

HAMPSHIRE COUNTY COUNCIL REPORT

Committee/Panel:	Employment in Hampshire County Council
Date:	22 November 2017
Title:	Legislation Update
Report From:	Director of Corporate Resources

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1. Executive Summary

- 1.1 This paper provides an update on recent and pending legislative changes and recommends that a further update be provided at EHCC in March 2018.

2 Employment Legislation Update

2.1 Mandatory Gender Pay Gap Reporting

- 2.2 The first duty to report on pay by gender will be in April 2018. A SAP solution is being applied and tested during October/November 2017. The project is on track to enable the County Council to meet this statutory requirement. A full update will be provided to EHCC in March 2018.

2.3 Exit Payment Cap, Exit Payment Recovery and Further Changes to Exit Payments

- 2.4 The government has proposed three tranches of changes to exit payments in the public sector. Firstly a cap of £95k on exit payments. Secondly a requirement to repay exit payments if the salary earned was in excess of £85k and the person returns to public sector employment within 12 months. Thirdly, further restrictions, which would further limit exit payments, voluntary enhanced redundancy payments and employer compensation towards pensions costs on exit.
- 2.5 At the time of writing it was anticipated that already published draft regulations on the first two tranches (the £95k cap and £85k recovery) will

be subject to fresh consultation in Autumn 2017, but exact dates are not yet known. This would mean a potential implementation date in the early part of 2018, although this is reliant on sufficient parliamentary time being found.

2.6 The third part of proposed changes require the DCLG to publish draft regulations in response to the consultation. There is no known timescale for this and EHCC will be updated when timescales are known.

2.7 Calculation of a week's pay for redundancy

2.8 In cases of compulsory redundancy, the payment an employee receives is a multiple of a "week's pay". The multiple depends on the number of complete years' service and their age and is capped at 30 weeks' pay. There is a statutory cap of £489 per week, however Hampshire's policy is more beneficial and provides for redundancy benefits based on actual pay.

2.9 In *University of Sunderland v Drossou* UKEAT/0341/16/RN the Employment Appeal Tribunal (EAT) determined that a week's pay should include the value of the employer's pension contribution, unless an employer's policy specifically excludes it.

2.10 It is recommended that the wording of the Redundancy Policy is amended to specifically exclude employer's pension contributions from this calculation, unless an employee's actual weekly pay is below the statutory cap. In this case, all, or part of the value employer pension contributions should be included but only to achieve the statutory cap. This will ensure that public money is used appropriately in cases of redundancy.

3. Recommendations

- 1) To note the developments on the Gender Pay Gap report
- 2) To note the developments in relation to Exit Payment amendments
- 3) To agree the proposed clarification in the Redundancy Policy
- 4) An update is provided at March 2018 EHCC

**CORPORATE OR LEGAL INFORMATION:
Links to the Corporate Strategy**

These government proposals do not link to the Corporate Strategy but potentially impact the County Council's workforce strategy.

Other Significant Links

Links to previous Member decisions:

<u>Title</u>	<u>Date</u>
Update on proposed Government policy changes	11 November 2015
Update on Government proposed policy changes	9 March 2016
2016 National Pay Award and National Living Wage	9 March 2016
Pay and Policy Update	10 November 2016
Pay and Policy Update	14 March 2017
Pay, Policy and Legislation Update	12 July 2017

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.)

Document

Location

None.

IMPACT ASSESSMENTS

1. Equality

1.1 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 under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

1.2 Equalities Impact Assessment:

It is not envisaged there will be any equalities impact, however as the exit payments legislation is subject to further consultation, we are not yet able to fully identify any impact.

2. Impact on Crime and Disorder:

2.1 Not applicable.

3. Climate Change:

(a) How does what is being proposed impact on our carbon footprint / energy consumption?

Not applicable.

(b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Not applicable.