

HAMPSHIRE COUNTY COUNCIL

Committee	Employment in Hampshire County Council
Date:	9 March 2020
Title:	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 employment-related consultations and legislative changes.

Recommendation(s)

2. That EHCC note the increases in the National Living Wage and developments in relation to legislation.

Executive Summary

3. The National Living Wage will increase to £8.72 per hour from 1 April 2020 for those over the age of 25. This does not yet impact on HCC's pay scales, as the lowest salary is £9 per hour.
4. Updates on government consultation that have been previously reported to EHCC are provided.

National Living Wage

5. The Conservatives set out in their manifesto plans to raise the NLW to £10.50 within the next five years and also to lower the age threshold from 25 to 21. This commitment was also included in the Queen's speech, provided economic conditions allow.

6. In line with this, the Government have recently announced that the NLW will rise from £8.21 to £8.72 on 1 April 2020 for workers over the age of 25, an increase of 6.2%. Since the hourly rate for staff at Grade A is £9.00 and therefore exceeds the new NLW the County Council are not immediately impacted by the changes. That said we know that the Government's longer-term aspirations will impact us in the future and at such time we will update EHCC further.

Changes to Employment Legislation

7. The Queen's speech included an Employment Bill, which it is anticipated will address several other, recently closed consultations. At the time of writing, the draft Bill has not been released. However, the Bill will seek to increase the rights of employees who have caring responsibilities and those workers with limited employment rights, such as casual workers with no guaranteed working hours.
8. Legislation has already been announced in this area, as a result of the Good Work Plan. These changes, coming into effect in April 2020, were reported to EHCC in October 2019. These include, for example, the requirement to issue casual workers and employees with a statement of particulars on or prior to day one of employment.
9. The Parental Bereavement (Leave and Pay) Act 2018 also comes into effect in April 2020, providing 2 weeks paid leave for parents/carers following the death of a child.
10. The Employment Bill is expected to include additional measures which have already been subject to previous consultations that closed during 2019;
 - A single labour market enforcement agency to ensure vulnerable workers are aware of and can exercise their rights
 - The right to request a more stable contract after 26 weeks' continuous service
 - Extending redundancy protection period from the point an employer is notified of pregnancy, to 6 months after return to work
 - Extended leave and pay for employees who have sick or premature babies requiring neo-natal care
11. The Employment Bill is also expected to include two new areas, which were in the Conservative Manifesto;
 - A weeks' paid leave for unpaid carers

- Make flexible working the default, unless the employer has good reason not to do so.
12. The proposals regarding flexible working go a step further than in the recent consultation, which sought views on a potential requirement for employers to be transparent with their policies on flexible working and family related leave. It is worth noting, that the Council already offers flexible working where business needs allow and that we will continue to do so wherever practical.

Closed Consultations

13. 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:
14. Ethnicity pay gap reporting; legislation to require statutory reporting of the ethnicity pay gap, in addition to the gender pay gap. Consultation closed on 11 January 2019.
15. Cap on Exit Payments; The Small Business, Enterprise and Employment Act 2015 provided for reforms on exit payments in the public sector. The Restriction of Public Sector Exit Payments Regulations 2019, which caps exit payments, closed in January 2019. Full details of this consultation were provided to EHCC in June 2019.
16. Exit Payment recovery; consultation on the draft Public Sector Exit Payment Recovery Regulations 2016 concluded in 2018, but the regulations have not yet proceeded to commencement. These regulations will require those with a salary above £80k to repay any exit payments made to them if they re-enter the public sector within 12 months. This includes any employer pension “top-up fees”. Repayments will be on a sliding scale, depending on when in the 12-month period a person returns to the public sector.
17. How to reduce ill-health related job losses; this consultation includes measures, such as a “right to request workplace adjustments” following a period of ill health absence. A Disability Strategy was announced in the Queen’s speech, which is expected in ‘Spring 2020’. It is expected that the outcome of this consultation will be provided within this strategy.
18. 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.

19. Consultation on sexual harassment in the workplace; this consultation sought views on whether the legal protections under the Equality Act 2010 are sufficient. Measures within the consultation include but were not limited to; a duty on employers to prevent harassment, amendments to compensation, extension of protection to include volunteers and an extension of time in which to bring a claim. Consultation closed on 2 October 2019.
20. Confidentiality clauses - consultation on measures to prevent misuse in situations of harassment or discrimination; The government responded to this consultation in July 2019. Its response included new legislation that will
 - prevent use of confidentiality clauses that prevent disclosure to the police, legal professionals and regulated health and care professionals,
 - require any limitations of confidentiality clauses to be set out in employment contracts and
 - enhance the legal advice that individuals receive before signing such clauses.

The regulations implementing these changes have yet to be drafted.

Consultation and Equalities

21. It is not envisaged that there will be any equalities impact from the known changes. It is envisaged that some of the legislative changes referenced above will make a positive impact to some staff relevant to the protected characteristics.

Conclusions

22. The landscape regarding changes to pay and employment legislation changes remains uncertain at the time of writing.
23. Updates on the other matters covered by this paper will be provided 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>
Pay and Legislation Update	28 March 2018
Legislation Update	28 June 2019
Pay, Policy and Legislation Update	22 October 2019

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:

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.