

Report

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Report to:	Corporate Resources Committee
Date of Meeting:	4 March 2009
Report by:	Executive Director (Corporate Resources)

Subject:	Equal Pay Update
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ provide the Corporate Resources Committee with an update on equal pay issues.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that progress in respect of equal pay be noted.

3. Background

- 3.1. Claimants began lodging equal pay claims against the Council in 2005. In the intervening period, Resources, through the personnel teams, have been progressing with the various initiatives and tasks associated with equal pay and the management of cases.
- 3.2. Periodic reports have been submitted to the Committee outlining the up to date position and highlighting significant issues.

4. Current Position

4.1. Employment Tribunal Equal Pay Claims

- 4.1.1. To date, 1,610 equal pay claims have been lodged with the Employment Tribunal Service by Stefan Cross, Solicitors. No claims have been submitted by the Trades Union.
- 4.1.2. Representatives of Stefan Cross Solicitors arranged “drop in” meetings targeting South Lanarkshire Council employees from 26 to 29 January 2009 at venues in Rutherglen, East Kilbride and Hamilton. As a result, there has been an increase in claims over the last few weeks.

4.2. Information Requested

- 4.2.1. At a Case Management Discussion (CMD) in March 2008, the Council was asked to confirm each claimant’s job title, grade and SCP placement, including any and all changes since 2000. Additionally, the Judge asked for details on how the comparators job titles have changed over the years. The deadline for submission in June 2008 was met by the Council.
- 4.2.2. At a CMD held on 1 August 2008, the Employment Judge requested additional information to that which was provided in June. Specifically, details on how the claimants’ job titles and grades had changed since 2000. In addition, for both

claimants and comparators, a reference to the relevant Scottish National Joint Council pay circular for each year was requested. This was a significant piece of work undertaken in conjunction with the Resources and submitted on 26 September 2008.

- 4.2.3. Stefan Cross continues to look for a signed Single Status Agreement and on that basis, on 9 September 2008 the Employment Tribunal Service issued an Order for the Council to provide written answers to questions surrounding the agreement with Trades Unions to use the 555 Job Evaluation Scheme. A response was submitted 17 September 2008.
- 4.2.4. To protect the Claimants' following the Court Judgement on the Highland Council Case, relating to inconsistencies between the comparators listed on the grievances and those on the subsequent employment tribunal claims, Stefan Cross submitted Amended Claims to the Employment Tribunal during June and August 2008.
- 4.2.5. The Council responded to each claim and identified any issues (i.e. supplementary grievance not submitted, time barred etc.) Following the identification of these issues, during September, October and November the Council received 3 requests from the Tribunal to provide additional information. Responses were submitted within the prescribed timescales, the last being 24 November 2008.

4.3 Pre-hearing Reviews and Case Management Discussions

- 4.3.1. A Pre-hearing Review (PHR) was held on 3 November 2008 following a period of monitoring the Action4Equality Scotland website which is used to publish information on equal pay litigation. Stefan Cross is a Director and shareholder of Action4Equality Limited. The Council submitted an application to have the equal pay claims struck out on the grounds that the content of the published blogs was scandalous, unreasonable or vexatious and affected the manner in which the Tribunal proceedings have been conducted. The Employment Tribunal Judge refused the request but we have seen that the tone of the website has improved.
- 4.3.2. A CMD was held 10 December 2008 to discuss the Claimants' application to strike out the Council's defence to claims and other matters related to the proceedings. In their application, the Claimants' representative stated that the Council had not complied with requests to provide information. The Claimants' representative also requested a postponement of the January PHR stating that they were not prepared because the Council did not provide sufficient information. Following a review of all information submitted by the Council, the Judge did not accept this claim but had no option but to postpone the PHR.
- 4.3.3. The issue of insufficient information is largely concerned with the 'Grading Guide' aspect of the 555 Grading Scheme. This document allows the evaluator to determine the final job evaluation outcome and is not published due to concerns that it may be improperly used to manipulate the job evaluation process. The matter was raised at the CMD on 10 December 2008 and the Council explained the rationale for non disclosure to the Employment Tribunal Judge. A CMD was scheduled for 12 January 2009 to further discuss this matter. Following the CMD in January, the Judge issued an Order for the Council to release the Grading Guide. The Council is seeking to have this order varied in order to restrict the dissemination of the document. A decision has not yet been received.
- 4.3.4. The Claimants' representative also advised the Tribunal that they have been in contact with the Equalities and Human Rights Commission (EHRC) regarding the Council's 555 Grading Scheme. The EHRC has appointed an expert to review the

Scheme and provide an overview to the EHRC Legal Committee. The Committee will then decide if it is appropriate for the EHRC to intervene in the legal proceedings. The Council has been contacted by the appointed expert and has provided documentation to assist with the review of the Scheme. The expert has completed her report and the EHRC have decided not to intervene in our cases.

- 4.3.5. To date there have been 8 case management discussions in respect of cases against South Lanarkshire Council. No further dates have been scheduled.

5. Equal Pay Review 2008

- 5.1. A second equal pay review was undertaken during 2008. The review was undertaken in 3 “streams”:

Stream 1 – Analysis of gender balance at middle/senior management level

Stream 2 – Analysis of gender balance by Service and pay grade

Stream 3 – Analysis within pay grades/significant pay gaps

On 10 December 2008, the Corporate Resources Committee received a report on the outcome of Streams 1 and 2. Stream 3 required further analysis and was scheduled to be reported early 2009 and is set out below.

5.2. Stream 3 Analysis

- 5.2.1. The Stream 3 analysis was conducted using reports generated from the Council’s Human Resource Management System (HRMS) which contains pay details for all employees. The reports were sorted by job title and the following was examined:

- ◆ rate of progression
- ◆ access to additional pay
- ◆ application of increments for shift working.

- 5.3 Issues were highlighted and passed to Resource Personnel Managers in October 2008 for further investigation. The findings have been reported back to Personnel Services and the table below summarises the position to date.

Resource	Total issues identified	HRMS data cleansing	Review via PDR	Resolved through explanation	Further investigation/ action required
Community	51	14	2	5	30
Corporate	13	4	3	3	3
Education	10	7	0	2	1
Enterprise	15	6	1	4	4
Finance and IT	14	3	7	1	3
Housing and Technical	22	1	7	3	11
Social Work	20	3	0	4	13

- 5.4. Personnel Services will continue to secure actions and monitor implementation of recommended actions. It is expected that items requiring HRMS data cleansing will be concluded in February 2009; progression issues addressed via PDR from April 2009, and timescales for matters requiring further investigation agreed between Personnel Services and the Resource Personnel Manager.

6 Employee Implications

- 6.1. Regular equal pay reviews enables the identification and addressing of pay inconsistencies.

7. Financial Implications

- 7.1. Any costs will be met through existing budgets.

8. Equality Impact Assessment and Consultation Arrangements

- 8.1. An initial equality impact assessment has identified the need to broaden monitoring and analysis of the Equal Pay Review to include disability, race and age to enable a full assessment to be completed. An action plan has been developed to do this and a full assessment will be carried out if required.
- 8.2. Discussions continue on a regular basis with Resources via the Personnel Managers and the Trades Union.

Robert McIlwain
Executive Director (Corporate Resources)

9 February 2009

Link(s) to Council Objectives

- Excellent employer
- Accountable, Effective and Efficient

Previous References

Report 10 December 2008

Report 7 May 2008

List of Background Papers

- Women and Work Commission Report February 2006
- Government Action Plan "Implementing the Women and Work Commission recommendations" (2006)
- A Gender Audit of Statistics: Comparing the Position of Women and Men in Scotland (2007)

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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