

WEST DUNBARTONSHIRE COUNCIL

Report by Chief Executive

Council Meeting - 26 April 2006

Subject: Equal Pay Compensation

1. Introduction

- 1.1** The purpose of this paper is to update the Council on the progress of the Equal Pay Compensation project to date and the outstanding risks faced by the Council in relation to Equal Pay.

2. Background

- 2.1** The Council is obliged under the Equal Pay Act 1970 to ensure it applies non-discriminatory practices in respect of pay between men and women. The principle that men and women are entitled to equal pay for equal work is the driving force behind the Single Status Agreement however until the Council implements its own locally agreed unified grading and pay for its 'single status' job population it is vulnerable to employment tribunal claims under the Equal Pay Act in respect of:
- *'work rated as equivalent'*
Where jobs are graded as equivalent but paid differently as a result of bonus schemes and the disadvantaged group is predominantly of one sex.
 - *'equal value'*
Where the work is different but considered to be of equal value, e.g. where female employees could claim in respect of male comparators in a currently or previously separate bargaining group.
 - *'like work'*
Where the work is the same or broadly similar and any differences which exist are not of any practical importance.

The Council has recognised the risk of equal claims and has sought to mitigate this risk for individuals with a potential claim under the “work rated as equivalent” category through the offer of a compensation payment.

Compensation Payments

- 2.2** An offer of a compensation payment based on average contracted hours and length of service was made to 1333 eligible employees and ex-employees. In return the individual was required to sign a compromise agreement which indicated they would not pursue the historical claim for equal pay through to an Employment Tribunal.
- 2.3** As of 19 April, 1213 individuals have accepted the offer and signed a compromise agreement which represents an uptake of 90.4%
- 2.4** The payment made to staff was a net payment with the Council agreeing to pick up tax and national insurance costs. A figure was negotiated nationally with HM Revenue and Customs in respect of tax and national insurance and it was agreed that this would be 30% (Tax 12%, Employees N.I.C. 8% and Employers N.I.C. 10%).
- 2.5** Under Equal Pay legislation staff who have left the employment of the Council have a 6 month period from their date of departure under which they remain eligible to make a claim. Former staff who contacted the Council and met this criteria were also made the offer of a compensation payment.
- 2.6** To date the Finance team have been instructed to pay £4.64 million in compensation payments net of tax and N.I. It is anticipated that there may continue to be a few people who will submit a signed agreement however this would only be small numbers. In the coming weeks Personnel Services will undertake an analysis of all the individuals who have not signed an agreement and more fully assess the risk that this presents to the Council.
- 2.7** In making the compensation payments 206 employees who had not at that time signed an agreement were inadvertently included within the first payment run. Of this total 82 subsequently signed agreements leaving 124 potential recovery cases. Letters of apology were issued to all 206 employees which included a free phone telephone number for anyone wishing further information and a small team was established within the Finance service to deal with the enquiries. Appropriate arrangements were made to secure recovery mainly through the banking system.
- 2.8** In addition 297 employees who had accepted the offer and were due to receive compensation payments totaling £994,880, were found to have Council tax arrears to the Council totaling £843,706. These 297 employees were all contacted by the Finance Recovery Unit and 216 (73%) with a total debt of

£545,545 signed mandates authorising deductions of £220,058 with payment arrangements being secured for the balance of £325,487. The remaining 81 cases have been referred to the Sheriff Officer for appropriate action.

3. Statutory Grievances and Employment Tribunal Claims

- 3.1** An ongoing risk to the Council in respect of Equal Pay is highlighted by the numbers of individuals who have intimated either a Statutory Grievance or presented an Employment Tribunal Claim.
- 3.2** 78 people across a wide range of areas have intimated a statutory grievance which is recognised to be the first step in presenting an Employment Tribunal Claim. An additional eight claims have been presented at Employment Tribunal. A number of these claims have been submitted by individuals outwith the group of staff who were made an offer of a compensation payment.
- 3.3** A further sixteen claims have been resolved to date via the signing of Compromise Agreements. The numbers of acceptances and sums referred to in Paragraphs 2.3 and 2.6 above, incorporate these resolved claims.
- 3.4** A shortened Statutory Grievance Handling Procedure has been put in place to speed up the handling of Equal Pay matters however the ultimate level of appeal will remain the Council Appeals Committee.

4. Ongoing Issues in Relation to Equal Pay.

- 4.1** The issue of equal pay is likely to be an ongoing issue for the Council and a key factor in the resolution of many of the issues will be the implementation of a revised pay and grading framework which is underpinned by robust job evaluation processes.
- 4.2** The Pay Modernisation Team is nearing completion of the job evaluation work which will underpin the development of the new framework and proposals will be put before Council in due course. The team will however continue to monitor and assess the risk in relation to issues of equal pay and the final proposals will be subject to a comprehensive equal pay assessment.

5. Personnel implications

- 5.1** As outlined in paper.

6. Financial Implications

6.1 As outlined in paper.

7. Conclusions

7.1 The uptake of the offer of a compensation payment in respect of a potential historical inequality in pay has received a positive response from the majority of staff. It is critical to note however that while this in some way mitigates the risk associated with historical claims there remains an outstanding risk to the Council which will continue to be monitored at the same time as moving ahead with implementation of the Single Status Agreement and associated pay and grading frameworks.

8. Recommendations

8.1 The Council is asked to note the progress of the equal pay compensation project and the ongoing actions that are being taken to address equal pay issues.

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Wards Affected: Not applicable.