by remuneration committee members who felt that the pay framework was a simplistic structure which underestimated the difficulty of running complex organisations.
- 6.31 There are particular concerns about the pay of VSMs in PCTs in London. London PCTs were not restructured – they were already coterminous with London boroughs – and almost all of their VSMs (around 248) have remained on their previous contracts and on pay rates which are presumably higher than the pay framework. (We understand that where organisations were restructured, those appointed to the resulting new bodies were placed on contracts conforming to the pay framework, but those who continued in post in unrestructured bodies could remain on their old contracts which were locally determined.) We heard of one NHS VSM whose salary is 45 per cent higher than the pay framework rate for the post. This may be an extreme example but there is clearly little incentive for VSMs who remain on old contracts to move to the new pay framework. DH's evidence shows that fewer than 9 per cent of VSMs in London PCTs were on the pay framework in 2006-07. In addition we understand that two-thirds of the small number of VSMs paid under the new framework in London (in PCTs and other NHS organisations) receive additional pay (see paragraph 6.35 below). NHS Employers told us that the new pay framework levels were causing recruitment difficulties in London where PCTs cover relatively small populations and hence have a low band rating. Outside London, the reduction in the number of PCTs and the resulting increase in the population each restructured PCT covers had led to increased pay levels.
- 6.32 NHS managers immediately below the VSM group are on the Agenda for Change pay scales for non-medical NHS staff. They tend to be in the top two pay bands (bands 8 and 9). As at 1 November 2007, the pay ranges for bands 8 and 9, the bands just below VSMs, were £36,112 – £75,114 and £71,646 – £90,607 respectively. We heard evidence of overlap between these bands and the pay of VSMs and looking at the rates of pay we can see that a director of corporate affairs in a band one PCT, for example, would be paid at around £55,800 (55 per cent of the chief executive's salary of just over £101,500), well below the band 9 minimum in the Agenda for Change pay scale. However, we understand that there are only a few band 9 posts in the trusts within our remit and that they tend to be specialist managers.

- 6.33 The introduction of the current pay arrangements has led to a number of anomalies in the pay structures of VSMs. VSMs in organisations in our remit group can be paid at rates which differ from those of equivalent senior executives in organisations which are not in our remit. This is because NHS Trusts which are not covered by the pay framework (i.e. those listed in paragraph 6.2) have greater autonomy to set their own pay rates and their senior staff, in similar roles and in similar organisations, remain on local contracts. Remuneration committee members expressed unease at the disparity between the salaries available to VSMs in PCTs, for example, and those in acute trusts, and, as already explained, staff at the top of the Agenda for Change scale can be paid more than some very senior managers covered by the pay framework. Even within our remit group there are major differences in salaries between individual VSMs. For example, as noted above, over 90 per cent of VSMs in PCTs in London (where there has been no restructuring) remain on their original contracts and rates of pay.

Development pay

- 6.34 Evidence from DH showed that no VSMs in London organisations in 2006-07 were on development pay and only 0.4 per cent of VSMs in the rest of England.

Additional payment for additional responsibilities

- 6.35 We heard of some VSMs already achieving the maximum additional pay for additional responsibilities, then taking on extra duties but receiving no extra pay and therefore remaining on the same rate of pay as those with fewer additional responsibilities. Additional payments may be pensionable and may be taken into consideration when calculating performance bonuses. In London 67 per cent of VSMs within the new framework (i.e. about 10 people) receive additional pay, compared with 29 per cent in England overall.

Recruitment and retention premia

- 6.36 Recruitment and retention premia are intended for use in exceptional circumstances but significant use is made of these payments in some areas (for example 80 per cent of VSMs in the area covered by South Central SHA receive these payments) and overall use is high (28 per cent of VSMs in England). Use of recruitment and retention premia has been high in London (9 out of the 15 posts within the new framework) where a 'high cost area supplement' was considered but not adopted. The SHA in London says that it routinely has to use around 12 per cent recruitment and retention allowance to bring salary up to a market rate. Salary constraints make the recruitment of commissioning directors and finance directors particularly difficult for organisations and we heard that in London around half of the finance director posts are filled by interim finance directors.

Performance pay

- 6.37 As discussed earlier, DH has allowed the 5 per cent bonus pot limit to be pooled at SHA level. This is intended to provide some local flexibility in the bonus scheme. However, we heard no evidence about how this works in practice and we will therefore consider this in more detail next year.
- 6.38 We heard evidence that the performance pay arrangements are not conducive to the recruitment and retention of good quality VSMs in organisations failing to meet their financial targets. VSMs in 'failing' organisations could meet or exceed their individual targets but receive no pay increase or bonus. NHS Employers and MiP considered this unfair and likely to impede the recruitment and retention of good quality staff. Arguably, it is failing organisations that need to recruit the best performers and for this reason NHS Employers suggest that new managers should be given a minimum of two years to turn around organisations failing to meet their financial targets. One Trust appeared not to be applying the pay framework in the normal way. That Trust's board thought that individual bonus payments could be demoralising for those who did not receive them and would run counter to collaborative and corporate working.

