

**HAMPSHIRE COUNTY COUNCIL****Decision Report**

<b>Committee/Panel:</b>	Employment in Hampshire County Council
<b>Date:</b>	9 March 2016
<b>Title:</b>	Update on Government proposed policy changes
<b>Decision Reference:</b>	7325
<b>Report From:</b>	Director of Corporate Resources

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## 1. Executive Summary

- 1.1 The purpose of this report is to provide an update about proposed Government policy changes.

## 2. Contextual information

- 2.1 The government are looking to introduce two significant policy changes during 2016; the 95k exit payment cap and the public sector exit payments recovery. In addition to which there are further consultations underway which are explained within this paper.

## 3 £95k exit payment cap

- 3.1 As EHCC were previously advised, the government is planning to introduce a £95k cap on the total value of an exit payment made to an individual with redundancy payments *and* any pension strain charges both counting towards the cap.
- 3.2 Due to the legal processes required to introduce the new legislation, the 95k cap is unlikely to be introduced until the summer, however it is highly likely to apply to any arrangements agreed pre legislation with exit dates post legislation. Therefore significant care and attention will be needed regarding any exit arrangements from this point until the legislation is in force.
- 3.3 If the County Council wishes to request any waivers to this policy, these will need to be approved by Full Council.

#### **4. Public Sector exit payments recovery**

- 4.1 Further clarity has been established around the government proposal to introduce measures to recover exit payments made to public sector employees who return to the sector within 12 months.
- 4.2 It is important to note that the definition of public sector bodies impacted by this legislation is wide, and includes, in addition to Local authorities; quasi public bodies such as Bournemouth Airport.
- 4.3 Below are key changes to the draft initial proposal:
- Recovery of the exit payment will apply where the person returns to any part of the public sector (not just to the same sub-sector, as previously proposed)
  - The earnings threshold at which the recovery provisions will be £80,000 p.a. (not £100,000 as originally proposed)
  - employer pension strain charges are now included, in addition to redundancy and other exit payments
  - The repayment calculation is tapered, reducing pro-rata from day one
- 4.4 These arrangements would apply whether someone returned to the public sector as a direct employee or under a relevant contract for services.
- 4.5 The legislation states that employers who make severance payments to employees will have a duty to “take all reasonable steps” to recover the amount of the exit payment should the individual secure alternative employment within the scope of the legislation.
- 4.6 In addition to which it also states that employers, who are intending to appoint an individual who has received an exit payment within the scope of this legislation, should not employ them until repayment arrangements have been made.

#### **5. Further public sector exit payment reforms**

- 5.1 Further public sector exit payment reforms are being consulted upon and these include:
- Setting the maximum for calculating exit payments at three weeks’ pay per year of service
  - Capping the maximum number of months’ salary that can be used when calculating redundancy payments to 15 months
  - Setting a maximum salary for the calculation of exit payments e.g. £80,000
  - Enabling the amount of lump sum compensation an individual is entitled to receive to be tapered as they get close to the normal pension age or target retirement age of the pension scheme to which they belong, or could belong, in that employment.
  - Reducing or removing employer-funded pension top up payments, and / or increasing the minimum age at which an employee is able to receive an employer funded pension top up.

The closing date for the consultation is 3 May 2016.

- 5.2 The concern about further restrictions to exit payment arrangements would be the potential impact on our ability to remodel the workforce as part of the council's ongoing transformation and therefore the achievement of Tt2017 and Tt2019 savings.
- 5.3 EVR2 agreed by EHCC in November 2015 was designed to incentivise a wider group of staff compared to the previous policy which was more attractive to older and longer serving staff. EVR2 pays a single lump sum based upon 20 weeks salary for staff with more than 2 years service. The first item above therefore would detrimentally impact those staff between 2 and 7 years service and reduce the single lump sum to 3 weeks pay for every year served. This is however still an increase when compared to the previous EVR policy.
- 5.4 Those members of staff who have TUPE transferred into HCC and remain under different terms to EHCC may be impacted by the 3 week cap per years' service, for example; those employed on NHS terms and conditions.
- 5.5 As we currently understand it we do not consider that capping the maximum number of months' salary when calculating redundancy payments to 15 months will impact those staff on EHCC terms and conditions. This is because EVR2 is capped at 20 weeks and Compulsory Redundancy capped at 30 weeks in line with the statutory formula. It may however impact those staff who are on differing terms and conditions as a result of a TUPE transfer into the Council.
- 5.6 Setting a maximum salary for the calculation of exit payments to £80,000 would impact those on a higher salary and tapering the amount closer to pension age would clearly impact our older members of staff. These policy changes would have potentially had a significant impact had they been introduced earlier as EVR attracted our longer serving staff.
- 5.7 We're still seeking clarification on the employer funded top ups; if this is in addition to the current pension arrangement there would be no impact as HCC does not have a pension top up policy. If this legislation is however looking to change the pension arrangements then again this would impact our older members of staff. Further clarification in relation to those members of staff who remain on a pension scheme other than LGPS is being undertaken to understand the impact.
- 5.8 In summary, as we currently understand the proposed changes we don't envisage a dramatic impact on our ability to remodel the workforce through voluntary measures, however these changes will negatively impact our highest earners, older staff and those with between 2-7 years service and are therefore likely to make these staff think again about EVR2. These changes also negatively impact our desire to keep our exit policy and procedures simple, easy to understand, calculate and manage.

