

Workforce Team Update

Purpose

For information and decision.

Summary

This report provides members with an update on recent activity in negotiations, pensions and workforce strategy.

In particular, the report highlights activity on the future work of the National Joint Council following last year's pay agreement, the activity of some employment agencies in procurement, an update on ministerial priorities from the Department of Communities and Local Government, the end of pension contracting out and efforts to coordinate national activity on the care workforce.

Recommendations

That the Resources Board:

- i. discuss and note the report; and
- ii. agree whether or not to issue a statement in the issues of good practice in procurement raised in paragraph 17.

Action

Officers will take forward any actions agreed by members.

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Workforce Team Update

Negotiations

Local Government Services

1. Despite having reached a pay agreement for the period to March 2016 last November, on 22 April UNISON unilaterally lodged an additional pay claim for 1 April 2015. The claim was immediately and unambiguously rejected by the National Employers who expressed concern that the claim could threaten the credibility and ongoing viability of the national negotiating machinery.
2. On 3 June the full Trade Union Side tabled their pay claim for 2016/17. The headline claim is for:
 - 2.1. Deletion of NJC and all local pay points which fall below the level of the UK Living Wage (and deletion of GLPC pay points below London Living Wage) and a flat rate increase of £1 per hour on all other pay points;
 - 2.2. Retention and protection of Green Book Part 2 terms and conditions; and
 - 2.3. Fair treatment for school support staff through a joint review of term time working.
3. Councils will be consulted in the usual way during September. Members should contact their Regional Employer Organisations for details of their local pay briefing. Members are also asked to encourage their Leaders and Chief Executives to attend these events.
4. No pay claims for 2016/17 have yet been received in respect of local authority Craftworkers, Chief Executives and Chief Officers.

Future work of the National Joint Council

5. To support the taking forward of the joint agreement (made as part of last year's pay settlement) regarding the future work of the NJC a joint seminar was held in May. It was attended by national and lay representatives of the unions, LGA officers, regional employers, elected members and officials from DCLG.
6. It was agreed that, while pay negotiations will remain a key task for the NJC, it is also important for the NJC to address wider issues. The cycle of claim, rejection, shadowing-boxing, dispute and finally a settlement forms a difficult backdrop for this to happen, as well being very time-consuming.
7. There was a wide level of agreement that it is worthwhile for the NJC to attempt to maintain and develop its relevance through some practical projects. The NJC needs to find ways to increase its general profile, in a sense by being more of a brand. This may involve more joint statements and greater general use of NJC badging.
8. It was suggested that the Joint Secretaries should explore the idea of developing a broad partnership forum which would be distinct from the NJC itself. The NJC would retain the

remit for bargaining and agreements but could conceivably be a sub-committee of the proposed partnership forum. The forum could include representatives of the wider group of employers who use NJC terms and conditions as well as other suitable groups.

9. It was agreed that whatever mechanisms for discussion are set up, one important area of joint concern to work on is the process and consequences of increasing numbers of transferring staff as public sector reorganisation continues. Consistent national frameworks can make this process much smoother rather than having to negotiate things afresh each time.

Schoolteachers

10. The outcome of the consultation on the School Teachers' Review Body's report on teachers' pay for 2015/16 has been delayed, whilst Ministers consider their priorities. In the meantime the LGA continues to work with DfE, teacher unions, local authorities and others to influence teachers' pay reform, treading a path between most schools' desire for consistency and stability on the one hand and a Government push for deregulation and innovative practices on the other.

Youth and Community Workers

11. The National Employers will be holding a series of regional consultation sessions in September. The focus of these sessions will be to seek the views and evidence of local authorities and the voluntary sector on how the service is delivered at present and the work-life balance of employees. This follows representations made to the Employers by the Staff Side which has raised concerns about the current workload arrangements. The National Employers also want to open up dialogue with local authorities on whether there is continued support for separate national bargaining arrangements for youth and community workers, as we are aware that increasingly authorities have assimilated youth and community workers onto their single status pay structures.

Fire Service

12. Under the auspices of the National Joint Council for Fire and Rescue Services, a number of joint work streams are currently in operation looking at a wide range of issues including medical response (including co-responding), environmental challenges, multi-agency response inspection and enforcement and youth and wider social engagement in the context of potential broadening of the role of firefighter.
13. The first phase of this work has drawn to a close. The detailed work and progress was considered by members of the NJC when it met in June. It was agreed that the work was on track and should therefore move into the next phase to consider which aspects should be taken forward at national level and how
14. Agreement has been reached on a 1% pay award for employees covered by this NJC. The award will apply from July 2015
15. Agreement has also been reached on a 1% pay award for senior uniformed managers. This group is covered by the NJC for Brigade Managers. The settlement date for this group is January and the award will apply from January 2015.