Pensions

6.39 The Watson Wyatt report described in Chapter 2 looked at the existing and new NHS pension schemes, albeit not in the same detail as those of other remit groups. It found that, for members aged 40 to 60, the pension under the old scheme was worth approximately 17.5 per cent of salary. This is a lower figure than for our other remit groups, and lower than the value of many private sector defined benefit schemes for senior staff. However, defined benefit schemes are becoming the exception in the private sector and, on the evidence from Watson Wyatt, the NHS scheme is worth more than many private sector defined contribution schemes for staff at this level. In addition, of course, the NHS scheme is more secure than private sector schemes because it is guaranteed by public funding.

Review of the pay framework

6.40 There is general agreement among those giving evidence that there should be a review of the VSMs' pay arrangements.

6.41 We agree that a review of the pay framework is needed and encourage DH to make this a priority in 2008. We have identified the following broad areas we believe should be covered but there may well be others. We urge DH to provide us with up to date information about progress and emerging findings during the review.

Recommendation 14: We recommend that the Department of Health's review of the VSM pay framework include the following areas:

- **Job grading, including job evaluation and the degree of rigidity in the current system. Agenda for Change is based on job evaluation and we are surprised that this is not part of the framework.**
- **VSMs in London who are not covered by the pay framework and remain on their original terms and conditions. The review should consider whether VSMs not on the framework should continue to receive base pay increases or be 'red-circled' until the framework rates catch up.**
- **Recruitment and retention, including the payment of premia. There needs to be a balance between adapting to local needs and maintaining control over pay which could otherwise be bid up by competition between Trusts.**
- **Performance pay, including the design of the system and level of payments required to meet the objectives of the bonus scheme. A comparative study of bonus scheme design and effectiveness carried out by Towers Perrin and mentioned in our report last year⁶, concluded that the SCS scheme rewards rather than acts as an incentive. It also pointed out that the impact of such schemes does not appear to have been assessed. The current system for VSMs seems to have similar problems to the SCS scheme, discussed in paragraphs 3.15 and 3.16 of our last report⁷.**
- **Banding of organisations and the seemingly arbitrary differences in pay between similar organisations.**
- **The scope for anomalies and disparity between Trusts covered by the framework and those left to set their own pay levels.**
- **Organisations in 'D' category. The review should consider whether it is appropriate to give no pay increase to all VSMs in organisations that are failing to meet their financial targets.**

⁶ <http://www.ome.uk.com/downloads/Towers%20Perrin%20report%20on%20Bonus%20Scheme%20Design%20and%20Effectiveness.pdf>

⁷ <http://www.ome.uk.com/downloads/29th%20Report%20on%20Senior%20Salaries%20-%202007.pdf>

Affordability

6.42 DH in its evidence to us proposed an increase of 1.5 per cent in base pay arguing that any higher increase would reduce the funds available for services to patients. We also recognise the symbolic significance, particularly to others paid at Agenda for Change pay rates, of the pay award for VSMs. However, the pay of VSMs in our remit group represents a very small percentage of the pay budget (DH estimates baseline pay costs of £160 million for VSMs (excluding bonus payments)). DH also proposes an increase in the bonus pot of 0.5 per cent to 5.5 per cent of total pay.

Conclusions and pay recommendations

6.43 This is the first year we have considered the pay of VSMs and there are several issues which require more investigation to help us understand this group better. We therefore make what may be regarded as 'holding' recommendations for this year but expect to comment more extensively on the pay system and levels in our next report, drawing on better evidence from the parties and DH's review of the pay framework.

Bonus pot

6.44 As noted above, DH's evidence proposes increasing the bonus pot by 0.5 per cent to 5.5 per cent which is in line with the long term aim, similar to that of the Cabinet Office's proposals for the SCS, of achieving a bonus pot of 10 per cent. However, NHS Employers propose that the bonus increase should be added to the basic pay award for 2008-09 and this view was overwhelmingly supported in our oral evidence sessions because of general dissatisfaction with the way the bonus system is moving and concerns about aggravating the inverse differential with 'Agenda for Change' senior people. For example, we heard that the level of bonus is insufficient to motivate and that in organisations where team working is encouraged, the individual nature of the bonus scheme could be counter-productive.

6.45 From the evidence we have heard, we are not convinced that the performance pay arrangements are fulfilling their purpose and we do not believe we should recommend any increase to the bonus pot until more substantial information is forthcoming to show that performance pay is achieving its objectives. We therefore recommend no increase to the bonus pot this year and await the outcome of the review before any further consideration of the bonus pot.

