

**THE HIGHLAND COUNCIL**

**Resources Committee – 15 April 2009**

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| Agenda Item |  |
| Report No   |  |

**Job Evaluation/Equal Pay**

**Report by Assistant Chief Executive**

Summary

This report updates the Resources Committee of job evaluation and equal pay progress.

1. Background

- 1.1 The Resources Committee on 18 February 2009 considered a detailed update on job evaluation and equal pay.
- 1.2 The Committee was advised that the job evaluation letters to c10000 employees were posted on 6 and 7 February 2009.

2. New Pay and Grading Structure

- 2.1 As indicated above, the Council agreed to implement the new structure and the revised key dates are as follows:
  - job evaluation letters were posted on 6 and 7 February 2009
  - actual implementation of the new pay and grades from March 2009
  - planned to make payment of back pay during June 2009.
- 2.2 Implementing a new pay and grading structure requires a large number of changes to existing payroll and personnel procedures and these are now being actioned in consultation with Services.
- 2.3 The Council is making a significant investment to meet the requirements for a modern workforce (more than £7.5 million this year) and the majority of staff will receive a higher level of pay than they would have prior to the changes.

3. Payroll Implementation

- 3.1 A major task for the project team has been the actual implementation of the new pay and grades.
- 3.2 At the time of writing this report 11 out of 14 payrolls have been successfully implemented and the final payrolls will be implemented on 14, 15 and 30 April 2009.

#### 4. Conditions of Service

- 4.1 The Council is also seeking to introduce a new set of harmonised terms and conditions of service which will assist with the Council's aims of achieving a flexible, modernised and motivated workforce.
- 4.2 The Modernising Employment Sub-Committee on 16 January 2009 also agreed that the trade unions be advised that they and the Council had until 31 March 2009 to reach a collective agreement on conditions of service. If this could not be achieved a further report would be submitted to the Sub-Committee.
- 4.3 The Sub-Committee reached this decision on the basis of the length of time that the negotiations have taken with the trade unions (over 2 years) and comments by the External Equality Impact Assessor in her report about the requirement to introduce a harmonised conditions of service package as soon as possible.
- 4.4 The Head of Personnel had written to the trade unions on 20 November 2008 with the Council's formal offer in relation to the conditions of service package. A response was received from the Unison and Unite trade unions on 17 March 2009 and the GMB trade union requested on 2 March 2009 that further talks on the proposal should wait until after the Appeal date (now 8 May) has passed.
- 4.5 The Modernising Employment Sub-Committee on 19 March 2009 made an initial consideration of the trade unions' response and the available options as reported to the Sub-Committee on 16 January 2009. The Sub-Committee agreed that a more detailed analysis of the trade unions' response would be required, particularly in relation to equality issues, and any other options and this would be reported back to the Sub-Committee.

#### 5. Equal Pay Signing Sessions

- 5.1 The Equal Pay signing sessions have run very smoothly and 25 signing sessions took place between 14 January and 30 March 2009 and the current sign up rate at the time of writing this report is detailed below. (Some agreements are still with individual solicitors). The signing sessions concluded on 30 March 2009.

5.2

| Total No. of Employees |        |     | ET Claims |                  |     |
|------------------------|--------|-----|-----------|------------------|-----|
| Invited                | Signed | %   | No.       | Settled          | %   |
| 2481                   | 2297   | 93% | 495       | 365 <sup>1</sup> | 74% |

- 5.3 There are a number of compromise agreements which have still to be returned from the solicitors and it is estimated that once these are returned, the overall sign up rate will increase to 95% and the percentage of ET claims settled will increase to 77%.
- 5.4 The Council agreed to set aside £4m in the 2008/9 revenue accounts to meet the equal pay costs for the above equal pay sessions in accordance with the approved

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<sup>1</sup> A number of employees have multiple ET claims. The actual number of employees who have settled their ET claims is 288 (82% of claimants who received an offer).

equal pay framework. It is estimated that the final costs will come in between £3.5m and £4m.

