

Item: 8.2

Policy and Resources Committee: 20 February 2018.

National Audit Report: Equal Pay in Scottish Councils.

Report by Executive Director of Corporate Services.

1. Purpose of Report

To present the national audit report, Equal pay in Scottish councils, prepared by Audit Scotland.

2. Recommendations

The Committee is invited to note:

2.1.

The national audit report, Equal Pay in Scottish Councils, issued in September 2017 by Audit Scotland, attached as Appendix 1 to this report.

2.2.

The key messages contained within the national audit report, a summary of which is detailed in section of this 5 report, together with the position of the Council regarding Equal Pay.

3. Policy Aspects

The noting points in this report support the Council value of Promoting Equality – to encourage services to provide equal opportunities for everyone.

4. Background

4.1.

The Equality Act 2010 replaced, inter alia, the Equal Pay Act of 1970. All employers, public and private sector, must comply with equal pay legislation.

4.2.

Scottish councils and trade unions negotiated the Scottish version of the Single Status Agreement in 1999. By harmonising employment terms and conditions, and grading all jobs under the Scottish Joint Council's agreement using the same job evaluation framework, this agreement sought to eliminate pay inequality.

4.3.

Orkney Islands Council implemented the Single Status agreement in April 2008, with gradings backdated to April 2007. Prior to this, in 2006 to 2007, the Council sought to settle potential equal pay claims from existing employees through voluntary settlement agreements.

4.4.

Attached as Appendix 1 to this report is the national audit report, Equal pay in Scottish councils, prepared by Audit Scotland for the Accounts Commission, and issued in September 2017. The audit report provides an insight into how the Single Status Agreement has been implemented across all 32 councils and details the costs of equal pay claims to Scottish Local Government.

4.5.

Equal pay and the gender pay gap are different but related issues. Equal pay focuses on discrimination where a woman is paid less than a man for doing the same or broadly similar work, work of equal value or work rated as equivalent. The gender pay gap calculates the difference between men and women's earnings and presents this as a percentage of men's earnings.

5. Key Messages

5.1.

The Accounts Commission has found that implementing the Agreement was a costly and complex process, and councils underestimated the challenges involved. The 2004 deadline for implementation was missed by 31 of the 32 local authorities and it took more than a decade - twice as long as planned - for all councils to carry this out. This was finally achieved in 2010.

5.2.

Councils faced difficulties in funding the changes, which slowed progress. Councils received no extra funding to apply new pay structures and some approaches taken by councils to ease the financial impact of implementation did not prioritise equality and were later found to be discriminatory.

5.3.

The Accounts Commission has also found that there was a lack of collective national leadership to overcome challenges and address equal pay issues in a timely way.

5.4.

Since 2004, around 70,000 equal pay claims have been lodged against councils. The cost of compensation agreements and settling claims, along with legal fees, amounts to approximately £750,000,000. Within these totals are claims made at Orkney Islands Council at a cost of £1,800,000.

5.5.

There are nearly 27,000 outstanding claims and new ones could still be made. The number of claims made and the spend on addressing these varies widely by local authority.

5.6.

The data on equal pay claim costs and live cases in the national audit report was accurate to September 2016, and it shows Orkney Islands Council was one of five councils who had no live claims. This remains the case now in February 2018.

5.7.

The Accounts Commission has recommended that councils and elected members ensure that their pay arrangements are fair and transparent. This includes assessing the impact of organisational changes that may affect arrangements in future, and publishing equal pay statements and policies.

6. Financial Implications

6.1.

The Council has spent in the region of £1,800,000 in settling potential equal pay claims by current and former employees since the national Single Status agreement was reached in 1999.

6.2.

The cost to the Council of settling potential equal pay claims, whilst significant, was one of the lowest in both absolute and relative terms.

7. Legal Aspects

In terms of Chapter 3 of the Equality Act 2010 every contract of employment has an implied sex equality clause which imposes a general obligation on every employer to ensure that no person who is employed on work that is equal, of equal value, or rated as equivalent, to that being undertaken by a colleague of the opposite sex (the comparator), shall be paid at a less favourable rate than the comparator.

8. Contact Officers

Gillian Morrison, Executive Director of Corporate Services, extension 2103, Email gillian.morrison@orkney.gov.uk.

Andrew Groundwater, Head of HR and Performance, extension 2253, Email andrew.groundwater@orkney.gov.uk.

9. Appendix

Appendix 1: Equal pay in Scottish councils, Audit Scotland (September 2017).