Base pay

6.46 As we have made clear above, we do not yet have sufficient evidence to form a complete view of the VSMs' pay system but we have identified several causes for concern which should be investigated in DH's review. For example, one of the matters we intend to pursue in the next round is the relationship between the pay of VSMs and that of the most senior Agenda for Change grades, because we have not yet been able to establish whether this is a real or merely theoretical problem. It is possible that we shall wish to propose substantial changes to the VSM pay system once we have seen the DH review and studied the system more closely. In the interim, however, it would be premature to propose significant changes.

6.47 We are not persuaded by the arguments on affordability and we note that the Government has now offered a three-year deal for the Agenda for Change groups which provides for an increase of 2.75 per cent this year, while most NHS doctors and dentists will receive 2.2 per cent, so it is not clear why VSMs should be restricted to 2 per cent as DH propose. We therefore recommend an increase in base pay of 2.2 per cent for 2008-09.

Recommendation 15: We recommend that from 1 April 2008 there should be a 2.2 per cent increase in the pay of VSMs covered by the pay framework.

Appendix A

List of those who gave evidence to the SSRB

Senior civil service

Cabinet Secretary and Head of the Home Civil Service
Civil Service Commissioners
First Division Association and Prospect (joint union evidence)
Senior Civil Service Discussion Groups held in London (13 attended)
Senior Civil Service Discussion Groups held in Bootle (5 attended)
HR Directors' Discussion Group (4 attended)

Senior officers of the armed forces

Chief of the Defence Staff
Chief of Naval Staff
Chief of General Staff
Assistant Chief of Air Staff
Permanent Under Secretary, Ministry of Defence
4 x 3-star officers and 11 x 2-star officers during visit to HMS President

Judiciary

Lord Chancellor and Secretary of State for Constitutional Affairs
The Lord Chief Justice (England and Wales) and Chancellor of the High Court
Judicial Appointments Board, Scotland
Northern Ireland Judicial Appointments Commission
Northern Ireland Court Service
Scottish Executive, Justice Department
Lord Chief Justice of Northern Ireland
Lord President of the Court of Session
The Council of Circuit Judges
The Association of District Judges

VSMs

The Department of Health
NHS Employers
Managers in Partnership
London SHA (SHA and PCT: 5 VSMs and 2 from the remuneration committees)
Lewes, East Sussex (AT and PCT: 5 VSMs and 5 from the remuneration committees)

Appendix B

List of NHS Organisations¹ employing VSMs in SSRB's remit group

Strategic Health Authorities (SHA)

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

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

Ambulance Trusts²

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	

Primary Care Trusts (PCT)

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	Bexley Care Trust
Birmingham East and North PCT	Blackburn with Darwen PCT

¹ <http://www.nhs.uk/ServiceDirectories/Pages/StrategicHealthAuthorityListing.aspx>, December 2007

² Ambulance services on the Isle of Wight are provided by the Isle Of Wight NHS PCT

Blackpool PCT	Bolton PCT
Bournemouth and Poole 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 PCT	Darlington PCT
Derby City PCT	Derbyshire County PCT
Devon PCT	Doncaster PCT
Dorset PCT	Dudley PCT
Ealing PCT	East and North Hertfordshire 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	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 PCT	North Yorkshire and York PCT
Northamptonshire Teaching PCT	Northumberland Care Trust
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
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
Torbay Care Trust	Tower Hamlets PCT
Trafford PCT	Wakefield District PCT
Walsall Teaching PCT	Waltham Forest PCT
Wandsworth PCT	Warrington PCT
Warwickshire PCT	West Essex PCT
West Hertfordshire 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

Past reports from the SSRB, since 2001, can be found at:
<http://www.ome.uk.com/review.cfm?body=4>

Twenty-Ninth Report on Senior Salaries 2007
<http://www.ome.uk.com/downloads/29th%20Report%20on%20Senior%20Salaries%20-%202007.pdf>

Evidence submitted to the SSRB by the Cabinet Office
http://www.civilservice.gov.uk/iam/cs_policy/pay_reward/pay_arrangements.asp

Evidence submitted to the SSRB by the Ministry of Justice
<http://www.justice.gov.uk/docs/oct07ssrb-evidence.pdf>

Evidence submitted to the SSRB by the FDA and Prospect (joint union evidence)
<https://www.fda.org.uk/dman/Document.phx/Home+page+items/FDA+evidence+to+SSRB?folderId=Home%2Bpage%2Bitems&cmd=download>
<https://www.fda.org.uk/dman/Document.phx/Home+page+items/2008+misc/Additional+evidence+to+the+SSRB?folderId=Home%2Bpage%2Bitems%2F2008%2Bmisc&cmd=download>

Report on the comparison of the pension schemes of the Senior Civil Service, Judiciary and Senior Military – 2007
<http://www.ome.uk.com/downloads/Report%20on%20the%20comparison%20of%20the%20pension%20schemes%20of%20the%20Senior%20Civil%20Service%20Judiciary%20and%20Senior%20Military%202007>

Written evidence from the Department of Health
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_080939

Appendix D

Existing salaries for the four remit groups (as at March 2008)

Senior civil servants

Pay Band	Minimum	Progression Target Rate (PTR)	Recruitment & Performance Ceiling (RPC)	Numbers in post ¹
3	£99,960		£205,000	156
2	£81,600		£160,000	713
1A	£65,280	£87,720	£127,000	202
1	£56,100	£78,540	£116,000	2,930
				4,001
Permanent Secretaries: £139,740 to £273,250				40

¹ Numbers in post (excluding members with a non-standard payband) supplied by the Cabinet Office as at April 2007.

