

HAMPSHIRE COUNTY COUNCIL

Report

Committee:	Employment in Hampshire County Council
Date:	7 July 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 2021 and 2022 National Pay Award. This paper also highlights the forthcoming challenges leading up to 2024.
2. This paper also provides an update on newly issued Special Severance Payments statutory guidance, together with recommendations in respect of associated decision making, and potential employment related legislative changes.
3. This paper provides information on the processes relating to the appointment of Chief Officers and Deputy Chief Officers.
4. By exception, this paper includes an update on the Deputy Chief Executive arrangements.

Recommendation(s)

5. That EHCC note that the National Pay Award for 2021 has been implemented.
6. That EHCC note the current status of negotiations on the National Pay Award for 2022 (which applies from 1 April 2022) 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.
7. 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

4.5% over 2 years in line with budget arrangements. If the settlement is higher than this, a decision will be brought back to EHCC.

8. That EHCC note the issues that will need to be addressed for 2024.
9. That EHCC notes the new statutory guidance on Special Severance Payments.
10. That EHCC confirms the Chief Executive has authority to approve Special Severance Payments to non-Chief Officers or Deputy Chief Officers leaving the Council, provided that any Special Severance Payments of £20,000 and above but below £100,000, shall be approved in consultation with the Chairman of EHCC; and
11. That EHCC recommends to the County Council that it remains the appropriate Committee to agree Chief Officer remuneration, for Chief Officers above Grade K, including individual salary offers in respect of any new Chief Officer appointments or severance packages for Chief Officers leaving the County Council and any Special Severance Payments to any Officer of £100,000 or more, in accordance with the Pay Statement.
12. That EHCC notes the other updates on government consultations and potential employment legislation changes set out in this paper.
13. That EHCC notes the processes for the appointment of Chief Officers and Deputy Chief Officers.
14. That EHCC note the arrangements proposed in relation to the appointment of a Deputy Chief Executive.

Executive Summary

15. The Trade Unions have lodged their pay claim for 2022/23. This includes an increase of either £2,000 or the current rate of RPI (whichever is greater) plus a review of other terms and conditions.
16. The Department for Levelling Up, Housing and Communities (DLUHC) published statutory guidance on 12 May 2022, setting out restrictions on paying 'Special Severance Payments' in Local Authorities. The effects of this together with recommendations for implementing it are set out in the paper.

Contextual information

National Pay Claim

17. The Trade Unions have lodged their pay claim for 2022/23. This includes a claim for an increase in base salary (the pay award element) and a review of other terms and conditions as follows;
 - An increase of either £2,000, or the current rate of RPI (whichever is greater)
 - A Covid-19 recognition payment
 - A national minimum agreement on homeworking policies for all councils and the introduction of a home working allowance
 - An urgent review of all mileage rates currently applying
 - A review and update of the National Joint Council terms for family leave and pay
 - A review of term time only contracts and consideration of retainers
 - Reduction in the working week (without loss of pay) from 37 to 35 hours
 - One additional day of annual leave
18. The terms and conditions of staff 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.
19. 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.
20. The pay award for Grades H and above is subject to agreement by the EHCC committee and consultation with Hampshire recognised Trade Unions. As in previous years, it is recommended 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 4.5% over two years, in line with budget arrangements. If the settlement is higher than this, a decision will be brought back to EHCC
21. All other terms and conditions that are the subject of the Unions' pay claim are set either by the EHCC agreement, by contracts of employment, or by local policies. Officers will need to review any nationally agreed changes to determine what impact they have, if any, for the Council's terms and conditions or policies. Any changes to the EHCC agreement would require approval from EHCC and would be subject to negotiation with recognised Trade Unions.
22. An update will be provided to EHCC when further details of the negotiations are known.

Pay Challenge to 2024

23. In light of the rising rate of inflation which will impact the cost of living in 2022/23 and beyond as well as the forecast increases to the National Living Wage over the next 2 years, as expected, Trade Unions have submitted a high pay claim for 2022/23. The pay claim is in the context of ongoing significant savings targets; and the challenging employment market which brings increased recruitment and retention complexities and challenges.
24. As such an increased budget provision of 2.5% has been set aside for the 2022/23 pay award with the allowance returning to 2% from 2023/24. These amounts will be held in corporate contingencies until any pay awards are agreed.
25. A more detailed update will be brought to a future EHCC meeting, however EHCC are asked to note the challenges in this area.

