

HAMPSHIRE COUNTY COUNCIL

Committee:	Employment in Hampshire County Council
Date:	5 July 2021
Title:	Pay, 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 the National Pay Award, proposed employment related legislative changes and recommends a change to terms and conditions for future appointments to Chief Officers on the Corporate Management Team.

Recommendation(s)

2. That EHCC note the current position of national pay negotiations and agree to apply the national pay award to EHCC Grades A – G and payments for standby and sleeping in duties, once national negotiations have concluded as contractually obliged to do so.
3. As in previous years, that EHCC agree to officers applying the same national pay award to EHCC Grades H and above, on the presumption that it is no more than 1.5%. If the settlement is higher than this a decision will be brought back to EHCC. Consultation with recognised Trade Unions will be undertaken regarding this decision.
4. EHCC notes that if in the national negotiations the employer side considers making or accepting an offer which is higher than 1.5% overall, updates will be provided to EHCC and Cabinet as required to advise of the implications including any unfunded financial pressure created consequently.
5. That EHCC note the ongoing national discussions regarding exit payments.

6. That EHCC note the forthcoming change in 2028 to the Normal Minimum Pension Age.
7. That EHCC agree all future Corporate Management Team (CMT) appointments will be made on EHCC terms and conditions only, with 30 days annual leave. Other Chief Officers, who are not members of CMT, will continue to be appointed on EHCC terms and conditions only.

Executive Summary

8. The National Employers have made a one-year pay offer of 1.5% and offered to conduct exploratory discussions with Trade Unions on three areas of the unions' original pay claim. The unions have rejected this offer and negotiations continue.
9. This report provides updates on the following legislation updates and Government consultation topics:
 - Public sector exit payments.
 - Increase in the normal minimum pension age in 2028.
10. This report makes a recommendation regarding the terms and conditions of newly appointed Chief Officer roles that are members of the Corporate Management Team.

Contextual information

National Pay Award

11. As reported to EHCC in March 2021, the Government announced a public-sector pay freeze (for workers outside of the NHS) for 2021/22. In addition, the Chancellor announced that public sector workers earning less than £24,000 a year would receive a minimum £250 increase.
12. As also reported to EHCC in March 2021, Government does not set the pay for most council staff and any pay award is determined through negotiations between the National Joint Council and Trade Unions.
13. In response to the Government's announcement, the Council's budget was set with a pay award provision of 1%, which is held in contingencies until any pay award is agreed.
14. In February 2021 Trade Unions submitted a pay claim to National Joint Council for a minimum 10% increase in pay. Councils were consulted on the Unions pay claim and in May 2021 the National Employers made a one-year pay offer of

1.5% to the unions for 2021, which the unions have rejected. At the time of writing, the negotiations on the pay deal for April 2021 have not been concluded.

15. The EHCC agreement requires the national pay award to be applied to EHCC Grades A to G inclusive, as well as payments for standby and sleep-ins and for the Council to consult with local Trade Unions about grades H and above.
16. Whilst agreement on the national pay award has not been reached, it is recommended that when it is reached, EHCC agree to the implementation of the pay award to Grades A - G as required by the EHCC agreement. It is also recommended that EHCC agree to officers applying the same percentage increase (as applied to Grades A - G) to Grades H and above. Separately officers will consult with the Trade Unions should this be agreed by the committee. This recommendation is dependent on the pay award being no more than 1.5% for Grades D and above.
17. If the settlement is higher than 1.5%, an update will be brought to EHCC for consideration, prior to consulting with local trade unions regarding the pay for grades H and above. EHCC should note that if the settlement is higher than 1%, this will be required to be funded through contingencies. This does give cause for concern. We are therefore paying close attention to this issue as negotiations continue.

Exit Payments - £95k cap and wider exit reforms

18. As reported to EHCC in March 2021, the Restriction of Public Sector exit Payment Regulations 2020 were revoked, and all wider reforms of exit payments paused until the government could conduct a further review.
19. The details of that further review are not yet understood. However, MHCLG have consulted on proposals to require Councils to publish data on exit payments on an annual basis. MHCLG have asked Councils to share data on exit payments that were made between 1 April 2014 and 31 March 2021.
20. The Council will publish such data if required by MHCLG and will keep EHCC up to date with ongoing developments including any further proposals and consultation exercises to restrict public sector exit payments.