Senior officers of the armed forces

Scale point	Value of scale points			
	CDS	4-star	3-star	2-star
7				£107,060
6		£167,114	£139,295	£104,811
5		£163,836	£134,827	£102,561
4	£230,889	£160,625	£130,357	£100,310
3	£226,362	£157,475	£125,889	£98,060
2	£221,923	£154,387	£118,822	£96,175
1 (Minimum)	£217,572	£151,370	£111,754	£94,750
Numbers in post ¹	1	11	32	93

¹ Numbers in post supplied by the MOD, and relate to numbers in post as of 1 July 2007.

Members of the judiciary

Salary Group	Salaries	Numbers in post ¹
1	£230,400	1
1.1	£205,700	4
2	£198,700	15
3	£188,900	49
4	£165,900	141
5	£133,100	85
6.1	£123,200	803
6.2	£116,700	20
7 ²	£98,900	1,033
		2,151

¹ Numbers in post supplied by the MoJ, Northern Ireland Courts Service and Scottish Executive, and relate to numbers in post as at April 2007.

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

Very Senior Managers in the National Health Service

Chief executives – basic pay from 1 April 2007

	PCT chief executives ¹	AT chief executives ²	SHA chief executives ¹
Band 1	£101,524	£108,705	£155,293
Band 2	£112,211	£116,987	£165,646
Band 3	£122,897	£124,234	£175,999
Band 4	£133,584	n/a	n/a
Band 5	£144,271	n/a	n/a
London	n/a	£144,940	£196,704

SpHA chief executives (aligned to arrangements for SHA and PCT CEs)³

	From	To
Group 1	£157,015	£177,275
Group 2	£136,755	£157,015
Group 3	£96,235	£136,755

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.

Executive directors – examples of basic pay from 1 April 2007

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

Appendix E

Existing base salaries of Permanent Secretaries in £5,000 bands (as at March 2008)

Band £	Number in Band	Office Holder
225,000 – 229,000	1	Cabinet Secretary and Head of Home Civil Service
220,000 – 224,999	–	
215,000 – 219,999	1	1 st Parliamentary Counsel
210,000 – 214,999	–	
205,000 – 209,999	–	
200,000 – 204,999	2	Chief Executive, National Health Service Chief Medical Officer
195,000 – 199,999	–	
190,000 – 194,999	–	
185,000 – 189,999	1	Permanent Secretary of Department of Innovation, Universities & Skills (DIUS)
180,000 – 184,999	2	Permanent Secretary of Home Office – Chief Executive, Office of Government Commerce
175,000 – 179,999	3	Permanent Secretaries of: – Department for Children, Schools & Families – Ministry of Justice – Department for Work & Pensions
170,000 – 174,999	3	Permanent Secretaries of: – Welsh Assembly Government – Department for Communities & Local Government – Department for Business, Enterprise and Regulatory Reform (BERR)

165,000 – 169,999	4	Permanent Secretaries of: – Ministry of Defence – HM Treasury – Foreign and Commonwealth Office – Chief Scientific Adviser: DIUS
160,000 – 164,999	1	Permanent Secretary of Department for International Development
155,000 – 159,999	3	Head of the Northern Ireland Civil Service Chairman of the Joint Intelligence Committee and Head of Intelligence Assessment Permanent Secretary of Northern Ireland Office
150,000 – 154,999	5	Head of the Secret Intelligence Service Director, Government Communications Headquarters Permanent Secretaries of: – Scottish Executive – Department of Health – Government Communications
145,000 – 149,999	9	Permanent Secretaries of: – Department for Culture Media & Sport – Dept of the Environment, Food & Rural Affairs – Department for Transport – Department for International Development – No.10 Treasury Solicitor Chief Executive, Jobcentre Plus Executive Chair, Better Regulation Executive, BERR Chairman, HM Customs & Revenue
140,000 – 144,999	2	Director General of the Security Service Head of International Economic Affairs and Europe
135,000 – 139,999	3	Second Permanent Secretaries of: – Ministry of Defence – HM Treasury Director of the Office for National Statistics

Source: The Cabinet Office

Appendix F

Recruitment to the senior civil service

Open competitions for appointments to senior civil service posts (pay band 2 and above)¹

	Source			Total
	Civil service	Wider public sector	Private sector & others	
2006-07	36 (40%)	21 (23%)	33 (37%)	90
2005-06	42 (38%)	30 (27%)	39 (35%)	111
2004-05	37 (41%)	17 (19%)	37 (40%)	91
2003-04	43 (48%)	19 (21%)	27 (30%)	89

Source: Civil Service Commissioners

¹ From 16 July 2002, the Civil Service Commissioners ceased to have responsibility for approving the majority of SCS posts at Pay Bands 1 and 1A. Commissioners' approval is now only required for open recruitment to SCS Pay Band 2 and above.