Statutory Guidance on Special Severance Payments

26. As reported to EHCC in July 2021, the government launched a consultation on Special Severance Payments and the Statutory Guidance has now been published. This guidance has been made under the Local Government Act 1999, and applies to all Best Value Authorities, which includes Hampshire County Council. The 1999 Act places a duty on Best Value Authorities to *“make arrangements to secure continuous improvements in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness”*. The County Council is required to *“have regard to”* the new guidance on Special Severance Payments in order to meet its best value obligations.
27. The guidance can be found here: [Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/statutory-guidance-on-the-making-and-disclosure-of-special-severance-payments-by-local-authorities-in-england) and sets out:
 - What a “Special Severance Payment” is
 - the government’s view that Special Severance Payments do not usually represent value for money and should only be considered in exceptional circumstances
 - the criteria employers should consider in the exceptional circumstances in which it may be appropriate to make a Special Severance Payment
 - examples of the exceptional circumstances in which Special Severance Payments may be appropriate
 - the disclosure and reporting requirements for Special Severance Payments
28. The guidance largely defines “Special Severance Payments” as payments made to a departing employee which are not statutory or contractual entitlements.

Therefore, any “ex-gratia” payment reached under a settlement agreement between the employer and employee (e.g., to avoid legal proceedings), would be a Special Severance Payment. However, statutory and contractual redundancy payments (including pension strain charges) are not Special Severance Payments.

29. The guidance sets out the government’s expectations about approvals for Special Severance Payments, and suggests that payments of £100,000 and above be approved by a vote of full council; payments of £20,000 and above, but below £100,000, be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader’s approval (NB whilst the guidance suggests that the “approval” of the Leader is required, legally, decisions in respect of terms and conditions are non-executive functions and so any “approval” would need to be via a non-executive process); and payments below £20,000 must be approved according to the local authority’s scheme of delegation. The guidance also suggests that where a payment is being made to the Head of Paid Service, then it should be approved by a panel including at least two independent persons.
30. Previous statutory guidance in respect of Pay Policy Statements contains similar requirements for full Council approval of salaries on appointment over £100,000 and severance payments over £100,000. The County Council has already delegated approval of such payments to the EHCC Committee in February 2014 and has since confirmed this annually when approving the Pay Policy Statement. It is recommended that for practical business reasons, the County Council should agree that this also includes Special Severance Payments of £100,000 and above.
31. Where it is proposed to pay any Special Severance Payment to the Head of Paid Service, then it is recommended that before approving such payment, EHCC should seek the views of at least two Independent Persons appointed in accordance with the Localism Act 2011 and take these into account prior to making any decision.
32. Under the constitution, the Chief Executive already has authority to agree severance payments and so can continue to approve Special Severance Payments below £100,000. However, in light of the new statutory guidance, it is recommended that before approval is given to payments above £20,000 and below £100,000, the Chief Executive will consult with the Chair of EHCC.
33. The Council already has a robust process to ensure that exit payments represent value for money. Officers have reviewed this process in light of the new guidance to ensure that it remains compliant and also to ensure that the recommended elements in respect of economy, efficiency and effectiveness are properly considered in all determinations regarding severance payments.
34. The Council also has robust processes in place to ensure it complies with its transparency obligations in respect of publishing information and data. Again,

these processes have been reviewed and will be updated to ensure the disclosure and reporting requirements in the new guidance are met.

35. Officers understand that this guidance is unconnected to ongoing discussions about exit reforms, such as the intention to limit exit payments to £95k. The latest update on this change was provided to EHCC in March 2021. The government are expected to come forward with proposals in this area, however there are no known timescales.

