

HAMPSHIRE COUNTY COUNCIL

Committee:	Employment in Hampshire County Council
Date:	8 November 2022
Title:	Pay, Policy and Legislation Update
Report From:	Director of HR, Organisational Development and Communications & Engagement

Contact name: Nichola Andreassen

Tel: 0370 7795597

Email: nichola.andreassen@hants.gov.uk

Purpose of this Report

1. The purpose of this report is to provide an update to EHCC on the 2022 National Pay Award.
2. This paper seeks approval on the introduction of a new Recruitment and Retention allowance to address the Council's recruitment and retention challenges.
3. This paper seeks approval to amend the Council's Sickness Absence policy to reflect current practice in relation to sick pay payments where an employee is injured while on duty.

Recommendation(s)

4. That EHCC note the current position on the National Pay Award for 2022.
5. That EHCC agree to amend the Council's salary policy to include the provision to pay a Recruitment and Retention allowance to new or existing employees where appropriate to do so.
6. It is further recommended that EHCC delegate, to the Director of Human Resources, Organisational Development and Communications and Engagement, the authority to make any final amendments to the salary policy wording prior to its implementation following the conclusion of consultation with Trade Union representatives and departmental management teams.
7. That EHCC approve the proposed Sickness Absence policy amendments in Appendix 2. This means the current arrangements for payments to employees that are injured on duty will continue.

Executive Summary

8. The Trade Unions lodged their pay claim for 2022/23 and the National Employers made a final offer. Unison and GMB consulted its members, who have voted to accept the pay offer. Unite consulted its members, who voted to reject the pay offer. The national formal collective agreement only requires a majority of the three unions to accept the offer. It is expected that the National Employers will formally communicate the agreed pay award imminently.
9. To address significant challenges in being able to recruit and retain members of staff, it is proposed that a new Recruitment and Retention allowance is introduced. This paper sets out the proposed policy.
10. Where sickness absence arises as a result of an accident at work, existing terms and conditions provide for sick pay separate to an employee's normal sickness pay. The current methodology of payment has been in place for a number of years, however this is not recorded formally in policy. This paper seeks to amend this and to incorporate this position in the Council's Sickness Absence policy.

Contextual information

National Pay Claim

11. As reported to EHCC in July 2022, the Trade Unions lodged their pay claim for 2022/23 on 6 June 2022. This included a claim for an increase in base salary (the pay award element) and a review of other terms and conditions.
12. The National Employers made a final one year offer on 25 July 2022 of the following (with effect from 1 April 2022);
 - a. an increase of £1,925 on all NJC pay points 1 and above
 - b. an increase of 4.04 per cent on all allowances (as listed in the 2021 NJC pay agreement circular dated 28 February 2022)
 - c. an increase of one day to all employees' annual leave entitlement
 - d. the deletion of pay point 1 from the NJC pay spine
13. The terms and conditions of staff in the Council are governed by a collective agreement, called the Employment in Hampshire County Council agreement ('EHCC agreement'). This agreement was signed by recognised unions and the Council and has been in effect since 1 April 2007.

- 14 In relation to the pay award element (12a and 12b) the EHCC agreement requires the application of the nationally agreed pay award to EHCC Grades A-G inclusive. Officers will apply the finally negotiated pay award element to this group of staff.
- 15 The pay award element for Grades H and above is subject to agreement by the EHCC committee and consultation with Hampshire recognised Trade Unions. In July 2022, EHCC approved the application of the national pay award to EHCC Grades H and above, on the presumption that was no more than 4.5% over two years. This was in line with the budgeted assumption at the time.
- 16 If the flat rate pay award is applied to Grades H and above, this equates to a weighted average increase of 3.02% (ranging from 3.9% to 0.8%) which is within the 4.5% outlined above. Since no two-year settlement has been put forward, it is assumed that if agreed the £1,925 will be applied to Grades H and above in line with the previous approval and separate consideration will need to be given in due course to any pay offer for 2023/24.
- 17 Whilst the employers' offer exceeds the percentage increase originally assumed in the budget for pay inflation, sufficient general contingency budget exists to fund its application for all Grades including H and above.
- 18 In relation to annual leave and the removal of spine point 1, these are not relevant to the Council. Our collective agreement defines our annual leave and pay framework and accordingly the increase in annual leave is not applicable to the Council.
- 19 When formal notification of the pay award is received from the National Employers, , Officers will implement this, backdated to 1 April 2022.

