

HAMPSHIRE COUNTY COUNCIL

Committee:	Employment in Hampshire County Council
Date:	11 March 2021
Title:	Pay, Policy and Legislation Update
Report From:	Director of Corporate Resources

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Purpose of this Report

1. The purpose of this report is to provide an update to EHCC on the internal realignment of functions, National Pay Award and proposed employment-related legislative changes.

Recommendation(s)

2. That EHCC notes the internal realignment of functions, increases in the National Living and Minimum Wage and developments concerning the pay award and legislation.

Executive Summary

3. The National Living Wage will increase to £8.91 per hour from 1 April 2021 for those over the age of 23.
4. Government have announced a public-sector pay freeze for 2021/2022.
5. Government have announced that after extensive review of the application of the £95k cap, that the Regulations should be revoked. HMT Directions have been published that disapply the Cap until the Regulations have been revoked.
6. This report provides updates on the following legislation and Government consultation topics:
 - Additional bank holiday in June 2022
 - Support for domestic abuse survivors in the workplace
 - Migration Advisory Committee recommendation to the Shortage Occupation List

- The impact of Brexit

Contextual information

Internal Re-alignment of functions

7. As a result of a need for increased capacity and senior management expertise within Adults' Health and Care, the Director of Transformation and Governance has been undertaking a dual role in recent years, having taken on the additional role of Deputy Director Adults' Health and Care.
8. The time has now come to consolidate arrangements on a more permanent basis in order that the appropriate leadership is in place, both for Adult's Health and Care, and the functions within Transformation & Governance.
9. This means that the Director of Transformation & Governance will transition permanently to the Deputy Director of Adults' Health & Care, and that the functions within Transformation & Governance will be re-aligned to other parts of the Council to ensure ongoing stability of service delivery.
10. These changes will be undertaken in line with relevant policies and procedures and will not result in additional posts or increases in budgets.

National Living and Minimum Wage increases

11. Government have recently announced that the National Living Wage will rise from £8.72 to £8.91 on 1 April 2021, an increase of 2.2%.
12. The NLW, which currently applies only to those 25 or over, will be extended to 23 and 24-year-olds for the first time.
13. Since the hourly rate for staff at Grade A is £9.25 and therefore exceeds the new NLW, County Council staff are not impacted by the NLW increase.
14. However, any new County Council employees on a six-month Government Kickstart placement are affected. The April 2021 NMW increases range from 1.5% to 3.6%, with the highest rate rising from £8.20 to £8.36 for 21- and 22-year-olds. The Kickstart scheme funds 100% of the applicable National Minimum Wage for 25 hours per week for 16 to 24-year-olds on Universal Credit.

2021 Pay Award

15. In November, Government announced a public-sector pay freeze (for workers outside of the NHS) for 2021/22. In addition, the Chancellor announced that

public sector workers earning less than £24,000 a year would receive a minimum £250 increase.

16. Government does not set pay for most council staff and in February 2021 recognised Trade Unions submitted a pay claim to National Joint Council of at least 10% increase in pay for all council and school support employees. Nevertheless, in previous years such a government announcement has resulted in similar outcomes for Local Authority pay bargaining. Councils will be consulted on this to inform the National Employers' position.
17. Typically, a pay freeze would mean that there would be no national pay award applied to the EHCC salary framework i.e., the minimum and maximum (and step points) would not increase. As such someone on a salary at the top of their grade would not receive an annual pay increase. However, we anticipate that incremental increases within the salary grade would continue as normal.
18. Given that Government have said that whilst there is a pay freeze for those earning more than £24,000, those earning less than £24,000 will receive a minimum £250 increase, the budgeted pay provision held has been reduced to 1%, which will be held in contingencies until any pay award is agreed. Updates will be provided to EHCC as required.
19. Updates will be provided to EHCC as required.

Restriction of Public Sector Exit Payments Regulations 2020 - £95k payments cap and wider exit reforms

20. As reported to EHCC in November 2020, new regulations were implemented on 4 November 2020, which stated that any payments made to an employee by way of their exit would be capped at £95k.
21. As a result, a conflict was created between these new regulations and existing Local Government Pension Schemes which would have continued until new regulations to amend the LGPS scheme were implemented.
22. The draft LGPS regulations were released and the County Council responded to a technical consultation on those regulations. This consultation closed on 18 December 2020.
23. Whilst the £95k cap regs were implemented the new LGPS regs were delayed pending the outcome of Judicial Reviews scheduled for late March 2021).
24. In February, Government announced that after extensive review of the application of the Cap, that they had concluded that the £95k cap may have had unintended consequences and the Regulations should be revoked. HMT Directions have been published that disapply the Cap until the Regulations have been revoked.

25. Government have also stated that it is still vital that exit payments deliver value for the taxpayer and employers should always consider whether exit payments are fair and proportionate. To this end, HM Treasury will bring forward proposals at pace to tackle unjustified exit payments.
26. Updates will be provided to EHCC as required.

