

HAMPSHIRE COUNTY COUNCIL

Committee:	Employment in Hampshire County Council
Date:	18 March 2022
Title:	Pay, Policy and Legislation Update
Report From:	Director of HR, Organisational Development and Communications & Engagement

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Purpose of this Report

1. The purpose of this report is to provide an update to EHCC on the National Pay Award, the Mandatory Vaccinations policy and potential employment related legislative changes.

Recommendation(s)

2. That EHCC note that the national pay award has been agreed. The EHCC pay award will now be implemented and backdated to 1 April 2021.
3. That EHCC note that regulations are in place to extend the requirement to be fully vaccinated against Covid-19 to CQC regulated activity on 1 April 2022. However, EHCC should note that the government have now announced, following a national consultation, that they will remove the requirement for Mandatory Vaccinations in totality with effect from 15 March and EHCC are asked to note that the Council will likewise revoke its own policy once government has revoked the legislation.
4. That EHCC note the updates on government consultations and potential employment legislation changes

Executive Summary

5. As reported in November 2021, the National Employers had made an improved one-year final pay offer of 2.75% for the lowest pay point on the national pay framework and 1.75% for all other pay points. Unison and GMB have voted to accept the final offer that was made by the Employers' side in August 2021. Unite has not voted to accept the final offer and they will be taking industrial action in local areas – which at the time of writing have not been specified. The

national formal collective agreement requires a majority of unions voting in favour, which has been achieved through Unison and GMB's acceptance.

6. At EHCC in November 2021, EHCC were asked to note the Council's new Mandatory Vaccinations policy. The policy implemented the statutory requirement for all workers working in CQC registered care homes to be fully vaccinated against Covid-19 by 11 November 2021, unless they were medically exempt. The government have, following further consultation, implemented regulations that extend this requirement to all CQC regulated activity from 1 April 2022. However, on 31 January 2022, the government announced that they would consult regarding a proposal to revoke the regulations and not extend the regulations as planned. Government have announced that the regulations will be revoked with effect from 15 March 2022.

Contextual information

National Pay Award

7. As reported to EHCC in November 2021, the Unions' rejected the initial 1.5% pay offer made by the National Employers, and a final offer of 2.75% for the lowest pay point on the national pay framework and 1.75% for all other pay points that was made in August. This offer was made notwithstanding the fact that Government indicated a pay freeze for the public sector. The National Employers confirmed to Unions on 19 October that the offer was "full and final" and that negotiations would not be re-opened.
8. Union members were asked to vote on the final pay offer. For industrial action to be lawful, 50% of the union's members must turn out and vote in the ballot. The outcome must then support industrial action, with the majority supporting industrial action.
9. Unison conducted an 'aggregated ballot', meaning that it balloted all its England and Wales membership. Only 14.5% of Unison members turned out to vote. While those members that did turnout supported industrial action (70.2% in favour) the level of turnout means Unison members cannot currently legally take part in industrial action. Unison have now accepted the final pay offer.
10. GMB conducted a 'consultative ballot' which closed on 13 December, and they will not be proceeding to a formal strike ballot. GMB have now accepted the final pay offer
11. Unite's ballot has closed and they have confirmed they will be taking local industrial action. Unite's results were collated on a disaggregated basis, which means that industrial action could be taken at each organisation (i.e., each Council or individual school) where more than 50% of the membership at each organisation turns out and where over 50% vote in favour of strike action. Unite have not accepted the final pay offer and have indicated that they intend to take industrial action in local areas (i.e., individual schools and or authorities) but have not yet specified where.

12. The national formal collective agreement requires a majority of unions voting in favour, which has been achieved through Unison and GMB's acceptance.
13. As reported to EHCC in November, the pay award of 1.75% exceeds the forecast assumption of 1% included in the medium-term financial strategy. The consequent c.£2.5m pressure will need to be covered by general inflation contingencies and reviewed as part of future budget setting.
14. The Employment in Hampshire County Council (EHCC) agreement, that governs the terms and conditions of most staff employed by the Council, requires the application of the outcomes of the national pay bargaining to be applied to Grades A-G.
15. In November 2021, EHCC agreed to applying the same percentage increase (as applied to Grades A-G) to Grades H and above, including Chief Officers. This recommendation is dependent on the pay award being no more than 1.75% for Grades D and above.
16. Officers have been prepared for a late announcement and are working to implement the pay awards for EHCC staff in March 2022, backdated to 1 April 2021. This means that staff will receive their pay award in the financial year to which it relates.

Mandatory Vaccinations Policy – government consultation on removing the requirement for mandatory vaccinations

17. The new Mandatory Vaccinations Policy was brought to EHCC in November 2021 for noting. This policy implemented the statutory requirement for all workers working or deployed in a Care Quality Commission (CQC) registered care home to be fully vaccinated against Covid-19, unless they were medically exempt.
18. The government announced at the end of 2021 that this requirement would be extended to all CQC regulated activity and the NHS. A further 435 staff in Adults Health and Care would be in scope of the extended regulations and the Council were on track to implement this extended requirement.
19. However, the government have announced following a consultation period that the regulations will be revoked with effect from 15 March 2022.
20. The Council has already paused activity regarding the extension of mandatory vaccination to all CQC regulated activities and will revoke the Council's mandatory vaccine policy at the same time that the Government revokes the legislation.

New Consultation – Disability Workforce Reporting

21. As part of its National Disability Strategy, Government has issued a consultation, seeking evidence of the practice and potential for disability workforce reporting. It is exploring the option of making disability workforce reporting compulsory employers with more than 250 employees. The consultation closes 25 March 2022.

Outstanding National Consultations and Government responses

22. As reported at EHCC in July, there are no further updates on these consultations, and we continue to monitor in order that we are ready to support any appropriate actions should they become necessary:

- Ethnicity pay gap reporting - consultation on introducing legislation to require statutory reporting of the ethnicity pay gap, in addition to the gender pay gap. Consultation closed on 11 January 2019.
- Measures to address one-sided flexibility - this consultation sought views on introducing new rights for workers to be given reasonable notice of their working hours and to be compensated where their shifts are cancelled or curtailed without reasonable notice. Consultation closed on 11 October 2019.
- Making Flexible Working the default - a review of the statutory right to request flexible working, details of which were provided to EHCC in November 2021. The Council has a Requesting Flexible Working policy that would need amending if the statutory right changed. In addition, the Council has an Open Workplace policy that sets out how managers and employees can reap the benefits of working flexibly in roles where this can be accommodated. It is not anticipated that the Open Workplace policy would need to change as a result of changes to the statutory right to request Flexible Working.

Consultation and Equalities

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

Climate Change Impact Assessment

24. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

Climate Change Adaptation and Carbon Mitigation

25. The carbon mitigation tool and climate change adaptation tools were not applicable on this occasion because the decision relates to a programme that is strategic/administrative in nature.

Conclusions

26. The April 2021 pay award will be implemented and backdated to 1 April 2021.
27. EHCC to note that the Council will await the Governments decision in regard to Mandatory Vaccines and will revoke its mandatory vaccine policy should the Government legislate accordingly.
28. Monitoring consultations and announcements on legislative changes or new requirements will allow adjustments to policies and business processes to be implemented and therefore continued compliance.
29. Updates on other matters covered in this paper, notably Exit Payments and Special Severance Payments, and other national consultations will be provided 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>
Pay, Policy and Legislation update	November 2021
Close Personal Relationships at Work policy	November 2021
Mandatory Vaccinations policy	November 2021

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>
None	

EQUALITIES IMPACT ASSESSMENT:

30. 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.

31. Equalities Impact Assessment:

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