## 6. Equal Pay – Legal Implications

- 6.1 The Modernising Employment Sub-Committee on 16 January 2009 and 19 March 2009 considered again the legal implications of a recent Court of Appeal decision in the cases of *Bainbridge v Redcar & Cleveland Borough Council* and *Surtees v Middlesbrough Borough Council* and in particular the trade unions' requests that pay protection be extended to other employees whose comparators, for the purposes of equal pay claims, are red circled. The Sub-Committee agreed that extending pay protection to other employees was unaffordable and unacceptable but also agreed that the trade unions be invited to negotiate a local collective agreement on pay protection as an alternative to the 3 years protection provided in the National Agreement. The Head of Personnel wrote to the trade unions on 2 February 2009 in this regard and responses have been received from Unison and GMB. In the light of the responses, further legal advice will be sought and this advice will be reported back to the Modernising Employment Sub-Committee.
- 6.2 The current total of 'live' tribunal claims is 1484 and this will be reduced to 1119 as per Section 5.3 above. It will be necessary to submit a more detailed report on the outstanding claims to the Modernising Employment Sub-Committee once the final information from the signing sessions has been assessed.

## 7. Appeals Procedure

- 7.1 The appeals procedure is attached as per Appendix 1. This has been supplemented by guidance notes for employees and line managers.
- 7.2 Stage 1 of the procedure (section 4) is an important stage as it allows the sifting of appeals with input from the trade unions as well as Service Directors.
- 7.3 Those appeals which go forward to stage 2 i.e. the formal appeal hearing stage, will be heard by a three person panel. The Modernising Employment Sub-Committee on 19 March 2009 agreed to advertise for at least one independent chair, once the post is evaluated under the new scheme.

The interview panel will be chaired by the Assistant Chief Executive and the Sub-Committee also agreed that the trade unions be invited to select one representative to participate in the interview selection.

- 7.4 Following requests from some staff and the trade unions to extend the appeal date of 10 April 2009, the Sub-Committee agreed to extend the date to 8 May 2009.

## 8. JE Implementation Progress

- 8.1 The project team, Service Centre and Back Office have been working extremely hard in difficult circumstances to implement successfully the new pay and grading structure. The retrospective implementation date of 1 April 2008 means that there has been a continual process of 'catching up' on changes to posts. Most of the changes up to December 2008 were captured when the letters were sent out in February.
- 8.2 Following the issue of the JE letters on 6 and 7 February, 350 letters or schedules

have been issued or re-issued. There were a number of reasons for this, including employee changes of address and incorrect data on the Resource Link system. There have also been a number of 'reworks' required i.e. where there have been changes to employee schedules. Both of these issues have been and are being addressed as high priority by the Back Office team.

8.3 Since the helpline opened on 9 February 2009 the Service Centre have received 2,099 enquiries from employees. Of these 617 (29.4%) were resolved by the Service Centre and 1,482 (70.6%) were referred to the Back Office Team for further investigation and resolution. Of the 1,482 enquiries received by the Back Office 184 (8.7%) are still outstanding and are being progressed.

## 9. Communication

9.1 Regular fortnightly meetings are continuing to take place with the trade unions on job evaluation, equal pay and conditions of service.

9.2 Officials will be continuing to work jointly with the trade unions on the post-implementation issues. This will include a transition programme to reduce, as far as possible, the impact of job evaluation on staff. Employees' who are 'red circles' will have their current contractual earnings are protected up until 31 March 2011 under the terms of the national agreement. Measures to assist those employees over the next 2 years will include, where appropriate, job and service redesign, as well as training and development opportunities to enable them to move to promoted positions. The proposed Transition Programme will be reported to the Modernising Employment Working Group.

## 10. Recommendations

10.1 That the Resources Committee:

- (i) Notes the update on job evaluation and equal pay

Signature:

Designation: Assistant Chief Executive

Date: 3 April 2009

Author/Reference: John Batchelor, Head of Personnel

## HIGHLAND COUNCIL

### Job Evaluation

#### Appeals Procedure for the Initial Evaluation of Jobs

##### 1. Introduction

This document sets out the procedure for employees appealing against the outcome of the initial evaluation of jobs under the Job Evaluation process. It applies to those employees covered by the Scottish Joint Councils' Single Status agreement.

The outcome of the appeal process is final. There is no recourse to any other Council procedure such as the grievance procedure.

The recognised trade unions (Unison, GMB and UNITE) have been consulted.