Employment Legislation and Consultation updates

Additional bank holiday in June 2022

27. **Government have announced the creation of a Platinum Jubilee four-day weekend in June 2022. The late May bank holiday will be moved to Thursday 2 of June while an additional bank holiday will take place on Friday 3 of June 2022. The County Council's policies and procedures will be updated accordingly.**

Consultation updates

28. Government are considering responses to several consultations that have been reported previously to EHCC. At the time of writing, there is no update on the following consultations:
- Ethnicity pay gap reporting
 - How to reduce ill-health related job losses
 - Measures to address one-sided flexibility
 - Sexual harassment in the workplace
 - Confidentiality clauses
 - Carers' leave
 - Proposals to rectify age discrimination in public sector pension schemes

Supporting domestic abuse victims in the workplace

29. Government have responded to the consultation on workplace support for victims of domestic abuse and have announced they will:
- consult further to explore steps that can be taken for victims of domestic abuse, for example, how they can exercise their existing rights more effectively;
 - raise awareness and provide support during the current coronavirus pandemic and in the longer-term; and
 - establish a working group of Government, employers, representatives of domestic abuse victims and trade unions to establish practical solutions and best practice in the workplace.
30. Additionally, Government have announced within the consultation outcome that they intend to consult further to encourage flexible working and make flexible working the default unless employers have a good reason not to. This measure was initially consulted on as part of the Good Work Plan reforms in 2019.

However, Government has recognised that this proposal would also benefit domestic abuse victims to give them additional flexibility during working hours to access the support services they may need.

Shortage Occupation List update

31. In March 2020, the Home Secretary commissioned the Migration Advisory Committee (MAC) to review the occupations it had placed on its Shortage Occupation List. The County Council submitted information to the consultation, following this the MAC recommended that 'senior care workers' were added to the Shortage Occupation List, an addition that the County Council requested through the consultation.
32. However, in October 2020, Government decided not to immediately accept any of the recommendations put forward by the MAC. This was on the basis that they wanted to assess the impact of the new Points-Based Immigration System introduced on 1 January 2021 and how the UK labour market develops and recovers following COVID-19. We are disappointed in the Government's decision, particularly since we had firmly advocated the inclusion of the senior care worker to the Shortage Occupation List in our response to the consultation and considering anticipated future recruitment challenges as a consequence of COVID-19.
33. The Government's aim of the new Points Based Immigration System is to provide 'simple, effective and flexible arrangements for skilled workers from around the world to come to the UK through an employer-led system' (Gov.UK). A sponsor license is required by employers to hire employees from outside of the UK, and which the County Council already has in place. Through the new Points Based Immigration System those applying to work in the UK will need to meet a specific set of requirements to be able to score points. Visas will then be issued if enough points are gained.
34. EU and non-EU citizens applying for roles will need to demonstrate that they have a job offer from an approved sponsor, that the job offer is at the required skill level, and that they can speak English. In addition, different criteria are applied to include: the salary of the role, whether it is on the Shortage Occupation List and the level of qualifications held by the applicant.
35. The County Council will keep the position under review, and this will form part of further work which is ongoing to fully understand the impact of the EU Exit, whilst also taking in to account the recent rise of unemployment (Office for National Statistics) and the increase in applications received for roles advertised.

Update on the County Council's nationality profile and impact of EU Exit

36. The nationality profile of EU nationals for the County Council and Hampshire schools is presented in the paragraph below. These figures are estimated, as

prior to February 2018 an employee was unable to record their citizenship within the SAP database.

37. In January 2021, the estimated number of EU nationals employed on temporary and permanent contracts by the County Council was 366 and 436 in Hampshire schools. Regular communications have been published to EU colleagues to advise them that they will need to apply to the EU Settlement Scheme to protect the rights they currently have in the UK.
38. The recruitment profile of EU Nationals across the County Council has not changed significantly during 2020 from when previous figures were reported to EHCC in March 2019. Across 2020, where nationality data was captured, approximately 4.5% of those recruited were EU nationals (59 employees), a slight increase from 3% (50 employees) in the previous year.
39. The County Council continues to be actively engaged in the information coming out from Government regarding the EU exit and the impact on our labour pool to ensure that we are able to access, secure and retain skilled people to deliver essential public services. A further update will be provided to EHCC in July 2021 as part of an update on the action within the Annual Workforce Report.

Consultation and Equalities

40. It is not envisaged that an Equalities Impact Assessment will be required for any of the updates included in this paper.

Conclusions

41. Updates on the matters covered by this paper will be supplied to EHCC as further details and clarity are provided.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

This proposal does not link to the Strategic Plan but potentially impacts the County Council's workforce strategy.

Other Significant Links

Direct links to specific legislation or Government Directives

<u>Title</u>	<u>Date</u>
Policy and Legislation Update	9 th March 2020
Pay, Policy and Legislation Update	9 th July 2020

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
Interim Workforce Report 1 April - 30 September 2020 Office for National Statistics data Gov.UK - UK Points Based Immigration System: employer information	EHCC agenda item 11 th March 2021

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

Equality objectives are not considered to be adversely affected by proposals in this report.