

**REPORT TO:** Joint Consultative Committee  
**DATE:** 13 March 2019  
**BY:** Head of Council Resources  
**SUBJECT:** Employee Equal Pay Audit 2017/18

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## **1 PURPOSE**

- 1.1 To advise the Joint Consultative Committee of the outcome of the Council's sixth Equal Pay Audit carried out by the Human Resources Performance and Business Support Team and the resulting actions required to ensure that the Council's Pay and Grading Structures remain fit for purpose.
- 1.2 To advise the JCC of the revised requirements for listed authorities to publish information as outlined in The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017. Reporting on the gender pay gap should not be confused with the equalities monitoring of employees. The information contained within this report is in relation to pay and gender only as all other protected characteristics are reported on within the Council's Equality Monitoring Report, i.e. age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief and sexual orientation.

## **2 RECOMMENDATIONS**

2.1 JCC is asked to note that:

- Equalities Monitoring will continue and findings reported to JCC as part of the annual Equality in Employment Monitoring report and any subsequent action plans.
- Where required, consultation with the Equalities Policy Officer and Joint Trade Unions to identify specific actions to address, and minimise as far as reasonably practicable, gender segregation in the longer term.

- The findings of this audit will be shared with the relevant Trades Unions for information and thereafter will be published on the Council's website. The information will also be published on the designated government website <https://gender-pay-gap.service.gov.uk> once this becomes Regulation in Scotland.
- The findings of this audit will remain online on the Council's website for a minimum of three years.
- Every race along with non-disabled and disabled employees will be paid the same hourly rates for jobs irrespective of race, disability or gender.

### **3 BACKGROUND**

- 3.1 East Lothian Council's monitoring arrangements meet the current requirements of The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 which sets out that public bodies with more than 250 employees must report on gender pay issues (currently 20 employees in Scotland). The Council must comply with the regulations for any year where they have a headcount of 250 or more employees on the snapshot date. This snapshot date is 31 March each year. Best practice outlined by the Equality and Human Rights Commission (EHRC) recommends that equal pay reviews are the most appropriate method of delivering a pay system free from gender bias.
- 3.2 An equal pay audit involves comparing the pay of protected groups who are doing equal work, investigating the causes of any pay gaps by gender and planning to close any gaps that cannot be justified. The Equality and Human Rights Commission set tolerance levels of 3% and 5%. As a general rule, any differences of 5% or more will require exploration and explanation.
- 3.3 Since the implementation of Single Status in 2008 we are able to report that the Council's equal pay gaps have decreased year on year from 67 in 2008 to 5 for the year 2015/16. However, in 2016/17 the new regulations required the Council to carry out gender pay gap reporting in an entirely different way therefore comparisons can only be made with last year's results. In comparing the 2 years, the Mean average rose by 0.77% on 2016/17 with an increase of 31p for males and a 28p rise for females. Median hourly rate for both male and female rose by 0.06% which equates to an increase of 18p for both male and female workers. The differentials are small and fall within the tolerance levels of the Equality and Human Rights Commission.

## Methodology

- 3.4 An analysis of all pay and grading structures by gender was carried out to determine the gender impact on the workforce by using the current pay data as at the snapshot date of 31 March 2018.
- 3.5 The gender analysis focused on all relevant employees, male and female. These comparisons are attached as Appendix 1.
- 3.6 Analysis included the following pay elements, termed ordinary pay:
- Basic pay (including contractual overtime)
  - Allowances (e.g. first aid allowance, on call payments, recruitment and retention payments, car allowance, etc.)
  - Pay for leave (e.g. annual leave, maternity, paternity, parental or shared parental leave, sick leave, special leave and any other forms of leave which are paid.)
  - Shift premium pay (i.e. the difference between basic pay and any higher rate paid for work during different times of the day or night.)

**NOTE:** Overtime payments, redundancy or termination of employment, pay in lieu of annual leave or pay which is not money must not be included in the above. As well as actual overtime pay, payments such as allowances earned during paid overtime hours should also be excluded from ordinary pay. Additional exclusions include salary sacrifice schemes, benefits in kind, interest free loans.

- 3.7 As a relevant employer, the Council are required to calculate the required information as set out in the regulations. This includes:-
- Their mean gender pay gap
  - Their median gender pay gap
  - Their proportion of males and females in each quartile pay band

There are specific rules set out in the regulations which employers must follow in relation to how they calculate the gender pay gap, i.e. a month is treated as having 30.44 days and a year is treated as having 365.25 days. The calculations to show the mean and median gender pay gaps also have specific rules which must be followed. When calculating the proportion of males and females in each quartile pay band, this calculation requires the relevant workforce to be divided into four equal parts showing the proportions of male and female full-pay relevant employees. All other pay bandings used

in the workplace must not be used therefore all relevant employees will be grouped together regardless of whether they are in the LGE Group, Craft Workers, Teachers, Chief Officers, etc.