Recruitment and Retention Allowance

- 20 As previously reported to EHCC July 2022 (Annual Workforce Report 21/22), the Council continues to experience significant challenges in being able to recruit and retain members of staff, particularly in several 'hot spot' roles such as Social Workers and Residential Care Home staff. This results in skills / capacity shortages that will, or are already, having a significant impact on service performance and service users.
- 21 There is no single, simple explanation or reason for the current problems that the Council, along with other employers, is experiencing when seeking to recruit and retain of staff. Alongside long-term issues such as skill shortages in particular occupations, and pay competitiveness there are also newer issues such as the cost-of-living crisis and increased demand for workers post Covid

which means that we are operating in an even more challenging recruitment market.

- 22 The Council is already utilising a range non-financial options such as more modern work practices, including hybrid working where it can, to recruit and retain staff in hot spot roles. In addition, the Council's Salary Policy permits the payment of Market Supplements where it is necessary and appropriate to do so. Market Supplements are subject to business cases and prior approval by Chief Officers and are subject to regular review.
- 23 To augment the options available to it, the Council is proposing to amend the Salary Policy and permit the payment of recruitment and retention payments ('R&R' payments). As with Market Supplements, the payment of an R&R payment would be subject to a business case and prior approval by Chief Officers.
- 24 R&R payments are additional pay designed to attract or keep people working in certain services, locations or specialties. They are widely used across different parts of the public sector in the UK, including local government, education, justice, and the health sector. They are particularly effective where salary is a prime motivator either to join the organisation or if the member of staff is considering leaving to carry out the same role, to be paid a higher salary, in for example a neighbouring authority.
- 25 The Council's R&R payments would consist of either, or both of, the following:
 - Recruitment Payment – a one off lump sum payment on, or within 3 months of appointment
 - Retention Payment – a deferred lump sum(s) payment to be paid after an agreed period of employment.
- 26 Payments may total up to 15% of the employee's basic salary and could be paid on either an individual or role basis. Payments would be subject to tax and NI deductions and are pensionable. A final draft of the proposed policy wording that would be incorporated into the Council's salary policy is included at Appendix 1. This would be supported by a more detailed How-to-Guide with practical guidance including when it would be appropriate to consider use of an R&R payment.
- 27 Consultation with recognised unions and the organisation regarding this policy amendment will take place later this month and it is recommended that EHCC delegate the authority to make any final amendments to the draft policy wording as a result of that consultation, to the Director of HR, OD and CE and to action the necessary process and system changes to implement this new allowance.

Sickness pay as a result of industrial injury

- 28 As explained in paragraph 13, the collective agreement EHCC 2007 governs the terms and conditions of the majority of staff in the Council. In two specific instances (sickness and maternity), the EHCC agreement refers to nationally agreed terms and conditions – the National Joint Council for Local Government Services National Agreement - also known as the 'Green Book'.
- 29 An industrial injury occurs when an employee becomes unable to attend work by reason of an accident, injury or industrial disease sustained in the course of their duties with the Council (and not being wholly or mainly due to or seriously aggravated by the employee's own serious and culpable negligence or misconduct).
- 30 Under the EHCC agreement, staff may benefit from two schemes in relation to sickness absence as a result of an industrial injury;
- Pay during sickness absence in accordance with the Green Book
 - The ability to claim under the Personal Accident Scheme where their pay reduces. This tops up their salary so they receive full pay. A claim cannot be made until 26 weeks after the injury occurred.
- 31 The Green Book entitlement to full and half pay during periods of absence resulting from industrial injury ranges from 1 to 6 months full pay and 2 to 6 months half pay, depending on the employee's length of service on the first day of absence.
- 32 Irrespective of the green book entitlement, when a member of staff is absent because of an industrial injury, the Council pays full sick pay for a maximum of 6 months, regardless of length of service. This has been the case for at least 10 years. Our current practice is intended to bridge any gap between a period of sick pay entitlement and the member of staff receiving financial support via the Council's Personal Accident Scheme. The Council believes that this is the right thing to do for members of staff who are absent due to an industrial injury, however this is not currently detailed or allowed for in the Sickness Absence policy.
- 33 It is therefore recommended that the Sickness Absence policy is updated as shown in Appendix 2. This sets out the contractual entitlement as defined in the Green Book, plus the additional non-contractual sick pay that the Council will pay to ensure that pay does not reduce in the first 6 months following an absence which is the result of an industrial injury.

Outstanding National Consultations and Government responses

- 34 As reported in July 2022, there are several outstanding consultations that have been referenced in previous EHCC papers on which there are no further updates at this time. There have been no updates to these consultations and no new relevant consultations issued.