Procurement: Employment agencies and use of ‘umbrella companies

16. In some cases employment agencies providing workers and services to local authorities have been found to be engaging the workers through ‘umbrella companies’ in order to avoid paying employer NICs and to reduce the cost of workers’ rights such as pensions, holiday and sick pay. Such practices are according to HMRC technically within the law provided the umbrella company is properly constructed and workers get at least the minimum wage. However, there are concerns that this practice leads to unfair discrepancies in the treatment of workers. A statement urging public bodies to avoid procuring services from companies who operate in this way has been made by the Welsh Government as part of their Procurement Advice Note.
17. Members are asked to consider the extent to which they think it is a reputational issue for authorities to be seen to be working with suppliers who treat workers in this way, and whether the LGA should issue a policy statement encouraging authorities to ensure that their procurement practices seek to prevent such discrepancies.

Update on Communities and Local Government Department (CLG) Activity

18. Workforce team and CLG officers met recently for a post-election briefing on ministerial priorities. Further engagement will be required on all the issues highlighted and briefings will be provided to members as necessary. The issues highlighted were:

National Minimum Wage (NMW)

19. The Conservative manifesto pledged to raise the NMW to £8 per hour by 2020. By October of 2015, there will be a 36p cushion between NMW (£6.70)¹ and the new lowest scale point of the Local Government scale (£7.06). However, assuming pay increases of 1% in each year to 2020, which feels realistic, there will be a notional 58p deficit by that stage. The National Employers will need to work with councils to plan how to comply with legislation and also retain some cushion if possible.

Strike ballot/strike thresholds legislation

20. The Government is moving rapidly to introduce strike ballot and threshold requirements across the economy with an additional threshold in “essential public services”. The LGA has noted that although the primary motivation is to save the public from risk and inconvenience, the legislation should be framed in a way that encourages positive industrial dialogue. It would appear from the briefing that one of the risk factors is that the definition of essential public services will be based on the services themselves rather than on specified bargaining groups with common terms and conditions. In Local Government this could mean questions over which staff are covered by “education” as a service definition for example. There may then be disputes and potential litigation over whether or not the required threshold has been met because of fuzzy definitions of the relevant workforce. The LGA called for careful consultation over the detail immediately after the election and the team will work with officials as necessary.

Fluent English-speaking requirement for all public-facing employees

21. The basic idea that any staff in public-facing roles should speak fluent English is very reasonable; issues emerge over the detail of deciding which groups of staff should be covered and also how to accommodate basic employment rights. It would seem preferable if the requirement was to be couched as a general duty with individual organisations working out how best to apply it in their circumstances and when it might

¹ A further increase in the NMW is likely to be announced shortly which could reduce this cushion significantly

become unavoidable to sack someone. There are also potential cost issues which could fall into the new burdens category if employers are required to organise examinations and remedial training.

£95,000 cap on “exit” payments in the public sector

22. The Government is moving rapidly to put a cap of £95,000 on public sector “exit” payments by 2016. There are major areas of detail that need to be worked out, such as what is counted as an exit payment which hopefully will not include pension fund adjustments. The workforce team will work with regional colleagues to assess the situation in individual councils so that we are able to focus suggestions effectively in consultation. It is important to be on the front foot on this issue and to make the point that councils are well ahead of the rest of the public sector in tightening up redundancy costs. We must also be aware of the risk of a spike in senior managers leaving before the new rules come into force.

Review of the Redundancy Payments Modification Order (RPMO)

23. Members will be aware that in the context firstly of the new public health system and secondly the wider integration of health and care services, the inability to offer full continuity of service for staff moving between the NHS and local government is becoming a major barrier to recruitment of skilled staff. As a result, the LGA has had discussions with the Cabinet Office as well as Public Health England and others about regulatory change to the RPMO which gives listed organisations a “family” relationship with councils over continuity of service for redundancy purposes.
24. However CLG officials indicated that counter to our ideas, there has been some consideration of tightening the rules around which organisations can be covered by the RPMO with concerns apparently expressed about leisure trusts etc. The LGA made it clear that any such moves would cause considerable concern and reiterated views about the relationship with the NHS. It may well be the case that the RPMO which is now around thirty years old does need some tidying up and refreshing but this must be done in a way that facilitates rather than hinders major restructuring of public services.

