

**HAMPSHIRE COUNTY COUNCIL  
REPORT**

<b>Committee/Panel:</b>	Employment in Hampshire County Council
<b>Date:</b>	22 November 2017
<b>Title:</b>	EHCC Apprentice Pay Framework
<b>Report From:</b>	Director of Corporate Resources

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## 1. Executive Summary

1.1 This paper requests that EHCC approve a new EHCC Apprentice Pay Framework that better reflects the scale and scope of the County Council's new Apprenticeship Programme, effective from 1<sup>st</sup> April 2018.

## 2. Contextual information

2.1 The requirement to develop a new EHCC Apprentice Pay Framework has been prompted by the introduction of the government's Apprentice Levy (April 2017). This will see the volume of Apprentices, from both new appointees and existing staff, increase significantly across the organisation. Therefore, a more relevant and comprehensive pay framework is required.

2.2 The existing EHCC Apprentice Pay Policy was introduced in 2013 as part of the Hampshire Youth Investment Programme. The policy was developed predominately for 16-25 year olds who are new to the organisation and appointed at grades A-C only. The policy operates on a 'grade below' basis whereby the Apprentice is paid at the grade below the substantive grade for the role to which they are appointed for the period of their apprenticeship or National Minimum Wage (NMW) as detailed in the following table:

<b>Substantive Grade for the role</b>	<b>Pay during apprenticeship training period</b>
A (Any age Apprentice in first year of Apprenticeship)	NMW for 21-24 year olds (£7.05)
A (Apprentice aged 25 and over, beyond first year of Apprenticeship)	NLW (£7.50)
B	Grade A
C	Grade B

### **3. Proposed EHCC Apprentice Pay Framework**

3.1 The key elements of the proposed EHCC Apprentice Pay framework are as follows;

- that all Apprentices employed by Hampshire County Council, both in corporate departments and maintained schools for which the County Council is the legal employer, are paid on the substantive EHCC pay grade for the job. This includes new apprentices and current apprentices transitioning from the current 'grade minus' to the substantive grade for the role.
- that the current EHCC Apprentice Pay Policy ('grade below') be withdrawn.
- that the current 'Apprentice First' policy, which determines that all approved vacancies at EHCC grade A-C which are for 30 hours or more per week, and for 12 months or more in duration, are presumed to be an Apprenticeship opportunity, be formally extended to cover all roles appointed on EHCC terms & conditions, grades A-K.
- to use role profiles already in existence e.g. unqualified social worker / trainee AAT and only create a new role profile where an existing profile isn't suitable.
- that progression for Apprentices appointed to substantive EHCC grade roles be managed through the Valuing Performance or IPP performance management framework as appropriate.

3.2 The new Apprentice Pay framework will be fully implemented and effective on 1st April 2018. This is proposed to be a single and controlled transition of all affected employees from their previous apprentice position and pay scale to the new arrangements outlined in this paper.

3.3 The estimated cost of transitioning the 31 Apprentices (exc. Schools) employed on the current policy (as of 1 October) to the new arrangement is £8,000. This has been estimated with reference to the planned end date of their Apprenticeship programme.

3.4 Based on an estimated 30-50 new Apprenticeship starts at grades A-C between 1 October 2017 and 31 March 2018, i.e. those to be employed on the current 'grade minus' policy, the estimated cost of transitioning is between £8,000 and £12,000. This is modelled on an average of 6 months at the substantive grade from April 2018. New starts above grade C before the new policy comes into effect are appointed directly to their substantive grade for the role.

### **4. School Staffing Regulations and associated risks**

4.1 In consulting on the development of a new EHCC Apprentice Pay Framework, a number of Hampshire Schools indicated their preference for greater flexibility than afforded by the current policy and an intention to pay at a lower rate. This was both for the purposes of affordability and social value, e.g. creating Apprenticeship opportunities for former students.

4.2 The majority of Hampshire schools who have employed Apprentices as part of the Hampshire Youth Investment Programme have done so within the existing EHCC policy. However, a minority have used the right afforded to them by the School Staffing (England) Regulations 2009 to vary from policy and pay at a spot salary point below EHCC grades.

- 4.3 The Local Authority's advice to schools for which the County Council is the legal employer is that they should in all circumstances appoint Apprentices in accordance with the EHCC approved policy.
- 4.4 If a school does decide to act in contradiction of the Council's advice and pay outside of the EHCC approved policy, a potential challenge may arise in respect of equal pay. Legal advice is that the actual risk is low and would depend upon identifying a comparator performing equal work and being able to demonstrate that the difference in pay is because of gender. Where the difference is not because of gender and the work that they do is significantly different the likelihood of a successful equal pay claim is lower.
- 4.5 As the legal employer, any equal pay claim would technically be against the County Council. If such a claim were successful, the Local Authority has the right, and would, under the Scheme for Financing Schools (2015) (Section 6) charge to a school's budget any costs associated with any challenge, including awards by courts and employment tribunals against the authority, or out of court settlements, arising from action or inaction by the governing body contrary to the authority's advice.