Increase to Normal Minimum Pension Age (NMPA)

21. The NMPA is the age at which most pension savers can access their pension without financial penalty. The NMPA is currently age 55 and was increased from age 50 in 2010.

22. In 2014 the coalition government announced that it would be appropriate for the NMPA to be set 10 years below the state pension age. Following a consultation exercise in 2014, the coalition government announced that the NMPA would rise to 57 in 2028 and that the government would seek to link future rises to increases in the state pension age.
23. The Council recently responded to a consultation on how that rise in the NMPA should be implemented in the Local Government Pension Scheme. The proposal put forward in the consultation was that members of existing pension schemes on a specific date would retain the current NMPA of 55 years. However new joiners to a pension scheme would have the new NMPA of 57 applied.
24. A change to the NMPA will affect members of the Local Government Pension Scheme and Teachers Pension Scheme. It will impact several employment policies, notably those governing redundancy (including the current Enhanced Voluntary Redundancy scheme) and the policy that provides for flexible retirement, which allows individuals to access part of their pension while continuing to work on a reduced hours basis. This will mean that the age at which an individual could access pension benefits in a redundancy situation, or in flexible retirement, would be increased for those with the higher NMPA, from age 55, to age 57. An update will be provided to EHCC when the outcome of the consultation is known.

Chief Officer Terms and Conditions

25. The Council's current Statement of Particulars for members of the Corporate Management Team (CMT) states that the main collective agreements covering their terms and conditions of service are "the Employment in Hampshire County Council Agreement 2007 ("the EHCC Agreement") and where considered appropriate by EHCC the National Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities."
26. Chief Officers that are not members of CMT, are appointed on EHCC terms and conditions only.
27. The requirements in relation to a written statement of employment particulars were extended under the Good Work Plan and as a result the Council must make it clear what terms will apply to an individual's employment. It is unclear which terms from the JNC for Chief Officers of Local Authorities agreement apply.
28. Under the JNC for Chief Officers of Local Authorities, actual entitlements are only specified in relation to two conditions of service: Periods of Notice and Annual Leave. Of these, only the annual leave entitlement is different to that provided under EHCC. Under JNC for Chief Officers, individuals are entitled to a minimum of 30 days leave. Under EHCC, staff at grades H and above,

including Chief Officers, are entitled to 26 days if they have less than 5 years local government service, increasing to 30 days after 5 years' local government service.

29. It is proposed that all future CMT appointments be made on EHCC terms and conditions only with 30 days annual leave. The proposal for 30 days annual leave will ensure the new terms are no worse than those currently offered and that the Council remains competitive. Other Chief Officers that are not members of CMT will continue to be appointed on EHCC terms and conditions only.

National Consultations

30. The Queen's speech did not include an Employment Bill and therefore there is no further indication on whether any outcomes of the following consultations, previously reported to EHCC, will lead to any legislative changes in the next year. Internally we continue to monitor these issues in order that we are ready to support any appropriate actions, should they become necessary:
- Ethnicity pay gap reporting
 - How to reduce ill-health related job losses
 - Measures to address one-sided flexibility
 - Sexual harassment in the workplace
 - Confidentiality clauses
 - Carers' leave
 - Proposals to rectify age discrimination in public sector pension schemes

Consultation and Equalities

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

Conclusions

32. The recommendations in this paper will provide authority to implement pay awards for grades A - G, and at Grades H and above, where certain conditions described in paragraph 16 are met. This will prevent any unnecessary delays to consulting on and subsequently paying the award once the national position on the pay award is settled.
33. The recommendation on Chief Officers' terms and conditions will provide clarity for future appointments.

34. Updates on other matters covered in this paper, notably exit payments, changes to the NMPA and 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	March 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:

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:

See guidance at <https://hants.sharepoint.com/sites/ID/SitePages/Equality-Impact-Assessments.aspx?web=1>

Insert in full your **Equality Statement** which will either state:

- why you consider that the project/proposal will have a low or no impact on groups with protected characteristics or*
- will give details of the identified impacts and potential mitigating actions*