Consultation and Equalities

- 35 An EIA has been drafted for the Recruitment and Retention Allowance which has not identified any negative impact to any group of employees, however application of the allowances will be monitored and kept under review through the Strategic Workforce Board. 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

- 36 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

- 37 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

- 38 The Council will wait for formal notification of the pay award from the Employer's side before taking action to implement the National Employer's offer.
- 39 The new Recruitment and Retention Allowance and will provide the Council with further mechanisms to attract and retain staff, which is critical to the continued effective delivery of services.
- 40 The update to the Sickness Absence policy will regularise the Council's policy position on pay during absence as a result of industrial injury, providing clarity.

- 41 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.

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> Pay, Policy and Legislation update	<u>Date</u> July 2022

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:

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.

Equalities Impact Assessment:

An EIA has been drafted for the Recruitment and Retention Allowance which has not identified any negative impact to any group of employees, however application of the allowances will be monitored and kept under review through the Strategic Workforce Board. It is not envisaged that an Equalities Impact Assessment will be required for any of the other updates included in this paper

Appendix 1 – Draft update to the Salary Policy regarding the Recruitment and Retention Allowance

Recruitment and Retention Payments

Recruitment and retention payments can be made to new and or existing staff where the department is experiencing sustained and evidenced difficulties in recruiting and retaining members of staff and where this results in skills / capacity shortages that will or are having a significant impact on service performance. The ability to pay recruitment and retention payments under this policy will be regularly reviewed and may be amended or withdrawn at any time.

Recruitment and retention payments will be subject to an approved business case and paid for a time limited period. Prior receipt of a recruitment or retention payment does not imply that an individual or role would be eligible to be included in any future recruitment and retention payment scheme.

Approval will be in accordance with the Council's governance matrix.

Recruitment and retention payments can consist of either, or both of, the following:

- Recruitment Payment – a one off lump sum payment on, or within 3 months of appointment
- Retention Payment(s) – a deferred lump sum payment(s) to be paid after a defined period of employment.

The combination of payments in any one business case may total up to 15% of the employee's basic salary. Any payment above this amount must have Chief Officer approval. Recruitment and retention payments are paid in addition to basic salary.

Recruitment and retention payments to part time staff posts will typically be made on a pro-rata basis.

Recruitment and retention payments are subject to the member of staff achieving agreed scheme requirements (See How to Guide) including starting employment and / or continued employment to an agreed date as well as achieving satisfactory performance and conduct in the role. All payments are pensionable and subject to tax / NI deductions.

Recruitment and retention payments will be set out in advance in writing (either in the formal offer of employment / appointment or other formal letter as appropriate).

Should a member of staff subsequently leave or be dismissed from the Council within the agreed period of operation, for any reason other than injury at work, redundancy, or retirement, Death in Service, they will be required to pay back monies received under the scheme in accordance with the repayment schedule.

Where an employee moves to a different post they will no longer be eligible to receive any future retention payments relating to the post they are leaving. Any recruitment or retention payments relating to the new post may apply.

Payments will not be paid to a member of staff who is subject to formal capability or conduct management process and or sanction in accordance with the Council's performance or misconduct or absence and attendance policies.

Further information is provided in the Recruitment & Retention How to Guide.

Appendix 2 – Update to the Sickness Absence Policy regarding Industrial Injury

Industrial Injury - Definition

An industrial injury occurs when an employee becomes unable to attend work by reason of an accident, injury or industrial disease sustained in the course of their duties with the council (and not being wholly or mainly due or seriously aggravated by the employee's own serious and culpable negligence or misconduct). Further explanation is given in the 'How to Guide - Industrial Injury'

It is the Line Manager's responsibility to decide whether a period of sickness absence is as a result of an industrial injury.

Absence as a result of an industrial injury must still be managed in accordance with this sickness absence policy.

Industrial Injury Sick Pay (EHCC and Soulbury only)

Under the EHCC collective agreement, entitlement to sick pay is defined by the NJC Terms and Conditions for Local Government Services National Agreement ('the Green Book'). Details of the sick pay scheme can be found here: <https://extra.hants.gov.uk/employee/policy-guidance/sickness/sickness-pay>

Personal Accident Scheme (EHCC and Soulbury only)

The Personal Accident Scheme provides benefits in respect of accidents occurring in the course of employment for employees on EHCC terms and conditions. Under Part D of this scheme, Employees on EHCC terms and conditions that are absent through industrial injury for longer than 6 months can claim for loss of earnings.

If an employee that has less than 5 years' service at the start of a period of sickness, has a prolonged period of absence, then they may contractually reduce to half or nil pay before they can claim under the Personal Accident Scheme. In these circumstances the Council will ensure the employee does not have a pay reduction before they can claim under the Personal Accident Scheme.

This provision will be regularly reviewed and may be amended or withdrawn at any time.

Industrial Injury (Teachers)

Entitlement to sick pay is defined by Conditions of Service for School Teachers in England and Wales (the 'Burgundy Book').