Pensions

LGPS and new service delivery models

25. The pensions team have been working alongside other parts of Workforce to assist councils in designing new models of service delivery taking into account the potential impact on LGPS costs.
26. Where employees transferred to new arrangements have limited or no access to the LGPS these potential impacts include:
- 26.1. Increased future service costs for the remaining LGPS membership of the council as the age profile of those members increases.
 - 26.2. Significant percentage increases in deficit contributions due to a smaller payroll
 - 26.3. Increased cash payments to or in some cases full settlement of deficits due to shorter recovery periods and 'crystallisation' regulations.

27. Councils are being urged to contact their LGPS fund to ensure the financial impact of changing LGPS membership due to new models are service delivery is fully costed and included in the business case prior to consideration by elected members.
28. To support councils the pensions team led a session at the LGA's Conference on HR implications of service delivery models earlier this year and have published a 'Pensions guide for councils moving to a new model of service delivery'.

Ending of contracting out

29. Following the general election the pensions team have re-opened talks with HM Treasury regarding the loss of 3.4% NI rebate from April 2016 as a result of the ending of contracting out. The impact on LGPS employers is estimated at some **£795m** per annum. Employees in the LGPS will also lose their rebate of 1.2%.
30. The previous Chief Secretary to the Treasury gave the LGA an undertaking to revisit our request that all or some of this money be recycled to scheme employers as part of the 2016 financial settlement. In the meantime LGA officers have worked with those at DCLG to refine an effective distribution methodology should any monies be forthcoming.
31. Initial talks with HMT officials have not been encouraging and the indications are that councils will have to shoulder the full cost of the increase in NI with no offsetting by any additional funding from HMT.
32. Linked to the ending of contracting out is the requirement for LGPS funds to reconcile their 5 million member records with those of HMRC. This exercise is estimated to cost around **£100m** and may result in significant alterations to pensions going forward and the discovery of considerable over/under payments. Subject to legal advice currently being taken by HMT LGPS funds may also have to cover additional pension increases estimated at **£200m** per annum. LGA officers are participating in cross departmental discussions with the objective of limiting the financial impact on pension schemes.

Local Government Pension Scheme: Deficits

33. The LGPS Scheme Advisory Board (on which the LGA provides the majority of employer representatives) at the request of the minister is developing options to deal with the levels of deficits in LGPS funds in the lead up to the 2016 valuation of those funds. A full report on these options will be brought to the next meeting of Resources Board.

Strategy

Social Work

34. The Workforce team, together with the PPMA and other Social Work stakeholders, is planning a Return to Social Work campaign, to encourage people who have left the profession to return to practice. This will be launched after September, with the aim of increasing the supply of experienced social workers into councils.

Flexible Working

35. Following the recent announcement that 14.1 million people would like to work more flexibly, the LGA and Timewise are looking to seek expressions of interest from councils who would like to explore how flexible working brings solutions to the challenges facing local government.
36. The Timewise council initiative involves developing improvement plans around the following five areas: Leadership; Workforce; Residents; Local Employers; Market shaping; and Commissioning.

The Care Workforce

37. The on-going challenges over the provision of care services are an endemic feature of life at the moment. Funding is a key issue of course but it has become clear over recent months that a focus on workforce development is a growing priority for Government and others. The problems are considerable because services are largely commissioned and the workforce of around 1.45 million is spread across many thousands of employers, many of which are quite small. The growth of personal care commissioning further complicates matters.
38. There is a strong sense that the LGA has a big role to play in bringing together key national organisations to help facilitate change. Councils need to be at the hub of workforce development for networks of providers and consistent approaches are needed to skills development as well as a dialogue about difficult issues such as pay.
39. Members will be aware of recent discussions with Skills for Care about a beneficial alignment of work programmes. The latest element of these discussions involves the drafting of a paper providing a shared understanding of priority workforce issues which also involves the Association of Directors of Adult Social Services (ADASS). This paper will be further reported to members in due course. The opportunity is being taken to ensure that the work being done generally on the adult social care workforce aligns with specific support programmes around the Better Care Fund, implementation of the Health and Social Care Act, integration pioneers and vanguard sites etc. Many elements of the generic support programme run by the workforce team are applicable in these contexts and one important task is to map and understand all these support offers and make sure they are complimentary.

Senior Management Casework

40. Post- election there has been an increase in the level of senior management casework. The strategy team in partnership with the relevant principal adviser is currently advising five local authorities on complex and highly sensitive employee relations cases. These include a collective grievance lodged against all of the senior managers at a district Council and the negotiated departures of the chief executive from a London Borough and unitary Council in the South East of England.