Fast Stream recruitment

	Vacancies		Applications		Recommended for appointment ¹	
	2006 ²	2007 ³	2006 ²	2007 ³	2006 ²	2007 ³
General Fast Stream <i>Including:</i> <i>Science and Engineering Fast Stream,</i> <i>European Fast Stream,</i> <i>Clerkships of Parliament,</i> <i>DFID Technical Development Option,</i> <i>Central Departments,</i> <i>Diplomatic Service,</i>	219	210	9,456	10,344	326	241
Economists	177	170	812	566	121	99
Statisticians	65	28	501	435	25	13
GCHQ	8	k/n	3,176	3,338	4	2
In-service nominations			134	122	65	k/n

Source: Cabinet Office

¹ The number of applicants who were successful in the competition.

² Final figures for the competition which finished between September 2005 and August 2006.

³ Emerging figures for the competition which finished between September 2006 and August 2007.

Appendix G

Judicial salary structure at 1 April 2007¹

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

Senior Lord of Appeal in Ordinary

Group 2

Lords of Appeal in Ordinary

Lord Justice Clerk

President of the Family Division

The Chancellor of the High Court²

President of the Queen's Bench Division³

Group 3

Inner House Judges of the Court of Session

Lords Justices of Appeal

Lords Justices of Appeal (Northern Ireland)

Group 4

High Court Judges

Outer House Judges of the Court of Session

Puisne Judges (Northern Ireland)

Vice-Chancellor of the County Palatine of Lancaster⁴

Group 5

Chairman, Criminal Injuries Compensation Appeal Panel⁵

Chief Social Security Commissioners (England, Wales; Scotland & Northern Ireland)

Circuit Judges at the Central Criminal Court in London (Old Bailey Judges)

Deputy President, Asylum & Immigration Tribunal⁶

Judge Advocate General⁷

Permanent Circuit Judge, Employment Appeals Tribunal⁸

President, Appeal Tribunals (England, Wales and Scotland)

President, Care Standards Tribunal

President, Employment Tribunals (England & Wales)

¹ Alphabetical order within salary group.

² Formerly known as Vice-Chancellor until 1 October 2005.

³ Post became effective on 3 October 2005.

⁴ Post currently held by a High Court Judge.

⁵ Part-time position. Salary for 3 day week is pro-rata to Group 5 rate.

⁶ Post came into effect on 4 April 2005 with the introduction of the new Asylum and Immigration Tribunal.

⁷ Upgraded from Salary Group 6.1 to Group 5 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

⁸ Upgraded from Salary Group 6.1 to Group 5 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

President, Employment Tribunals (Scotland)
President, Lands Tribunals (England & Wales)
President, Lands Tribunal (Scotland) and Chairman, Scottish Land Court
Presiding Special Commissioner, President of the VAT and Duties Tribunal and President of the Financial Services and Markets Tribunal⁹
Recorder of Belfast¹⁰
Recorder of Liverpool
Recorder of Manchester
Senior Circuit Judges
Senior District Judge (Chief Magistrate)
Sheriffs Principal
Specialist Circuit Judges (Chancery, Mercantile, Patent and Technology and Construction Court Judges)

Group 6.1

Chief Registrar and Senior and Chief Masters
Circuit Judges
County Court Judges (Northern Ireland)
Judge Advocate of the Fleet
Master of the Court of Protection
President, Appeal Tribunals (Northern Ireland)
President, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)
President, Lands Tribunals (Northern Ireland)
Regional Chairmen, Appeal Tribunals¹¹
Regional Chairmen Employment Tribunals (England & Wales; & Scotland)
Registrar of Criminal Appeals
Senior Costs Judge¹²
Senior District Judge, Principal Registry of the Family Division
Sheriffs
Senior Immigration Judges¹³
Social Security Commissioners (England, Wales; Scotland & Northern Ireland)
Vice-President, Employment Tribunals (Northern Ireland)

Group 6.2

Adjudicator, HM Land Registry¹⁴
Chairmen, VAT and Duties Tribunals
Deputy Senior District Judge (Magistrates' Courts)
Members, Lands Tribunals (England & Wales; Scotland & Northern Ireland)
Regional Chairman, Appeals Service (Scotland)
Regional Chairmen, Mental Health Review Tribunals, England¹⁵
President, Pensions Appeal Tribunal¹⁶
Special Commissioners of Income Tax
Vice-Judge Advocate General
Vice-Presidents, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)
Vice-Presidents, VAT and Duties Tribunals (England & Wales; & Scotland)

⁹ All 3 offices currently held by the same person. Current incumbent (as at 01/04/02) paid at Group 4 rate.