## **6 Apprenticeships**

6.1 The government are committed to reaching 2 million apprenticeship starts in England by 2020 and are taking action to support this commitment as follows:

### **6.2 Apprenticeship levy**

6.2.1 The Apprenticeship Levy will be introduced in April 2017. It will apply to all employers in all sectors. Employers with a pay bill of more than £3 million are required to pay 0.5 per cent levy to fund apprenticeships.

6.2.2 For the County Council, the estimated annual levy costs are as follows and have been built into the medium term financial strategy :

- Non-schools staff = £1.2 million
- Schools staff = £2.1 million
- Total = £3.3 million

6.2.3 Note that the estimate for schools is a worst case scenario and assumes that all schools staff paid by HCC will be treated as being employed by HCC. However, it is possible that staff in foundation and voluntary aided schools will be treated as being employed by the school rather than HCC (most of these schools are unlikely to have a payroll above £3 million, so wouldn't have to pay the levy if treated as a separate employer). Clarification has been sought from the Government.

6.2.4 The levy will be used to fund apprenticeship training (it can not be used to fund ordinary salary costs). Employers will receive digital vouchers matching the amount they pay into the levy, which can be used to pay registered apprenticeship training providers. It is likely that the vouchers will have to be used within two years or the funds will be lost. Limited top ups will be available for employers which spend an amount greater than they receive in vouchers.

6.2.5 There is a wide variety of apprenticeship courses and costs. Online research suggests that the annual fee for many courses is about £1,000. Therefore, HCC would need to take on about 3,300 apprentices each year in order to recover its total annual levy payments (including schools).

6.2.6 However, the vouchers may not cover all training costs for example, under the current system the Government only fully reimburses training cost for 16-18 year olds. It funds only half the costs for apprentices aged 19 to 23 and usually none for those aged over 24. If the same rules continue, HCC may need to take on significantly more than 3,300 people per year in order to get its levy payments back.

### **6.3 Apprenticeship Targets**

6.3.1 The Enterprise Bill contains provision to amend the Apprenticeships, Skills, Children and Learning Act 2009 so that the Secretary of State can set targets for prescribed public bodies in relation to the number of apprentices working for them in England.

- 6.3.2 The target will be a minimum 2.3% starts each year based on the headcount of employees within the organisation. Based on current headcount figures for the Council, this would be approximately 865 apprentice starts each year (581 based on schools headcount figure and 284 on non-schools headcount figures), and as referenced earlier, this is dependant upon clarification regarding the schools to be counted for the purposes of total headcount. Achieving this target would not result in re-couping the full cost of the levy and for additional context, in each of the last 2-years, the County Council has started circa 70 apprenticeships (inclusive of circa 15 in schools), and work is underway to explore interventions to maximise apprenticeship opportunities.
- 6.3.3 Public bodies will have a duty to publish information annually on progress towards meeting the target, however will not be forced to employ the target number.
- 6.3.4 The Government is currently consulting on the details of its public sector apprenticeship targets in England. Consultation closes on 4 March 2016. The date the target will begin has not yet been confirmed, but is unlikely to be before September 2016.

## **7 Preparing for the Policy changes**

- 7.1 As a result of new and proposed legislation there will be a requirement for a number of new administrative duties and changes to policies and procedures, all of which are currently being developed in readiness for implementation.

## **8 Recommendations**

- 8.1 That the EHCC Committee notes this update and the work underway to manage the agreed changes. A further report will be provided once the implications of the additional consultations are known and the impacts on related policies confirmed.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

These government proposals do not link to the Corporate Strategy but potentially impact the County Council’s workforce strategy.

**Other Significant Links**

**Links to previous Member decisions:**

<u>Title</u>	<u>Reference</u>	<u>Date</u>
Update on proposed Government policy changes	6988	11 November 2015

**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.	

**IMPACT ASSESSMENTS**

**Equalities Impact Assessment:**

1.1 It is too early to determine whether there is any equalities impact, as the government have not published the full details of these proposed policy changes.

**1. Impact on Crime and Disorder:**

2.1 Not applicable.

**2. Climate Change:**

(a) How does what is being proposed impact on our carbon footprint / energy consumption?

Not applicable.

(b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Not applicable.