It is a legal requirement for all relevant employers to publish their gender pay report. Failing to do so within one year of the snapshot date is unlawful.

The Equality and Human Rights Commission has the power to enforce any failure to comply with the regulations.

### **General Findings**

- 3.8 The Council's headcount as at the snapshot date was 4,258 of which females hold 3,018 of the contracts and 1,240 contracts are held by male employees, i.e. 70.88% females and 29.12% males.
- 3.9 The number of employees included in this audit that have more than one contract is 181 (167 females and 14 males) or 92.27% and 7.73% respectively.
- 3.10 Following the implementation of Single Status in June 2008 the Council no longer pays bonus and is therefore not required to report on bonus earnings.

### **Analysis of the Gender Pay Gap**

- 3.11 The pay gap calculation for the year to end of March 2018 shows a Mean of 1.95% and a Median of 4.64% in favour of males. The Mean Hourly Rate is £15.64 for females and £15.95 for males. The Median Hourly Rate is £13.96 for females and £14.64 for males.
- 3.12 **Justification**

The discrepancies above are justifiable and can be explained as a number of jobs within the Council include payment over and above the basic rate for the job. For example, these can include:-

- Payment for higher graded duties/acting up allowance
- Shift Allowance/Night Shift Premium
- Contractual call out/Contractual standby payments
- First aid allowance
- Sleeping-in allowance

These allowances are justifiable as they form a necessary part of the role without which the job could not be fully undertaken.

Placing within the grade can also result in a higher rate of pay when, for example, a new start is paid at the first point of the salary scale for the job and those who have been in the job for longer are further up the incremental scale or at the top point for the job.

During the course of collecting the information required to carry out this audit, a number of anomalies were found in relation to the hourly rates paid to employees. On investigation, however, these appeared to relate to, for example, deductions for unpaid leave, payment for multi-posts. Following assessment, these anomalies were not found to impact adversely on the overall outcome.

- 3.13 **The Living Wage** - the introduction of the Living Wage in November 2012 is recognised as having a positive impact on the equal pay gaps between men and women.

#### **4 Recommended Action as defined by ACAS to Reduce the Gender Pay Gap**

- 4.1 **Gender Monitoring** - the Council should have effective gender monitoring in place. Some examples are listed below:-

- Recruitment proportions of men and women
- The number of men and women who apply for jobs or promotion and the number of men and women who are successful
- The numbers of men and women who apply externally compared to internally
- Reviews of starting salaries
- The number of women and men in each job or pay band
- Reward components at different levels
- The proportion of women and men who return to work after maternity, paternity, adoption or shared parental leave to resume their original jobs
- The proportion of women and men still in post a year after a return to work from maternity, paternity, adoption or shared parental leave. (Employees may return but then find it difficult to manage and leave a year or two later.)
- The proportion of women who work part-time and flexibly compared to men, and at what level such arrangements are found
- The number of successful flexible working requests by gender

- Exit interviews of men and women to better understand if one gender is leaving for common reasons compared to the other
- Separate gender pay gap figures for full-time and part-time employees (for employers with a large number of part-time employees, e.g. 25% or more of their workforce.)

None, of the above recommendations are mandatory.

**Action:** Although not mandatory, ELC will continue to report on equalities and gender monitoring.

- 4.2 **Ensure related policies and practices are up to date** – when taking action to reduce the gender pay gap, the Council should, and already do, address, review and update a broad range of their people policies and practices related to their employees.

**Action:** We will continue to review our policies and practices to reduce any potential equal pay or gender pay gaps.

- 4.3 **Manage family-friendly leave successfully** – reducing the gender pay gap can be achieved where an employer goes beyond the legal family-friendly rights and actively encourages the use of these rights to all their employees. These can include simple steps, such as encouraging male employees to consider taking shared parental leave.

**Action:** We will continue to review and monitor our Family Leave policy and practices to reduce any potential equal pay or gender pay gaps.

- 4.4 **Make the most of flexible working** – flexible working has proved to be very beneficial to both employer and employees, with clear business benefits. However, flexible working arrangements may sometimes be an obstacle to career development for certain roles, particularly at senior levels of employment. Employers should ensure that, as far as possible, all promotions can successfully function with flexible working arrangements in place, including those at senior levels.

**Action:** We will continue to review and monitor our Worksmart policy and practices to reduce any potential equal pay or gender pay gaps

- 4.5 **Encourage and review career and talent development** – Options to develop within the workplace should be made as accessible as possible to all employees of both genders. However, simple measures can often be taken

where it becomes clear that female employees are less likely to make use of development or upskilling opportunities. For example:-

- Female employees may be more likely to have responsibilities that limit their ability to travel. Arranging events such as training more locally or on site can help to tackle this, as can support for childcare arrangements.
- Male employees may feel there are obstacles to their working flexibly or taking leave for domestic and caring responsibilities. This may be down to individual or workplace cultures, or a lack of awareness of equality rights or workplace policies. Raising awareness and encouraging such practices can help.
- If there is a high proportion of female employees on flexible working or part-time arrangements, running week-long events can create a problem. Similarly, if there is an opportunity to be involved in a career-developing project that requires full-time resource, invite job-sharing proposals from employees and challenge the full-time requirement.
- Where certain teams or levels of seniority are dominated heavily by male employees, it can be useful to monitor recruitment in these areas to identify what may be causing the situation.