¹⁰ Current post-holder receives a salary of 108 per cent of Group 5 rate under arrangement established from 01/04/02.

¹¹ Upgraded from Salary Group 6.2 to Group 6.1 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

¹² Formerly known as Senior Taxing Master.

¹³ Posts came into effect on 4 April 2005 with the introduction of the new Asylum and Immigration Tribunal.

¹⁴ Upgraded from Salary Group 7 to Group 6.2 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

¹⁵ Upgraded from Salary Group 7 to Group 6.2 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

¹⁶ Post transferred from Salary Group 7 by the Lord Chancellor on wef 1 April 2007.

Group 7¹⁷

Assistant Judge Advocates General
Chairmen, Employment Tribunals (England & Wales; & Scotland)
Chairmen, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)
Chief Medical Member, Appeals Tribunal¹⁸
Coroner, Northern Ireland¹⁹
Costs Judges²⁰
Deputy President Pensions Appeal Tribunal²¹
Designated Immigration Judges²²
District Chairmen, Appeal Tribunals
District Judges
District Judges (Magistrates' Courts)
District Judges (Northern Ireland)
District Judges of the Principal Registry of the Family Division
Immigration Judges
Masters and Registrars of the Supreme Court
Masters of the Supreme Court (Northern Ireland)
Resident Magistrates (Northern Ireland)
Senior Coroner, Northern Ireland^{23,24}

¹⁷ Group 7 post-holders in London are paid an additional £2,000 salary lead and an additional £2,000 London allowance.

¹⁸ Upgraded to Salary Group 7 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

¹⁹ Post included in the Judicial Salary Structure from October 2005 following agreement from the Lord Chancellor.

²⁰ Formerly known as Taxing Masters.

²¹ Upgraded to Salary Group 7 following the recommendations of the SSRB in its Fundamental Review of the Judicial Salary Structure 2005.

²² Current post-holder receives a salary of 108 per cent of Group 7 rate.

²³ Post included in the Judicial Salary Structure from October 2005 following agreement from the Lord Chancellor.

²⁴ Paid at 110 per cent of the Group 7 salary.

Appendix H

Recruitment to the judiciary 2006-07

ENGLAND AND WALES

Introduction

Although the Judicial Appointments Commission was established from 1 April 2006 it is still not in a position to submit evidence independently and we rely on the Department for Constitutional Affairs for information on recruitment for England and Wales in respect of 2006-07.

House of Lords

During 2006-07 there was one appointment to the House of Lords. Lord Neuberger who was appointed on 11 January 2007 following the retirement of Lord Nicholls.

Heads of Division

There were no appointments of Heads of Division during 2006-07.

Court of Appeal

During 2006-07 there were four appointments to the Court of Appeal. Lord Justice Anthony Hughes was appointed on 25 April 2006 following the retirement of Lord Justice Christopher Rose. On 2 October Lord Justice Brian Leveson was appointed following the retirement of Lord Justice Henry Brooke. On 11 January 2007 Lord Justice Lawrence Collins succeeded Lord Neuberger, following the appointment of the latter as a Lord of Appeal in Ordinary. Lord Justice Roger Toulson was appointed on 29 January 2007, following the retirement of Lord Justice Jonathan Parker. Lord Justice Leveson succeeded Lord Justice Thomas as the Senior Presiding Judge with effect from 1 January 2007.

High Court

Eight appointments were made to the High Court bench between 1 April 2006 and 31 March 2007. All were applicants in the 2005 recruitment process, including two judges who were promoted from the Circuit Bench. The complement of the High Court is 108 and there are currently 107 judges in post excluding Mr Justice Bratza who is a judge of the European Court of Human Rights and therefore does not count towards the complement. In October 2006 the Judicial Appointments Commission launched a new selection exercise for the High Court, in preparation for taking over responsibility for making selections for recommendation to the Lord Chancellor, from Spring 2007.

Judicial Appointments Commission (JAC)

The JAC is an independent Non Departmental Public Body (NDPB) set up by the Constitutional Reform Act 2005 to select judicial office holders. It is required to select candidates for judicial office on merit, through fair and open competition, from the widest range of eligible candidates. Recommendations are made to the Lord Chancellor for the approval of selected candidates. The JAC was established in April 2006.

Under the transitional arrangements, the Lord Chancellor retained responsibility for a number of selection exercises that were still in progress at 3 April 2006. The JAC also inherited a number of selection exercises that were already underway or about to start, and these were run by the Commission, but using processes previously used by the then DCA (with some minor changes necessary to comply with the Constitutional Reform Act 2005). All selection

exercises launched after October 2006 have been run under JAC's new processes. The following paragraphs deal with selection exercises for salaried posts which were completed during the 2006-07 financial year, that is for those which our recommendations to the Lord Chancellor were accepted in that year. In addition, and as set out below, a range of appointments was as usual made to Courts and Tribunals posts from pre-existing reserve lists.