##### 2. Grounds of Appeal

(i) **Admissible** grounds of appeal are where the employee considers that her/his job has been:

- Matched to the wrong service group

and/or

- Matched to the wrong level within a service group.

and/or

- Allocated the wrong factor levels

(ii) **Inadmissible** grounds for appeal include

- comparability with other jobs (either within the Council or outwith the Council),

and/or

- seeking to restore previous differentials

and/or

- dissatisfaction with the pay level as a result of job evaluation.

- Any grounds not related to the job, for example personal performance.

### **3. Making an Appeal**

Appeals will only be considered if submitted on the appeals form. The completed form must be lodged with the appellant's Service Director in HQ, Glenurquhart Road, Inverness, **by 20 February 2009**. Late appeals will not be accepted unless it has been demonstrated to the Assistant Chief Executive in advance of the deadline date, that the appeal could not have been made on time.

The form must contain the views of the line manager on the factual content of the appeal and the accuracy of the appellant's case. The appellant can be assisted in the preparation and presentation of the appeals form, but not by any member of the Job Evaluation Project team, which includes current or former job analysts.

The appeals form contains provision for a jobholder of a generic job type to state if the appeal is for his/her job only, or for other employees covered by the generic job type, for example, employees with the same job in the same unit.

In all cases the appeal must be accompanied by evidence to support the appeal.

### **4. Stage 1**

At Stage 1, all appeals will firstly be examined by the Head of Personnel (or nominated officer). This may lead to a Job Analyst meeting with the jobholder, his/her TU representative if requested by the jobholder, and the jobholder's manager, to clarify the reasons for the appeal and to discuss the basis for the notified matching or evaluation. It could also involve direct contact with the jobholder, his trade union representative if requested by the jobholder, and the line manager. This stage will clarify whether the appeal covers the appellant only or a group of jobholders.

If the appeal is resolved at Stage 1, this will be noted on the appeals form by the Head of Personnel and the appeal will end at that stage. The decision will be confirmed in writing to the employee.

### **5. Stage 2**

Appeals at Stage 2 will be heard by a Council panel comprising three members: - an independent chair, a management representative and a trade union representative.

The panel will be drawn from a pool of panel members who have been

trained in the application of the scheme. The pool will include independent chairpersons.

An appellant can elect to have the appeal determined by the panel solely on the form submitted. Alternatively, the appellant can make a personal appearance before the panel to present the appeal, or have the case presented on his/her behalf either by his/her representative. The representative must be a trade union representative or a work colleague of the appellant's choice.

## **6. Appeal Meeting Procedure**

The independent chair will make the appropriate introductions and inform the appellant of the procedure to be followed.

The appellant or his/her representative will have 10 minutes to present the case, after which the panel may ask questions for no more than a further 10 minutes.

Appellants will confine themselves to facts related to the job. Personal qualities, (such as good time keeping, long service, good health record, good attendance record, competency, efficiency) and performance/capability issues are not examined under the job evaluation scheme, and therefore will not be considered by the appeals panel.

A member of the job evaluation project team will be in attendance as an adviser to the panel and to provide guidance as to the application of the scheme. The manager who has signed the appeal form will also be in attendance and may be asked questions by the panel.

Presentation time should be used by the appellant to emphasise key points in the case, the panel having already had the application form and having access to supporting information for example the original job evaluation questionnaire and job overview.

After any questions put by the appeals panel to the jobholder or their representative, the jobholder or their representative will have the opportunity to make brief summary key points, introducing no new evidence.

## **7. Decision and Notification**

The decision of the appeals panel will be reached by consensus. If panel members fail to agree then the initial assessment of the job will stand.

The panel will decide at that stage if the appellant's appeal was either:

- Upheld,

- Not upheld, or
- Set aside pending further investigation

If the panel decides that the appeal is upheld then the job will be re-scored based on the instruction from the Panel.

If the appeal is set aside pending further investigation the Panel will instruct the Head of Personnel to oversee the further assessment of the job through the job evaluation process, which could involve re-interview by a job analyst or referral to the project team for the complete re-evaluation of the job facts and the use of the job evaluation software.

The appeals panel will reconvene on those cases where further assessment has been sought and provided by the project team at the request of the panel. When reconvening, it will be without further attendance of the jobholder and/or his/her representative.

The decision of the panel will be final.

The appellant will be notified of the results by letter including details of any revisions to factor levels, job overview, and where appropriate, resulting change in pay. Any change determined by the appeals panel will apply from the date of implementation of the job evaluation scheme results.