Appointment of Chief Officers and Deputy Chief Officers

36. Under the constitution, Members have responsibility for the appointment of Chief Officers and Deputy Chief Officers, essentially this covers the appointment of CMT Members and Departmental Management Teams.
37. The process (the steps we undertake to fill a position) for engaging with Members, and ultimately for the appointment of a Chief or Deputy Chief Officers, varies slightly depending on the attraction strategy being deployed and for the purposes of transparency and clarity we have now recorded a separate process for each of the main attraction strategies as follows (with processes attached in Appendices 1-6):
- Appendix 1 - Chief Executive recruitment – via a search agency
 - Appendix 2 - Chief Officer/Deputy Chief Officer – via a search agency
 - Appendix 3 - Chief Officer/Deputy Chief Officer – via an external advert (no search agency)
 - Appendix 4 - Chief Officer/Deputy Chief Officer – via an internal advert
 - Appendix 5 - Chief Officer/Deputy Chief Officer – Interim appointment to Permanent (no advert)
 - Appendix 6 - Chief Officer/Deputy Chief Officer – via an interim/acting up arrangement to Chief Officer/Deputy Chief Officer
38. The Monitoring Officer has confirmed that each process is fully compliant with the Constitution
39. Whilst any previous recruitment activity for Chief Officers and Deputy Chief Officers has been compliant with the Constitution, we have had some feedback about the level of engagement and influence that Members feel they have in these processes and therefore we have sought to ensure that in each process we include the Leader and the Member Panel (as appointed by the Leader) at an earlier point, and seek to thereon keep them informed as the process is progressed. It is our intention that this will support a greater understanding of the applicant pool and enable more meaningful Member input to the selection process.

40. The updated processes have been agreed with Carolyn as Chief Executive, the Leader, Deputy Leader, the Leader of the Opposition and the Chairman of EHCC. As already mentioned, all processes have also been agreed with the Monitoring Officer.
41. EHCC are asked to note the changes in the relevant recruitment processes.

Deputy Chief Executive Arrangements

42. Cabinet at its meeting in April 2009 approved the principle of a Deputy Chief Executive to:
- Provide managerial cover in the absence of the Chief Executive;
 - Recognise the change, nature and scope of the role of the Chief Executive in managing corporate change and transformation across the whole Council; and
 - Provide an opportunity for management development.
43. EHCC, subsequently agreed that the future challenges post-Covid would focus heavily on two key strands; ensuring the continued highly performing services are maintained for the residents of Hampshire; and secondly, increasing the focus on the opportunities for sustainable Economic Growth. To this end it was agreed that two Deputy Chief Executive roles would be created, one predominantly facing inwards and the second to be predominantly outwards facing.
44. Following this decision however, the Chairperson of EHCC and the Leader of the Council agreed to an amended approach to the Deputy Chief Executive role due to the unforeseen personal circumstances of the Chief Executive. These alternative arrangements consisted of both the Director of Adults Health and Care and the Director of Children's Services sharing the Deputy Chief Executive responsibilities, rotating on a quarterly basis, for a period of 1 year from 1 September 2021.
45. The arrangements put in place from 1 September 2021 have proved to be very successful, with both Directors fulfilling the responsibilities of Deputy Chief Executive to an incredibly high standard. To this end the Chief Executive has discussed with the Leader of the Council an extension of these arrangements to 30 September 2023 with the Director of Adults Health and Care covering the first 6 months to 31 March 2023 and the Director of Children's Services covering the second half of the year.
46. EHCC are asked to note these arrangements.

Outstanding National Consultations and Government responses

47. The Queen's speech in May 2022 made no direct reference to any employment legislation related reforms. There are several outstanding consultations that have

been referenced in previous EHCC papers on which there are no further updates at this time. Appendix 7 contains a high-level summary.

Consultation and Equalities

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

Climate Change Impact Assessment

49. 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

50. 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

51. The April 2021 pay award was implemented in March 2022 payroll, backdated to 1 April 2021.
52. The recommendations in this paper will provide authority to implement the pay award for 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.
53. The recommendations in this paper will ensure that the Council is compliant with the Statutory Guidance on Special Severance Payments, ensuring continued appropriate scrutiny of severance packages
54. 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>	<u>Date</u>
Pay, Policy and Legislation update	March 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:

55. 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.

56. Equalities Impact Assessment:

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