Selection Exercises Retained by the Lord Chancellor and Run Entirely Under DCA Processes.

Specialist Chancery Circuit Judge – Midland Circuit

This selection exercise was launched in December 2005 to fill one post. There were six applications and one applicant was invited to interview. No candidate was recommended for appointment. The selection exercise was subsequently successfully re-run by the JAC using DCA processes as reported under the next section.

Specialist Mercantile Circuit Judge – Midland Circuit

This selection exercise was launched in December 2005 to fill one post. There were 11 applications, and two applicants were invited to interview. One was recommended for appointment.

Asylum and Immigration Salaried Immigration Judges

This selection exercise was launched in July 2005. There were originally 10 vacancies, but the business need changed, and 12 candidates were eventually recommended for appointment. Eight were placed on a reserve list.

JAC-Run Exercises Using Processes Inherited From the then DCA.

Chief Social Security and Child Support Commissioner

This selection exercise launched in February 2006 as a DCA competition, but was transferred to the JAC on 3 April 2006 for completion as a JAC exercise. There were three applicants and no candidate was recommended for appointment. In practice the pre-existing incumbent has continued to serve.

Specialist Chancery Circuit Judges for Birmingham & Bristol and Specialist Mercantile Judge for Manchester

There were three vacancies in total, which were advertised in July and August 2006. 21 applications were received. Eight candidates were interviewed, and three were recommended for appointment.

Reserve list requests

From previous DCA run exercises the JAC has also selected candidates for recommendation from reserve lists for the following posts:

- 9 Circuit Judges
- 13 District Judges
- 5 Designated Immigration Judges
- 1 Senior Immigration Judge
- 1 Employment Tribunal Legal Chair

JAC Run Selection Exercises Using New JAC Processes.

Special Immigration Appeals Commission Chairman 2006

A selection exercise was announced in September 2006 to fill one vacancy. The JAC wrote to all eligible serving High Court Judges inviting them to apply. Only one application was received, and one candidate was recommended for appointment.

SCOTLAND

The recruitment of judiciary in Scotland can be best summarised by the following table:

Exercise ¹	Full compliment in Scotland	Numbers applying	Numbers recommended for appointment	% of candidates recommended for appointment	Numbers appointed from exercise
All-Scotland floating Sheriff 2005	142	93	20	22%	13
Part-time Sheriff 2006	80	180	42	23%	11
Senator 2006	34	9	3	33%	2

¹ Some exercises began before April 2006

NORTHERN IRELAND

High Court Judge and above

There was one recruitment scheme during this period, eight applications were received (three county court judges, five barristers and 0 solicitors) and six candidates were interviewed – two appointments were made.

County Court Judges

There were no vacancies at this level during this period.

District Judge

There were no vacancies at this level during this period.

Resident Magistrate

There were no vacancies at this level during this period.

Masters of the Supreme Court

- **Master (High Court)**

There was one recruitment scheme during this period with 19 applications received (13 solicitors and six barristers) – one appointment made.

- **Master High Court (EJO and Taxing Office)**

There was one recruitment scheme during this period with 15 applications received (12 solicitors and three barristers) – one appointment made.

Presiding Coroner

There was one appointment of an existing High Court judge to the office of Presiding Coroner.

Industrial Tribunals/Fair Employment Tribunals (Full time chairmen)

This scheme was advertised and 29 applications were received (20 solicitors and 9 barristers). 16 candidates were interviewed and four appointments were made.

President of the Industrial Tribunals and the Fair Employment Tribunal

There were no vacancies at this level during this period.

Pension Appeals Tribunal (Legal members)

There was one recruitment scheme during this period with 15 applications received (11 solicitors and four barristers) – nine candidates were interviewed and two appointments were made.

Pension Appeals Tribunal (Medical members)

There was one recruitment scheme during this period with 10 applications received. Five candidates were interviewed and two appointments were made.

Mental Health Review Tribunal (Medical members)

There was one recruitment scheme during this period with four applications received. Four candidates were interviewed and four appointments were made.

Northern Ireland Valuations Tribunal (President/Legal members)

There was one recruitment scheme during this period with 32 applications received (22 solicitors and 10 barristers). 29 candidates were interviewed and 25 appointments were made (one President and 24 legal members).

Northern Ireland Valuations Tribunal (Valuation members)

There was one recruitment scheme during this period with 10 applications received. Nine candidates were interviewed and nine appointments were made.

Northern Ireland Valuations Tribunal (Ordinary members)

There was one recruitment scheme during this period with 103 applications received. 103 candidates were interviewed and 99 appointments were made.