## **5. Technical development and accommodation of Schools' requests**

- 5.1 The proposed EHCC Apprentice Pay Framework seeks to respond to schools' requests for greater flexibility and to mitigate the equal pay risks described above. Specifically, the proposal allows for a technical facility within SAP for Hampshire schools (only) to pay at the Apprentice minimum and age-related National Minimum Wage (NMW) rates (see appendix 1).
- 5.2 "Spot" salary requests that vary from the Apprentice minimum and age-related NMW rates will not be accommodated within a single agreed pay framework delivered through the County Council's SAP Payroll solution. This standard payroll model is predicated on all customers using standardised functionality including a single pay framework underpinned by consistently applied pay rates. Individual schools wishing to operate outside of this model may not be able to be supported by the County Council's SAP payroll solution under the current standard operating model and associated service level agreement and charging arrangements.

## **6. Consultation**

- 6.1 Both the Hampshire Apprenticeship Board and the Hampshire Schools Apprenticeship Board have been consulted on the proposed Apprentice Pay Framework. Direct dialogue has been undertaken with the Chairs of the School's Executive Groups. Consultation with unions began in June and engagement will continue as the Apprenticeship programme grows.
- 6.2 In October, CMT approved that the proposals below be submitted to the EHCC Committee for ratification.

## 7. Recommendations

7.1 It is requested that the EHCC Committee agree to the following proposals::

- (a) The adoption of a new Apprentice Pay Framework to be fully implemented on 1st April 2018, and that the Framework operates within existing EHCC pay scales. A detailed transition plan for all current apprentices on Grade Minus arrangements will be developed to transfer to newly created apprentice roles and positions in accordance with the new pay framework outlined in this paper.
- (b) The withdrawal of the existing EHCC Apprenticeship 'grade minus' policy, this having been developed specifically as part of the Hampshire Youth Investment Programme.
- (c) That the current 'Apprentice First' policy be formally extended from the current grades A-C to all roles appointed on EHCC terms & conditions, grades A-K.

7.2 It is also recommended that the EHCC Committee:

- (d) Note the right of schools under the School Staffing Regulations (2009) to appoint staff, the flexibility that this affords them in the context of the Apprenticeship Levy and the associated risks.
- (e) Note the right of the Local Authority under the Scheme for Financing Schools (2015) (Section 6) to charge to a school's budget any awards by courts and industrial tribunals against the authority, or out of court settlements, arising from action or inaction by the governing body contrary to the authority's advice.
- (f) Agree that a technical amendment be made to SAP to include the statutory Apprentice and age-related National Minimum and Living Wage rates as detailed in appendix 1. If approved, this facility would also be available to non-maintained schools.

## Appendix 1

The current age-related and Apprentice national minimum wage rates are presented below. The 2017/18 EHCC A grade hourly rate is also presented for comparison.

### *2017/18 National Minimum Wage Scale:*

Age Band	Apprentice (all ages, first year only for 19+)	Under 18	18-20	21-24	25 and over (living wage)
Rate	<b>3.50</b>	<b>4.05</b>	<b>5.60</b>	<b>7.05</b>	<b>7.50</b>

### *2017/18 EHCC A grade hourly rates:*

EHCC A grade scale point	A1	A2	A3
Hourly Rate	<b>7.78</b>	<b>7.86</b>	<b>7.91</b>

Example of applying the appropriate statutory pay rate to an apprentice is described below:

In the circumstances of:

- Aged under 19
- Aged 19 or over and in first year of apprenticeship
- Example – an apprentice is aged 22 and is the first year of their apprenticeship is entitled to a minimum hourly rate of £3.50.

In the circumstances of:

- Apprentices are entitled to the minimum wage for their age if they both
- Aged 19 or over
- Have completed the first year of their apprenticeship
- Example – an apprentice is aged 22 and has completed the first year of their apprenticeship is entitled to a minimum hourly rate of £7.05.

## CORPORATE OR LEGAL INFORMATION:

### Links to the Corporate Strategy

These proposals support Aim 1 of the Corporate Strategy, 'Hampshire maintains strong and sustainable economic growth and prosperity', through the following outcomes:

- helping people into work and to develop and maintain skills
- planning and delivering appropriate development and infrastructure.

### Other Significant Links

#### Links to previous Member decisions:

<u>Title</u>	<u>Date</u>
Corporate Apprenticeship Scheme - Hampshire Youth Investment Programme (HYIP)	15 July 2013

#### 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 this is not yet implemented, we are not yet able to fully determine the impact to the Council.

### 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.