**Action:** In response to this we have created and implemented a Professional Development Scheme. This scheme will be monitored and developed as and when required in consultation with Service Managers/Heads of Service.

4.6 **Minimise any negative impact from pay systems** – there are some good practice tips to ensure fairness and help reduce the gender pay gap, including:-

- Undertake regular job evaluation to objectively assess the demands of each job.
- Ensure that employees and managers have clear channels to communicate any suggestions or concerns.
- Routinely review all aspects of pay to ensure that all parts of the business are operating fairly and consistently.
- In consultation with representative trades unions, review the configuration of the workforce to recruit more workers and/or make use of a-typical workers at plain time rates of pay instead of perpetuating the pattern of full-

time male workers having access to and gaining greatest pay advantage through overtime working.

**Action:** We will continue to review the Job Evaluation Scheme to ensure consistency and equality in its application. We will also continue to review our pay & grading structures and associated terms and conditions.

- 4.7 **Train and support line managers** – it is good practice to ensure that all managers are aware of any policy changes and in particular have received appropriate training to ensure they understand what behaviours and actions are required of them and their employees in the workplace. Similarly, any employee involved in the recruitment and promotion of employees should be trained to ensure, fair, non-discriminatory and consistent processes are followed. Managers, in particular, should be aware of the positive action provisions of the Equality Act 2010 because managers have a key role in ensuring the delivery and success of any measures which involve positive action for women.

**Action:** We will continue to work closely with the Organisation Development Team to develop and deliver training/briefings to Managers on HR policies and procedures.

- 4.8 **Consider taking positive action** – Under the Equality Act, an employer can take what the law terms ‘positive action’ to help employees or job applicants it thinks:-

- are at a disadvantage because of their sex, and/or
- are under-represented in the organisation, or whose participation in the organisation is disproportionately low, because of their sex and/or
- they have specific needs connected to their sex.

This is a valuable tool for employers seeking to reduce their gender pay gap, particularly where they wish to remove obstacles deterring female employees from applying for jobs or promotions.

An employer taking positive action must show specific evidence that any positive action is both reasonably considered and appropriate and will not discriminate against others. Where this is the case, an employer may legally:-

- take proportionate steps to remove any barriers or disadvantages
- provide support, training and encouragement to increase the participation of female employees.



There is no legal necessity for an employer to take positive action if it does not wish to do so.

**Action:** We will continue to monitor equalities and address any issues via the Annual Equalities in Employment Action Plan.

## **5 POLICY IMPLICATIONS**

- 5.1 Although the ACAS recommendations listed above are not mandatory, East Lothian Council currently undertake these actions and will continue to monitor policies and practices to address any potential issues that arise.

## **6 INTEGRATED IMPACT ASSESSMENT**

- 6.1 Annual equal pay audits will be carried out on all Pay and Grading Structures in accordance with the requirements of The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

## **7 RESOURCE IMPLICATIONS**

- 7.1 Financial – Depute Chief Executives and Business Group Managers in conjunction with Human Resources may be required to allocate resources within existing budgets if any specific issues are identified in the future to ensure the recommendations within the report are achieved. Actions in relation to Equal Pay will be included within the Equalities in Employment action plan.
- 7.2 Personnel – Resources will continue to be required to ensure the effective monitoring, review and analysis of pay and grading structures and relevant policies together with the recommended actions contained within this report.
- 7.3 Other – Consultation has taken place with the Equalities Policy Officer and Joint Trades Unions to minimise as far as reasonably practicable, gender segregation in the longer term.

## **8 BACKGROUND PAPERS**

8.1 The attached appendix shows the following:-

- mean gender pay gap
- median gender pay gap
- proportion of males and females in each quartile pay band

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## APPENDIX 1

### GENDER PAY GAP CALCULATION FOR YEAR END 31 MARCH 2017:

**MEAN PAY GAP = 1.18%**

**MEDIAN PAY GAP = 4.70%**

### PROPORTION OF MALES AND FEMALES BY QUARTILE:

**Quartile 1 Proportion of Males 26.10%**

**Quartile 1 Proportion of Females 73.90%**

**Quartile 2 Proportion of Males 22.91%**

**Quartile 2 Proportion of Females 77.09%**

**Quartile 3 Proportion of Males 41.60%**

**Quartile 3 Proportion of Females 58.40%**

**Quartile 4 Proportion of Males 26.10%**

**Quartile 4 Proportion of Females 73.90%**