
EQUAL PAY

Report of the Corporate Director of Resources

1. Purpose of Report

- 1.1 To obtain Cabinet approval for a compensation package to avoid potential equal pay claims.

2. Recommendations

- 2.1 Cabinet to approve:

- The compensation package for equal pay mitigation.
- The costs of the package including administration and implementation costs.
- The proposed implementation proposals as set out in the report.

3. Background

- 3.1 Many local authorities are having to manage the risks associated with potential equal pay claims. Legal rights and obligations are covered by UK and European law. Over the past few years, public sector employers including the NHS and many local authorities have had to face up to large scale potential and actual equal pay claims being made against them. Most claims have been made on the behalf of generally low paid female employees who typically cite male dominated jobs (often in receipt of bonus) as “comparators” on which to base their claims.
- 3.2 Several high profile cases have featured in the media over the past years. The scale of the problem now affecting local government is significant. Leicester City Council has over 30 equal pay claims that are currently being processed within the Council or onward to Employment Tribunal.
- 3.3 Cabinet have previously agreed a mandate which enabled the Council to enter into negotiations with the relevant Trade Unions and involving ACAS with a view to reaching a negotiated settlement that would mitigate the risks associated with these and other potential claims that may be made.

4. The Package

- 4.1 Following productive and constructive negotiations with the Councils Joint Trade Unions and involving ACAS, a compensation package has been arrived at which meets the mandate set by the Cabinet and is believed to be the best that could be achieved under negotiations. It is a reasonable balance between the Councils obligations to its staff and its other responsibilities.
- 4.2 The package in summary includes one off compensation to around 4,500 mainly female employees who have been assessed as having potential equal pay claims under the Councils current pay and grading structure.
- 4.3 Compensation will be based on the number of contracted hours worked and the period of employment up to a maximum of £7,500 net of tax, national insurance and employers' pension costs, covering the past six years. The compensation offered without admitting liability will form part of legally binding compromise agreements (COT3) with each employee.
- 4.4 When the Council set its budget for 2007/08, it delegated the agreement of a compensation package, together with its financing to Cabinet after consulting the party spokespersons of Resources Scrutiny Committee. The Chair and Vice Chair of the Overview Scrutiny Management Bard are being consulted and their views will be reported to the Cabinet.

5. Implementation Plan

- 5.1 Subject to Cabinet approval, the agreements will be formally prepared for signature with individual employees at a series of road show type meetings to be held in the autumn.
- 5.2 Representatives from the Council, respective Trade Unions (GMB, T&G, Unison) and ACAS will be in attendance to offer and provide information and advice to employees.
- 5.3 The Trade Unions will communicate separately to their members.
- 5.4 By signing the agreement and thereby receiving their compensation payment an employee will give up any right they may otherwise have had in taking an equal pay claim out against the Council.
- 5.5 The nature of the overall compensation package and planned implementation procedures are similar to what has been offered in other local authorities involved in similar situations.
- 5.6 The cost of mitigating equal pay by local government is significant. Lobbying through, amongst other channels, the Local Government Association, to obtain central government financial help is ongoing. Other public sector bodies including the NHS have some help, however, there are no indications of any similar financial provisions for local government.
- 5.7 Implementation requires a great deal of complex and detailed administration (e.g. checking individual rates of pay over the past few years and calculating compensation for 4,500 employees). A small implementation team have been created to ensure an effective and efficient implementation process.

6. Financial Implications

- 6.1 The financial implications are detailed in the supplementary confidential (Part B) information. The total cost will be £12m, which can be met from a combination of reserves, insurance balances, uncommitted capital funds, and schools block monies.

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7. Legal Implications

- 7.1 In recent years equal pay litigation has been a fertile area. There have been a number of high-profile decisions affecting the public sector which have been in favour of affected staff. In turn, these have put traditional negotiating arrangements between local authority employers and the trade unions under the spotlight.
- 7.2 Employment legislation allows for equal pay claims to be settled on the basis of compromise agreements.
- 7.3 In view of the complexities of equal pay case law and legislation, external solicitors, Weightmans, have been appointed by the Service Director, Legal Services, to advise. Together with counsel, legally binding compromise agreements have been prepared. Further legal implications from Weightmans are contained in the supplementary confidential (Part B) information.
- 7.4 Under the Council's Constitution authority is delegated to appropriate officers to sign compromise agreements.
- 7.5 In the absence of settling the claims by completion of compromise agreements, the Council would be facing a significant number of equal pay claims which would have had resource and cost implications as well as the potential for causing uncertainty for affected staff.

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)