VAT and Duties Tribunal

2 Manchester based chairmen were appointed as additional NI chairmen.

Source for England and Wales: Department for Constitutional Affairs

Source for Scotland: Judicial Appointments Board for Scotland

Source for Northern Ireland: Northern Ireland Judicial Appointments Commission

Appendix I

Previous reports in this series

No. 2: Interim Report on Top Salaries	Cmnd. 5001, June 1972.
No. 3: Second Interim Report on Top Salaries	Cmnd. 5372, July 1973.
No. 4: Third Interim Report on Top Salaries	Cmnd. 5595, June 1974.
No. 6: Report on Top Salaries	Cmnd. 5846, December 1974.
No. 10: Second Report on Top Salaries	Cmnd. 7253, June 1978.
No. 11: Third Report on Top Salaries	Cmnd. 7576, June 1979.
No. 14: Fourth Report on Top Salaries	Cmnd. 7952, July 1980.
No. 16: Interim Report on Top Salaries	Cmnd. 8243, May 1981.
No. 18: Fifth Report on Top Salaries	Cmnd. 8552, May 1982.
No. 19: Sixth Report on Top Salaries	Cmnd. 8879, May 1983.
No. 21: Seventh Report on Top Salaries	Cmnd. 9254, June 1984.
No. 22: Eighth Report on Top Salaries	Cmnd. 9525, July 1985.
No. 23: Ninth Report on Top Salaries	Cmnd. 9785, May 1986.
No. 25: Tenth Report on Top Salaries	Cm 128, April 1987.
No. 27: Eleventh Report on Top Salaries	Cm 359, April 1988.
No. 28: Twelfth Report on Top Salaries	Cm 581, February 1989.
No. 29: Thirteenth Report on Top Salaries	Cm 938, February 1990.
No. 30: Fourteenth Report on Top Salaries	Cm 1413, January 1991.
No. 33: Fifteenth Report on Top Salaries	Cm 2015, July 1992.
No. 34: Sixteenth Report on Senior Salaries	Cm 2464, February 1994.
No. 35: Seventeenth Report on Senior Salaries	Cm 2764, February 1995.
No. 37: Eighteenth Report on Senior Salaries	Cm 3094, February 1996.
No. 39: Nineteenth Report on Senior Salaries	
Volume I	Cm 3540, February 1997.
Volume II	Cm 3541, February 1997.
No. 40: Twentieth Report on Senior Salaries	Cm 3837, January 1998.
No. 41: Twenty-First Report on Senior Salaries	Cm 4245, February 1999.
No. 45: Twenty-Second Report on Senior Salaries	Cm 4567, February 2000.
No. 46: Twenty-Third Report on Senior Salaries	Cm 4995, February 2001.
No. 51: Twenty-Fourth Report on Senior Salaries	
Volume I	Cm 5389-I, February 2002.
Volume 2	Cm 5389-II, February 2002.
No. 55: Twenty-Fifth Report on Senior Salaries	Cm 5718, February 2003.
No. 56: Twenty-Sixth Report on Senior Salaries	Cm 6099, February 2004.
No. 59: Twenty-Seventh Report on Senior Salaries	Cm 6451, February 2005.
No. 62: Twenty-Eighth Report on Senior Salaries	Cm 6727, March 2006.
No. 63: Twenty-Ninth Report on Senior Salaries	Cm 7073, March 2007.

Appendix J

Glossary of terms and abbreviations

General

AFPRB	Armed Forces' Pay Review Body.
Average	The sum of a set of values divided by the number of values.
Base pay	Basic salary, excluding non-consolidated bonuses, allowances, value of pensions, etc.
CPI ¹	Consumer Prices Index.
Job weight	The relative level, complexity and responsibility of different jobs/positions.
Median	The value in a set of observations ranked in ascending order that divides the data into two parts of equal size.
MPC	Monetary Policy Committee.
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 ¹	Retail Prices Index.
RPIX ¹	Retail Prices Index excluding mortgage interest payments.
SSRB	Senior Salaries Review Body.

Senior civil service

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. This no longer applies to pay bands 2 and 3.
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.

The judiciary

JAC (E&W)	Judicial Appointments Commission (England and Wales)
LCJ	Lord Chief Justice.
MoJ	Ministry of Justice
NICS	Northern Ireland Court Service.
Salary group	The grouping of judicial posts, for pay purposes, according to job weight. See Appendix F.

NHS Very Senior Managers

AT	Ambulance Trust
DH	Department of Health
MiP	Managers in Partnership
PCT	Primary Care Trusts
SHA	Strategic Health Authorities
SpHA	Special Health Authorities
VSMs	Very Senior Managers

¹ 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. RPIX simply means RPI excluding mortgage interest payments (MIPs).



Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone Fax & E-Mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: customerservices@tso.co.uk

Textphone: 0870 240 3701

TSO Shops

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

The Parliamentary Bookshop

12 Bridge Street, Parliament Square,
London SW1A 2JX

TSO@Blackwell and other Accredited Agents

