

EAST RENFREWSHIRE COUNCIL
AUDIT AND SCRUTINY COMMITTEE

24 September 2020

Report by Clerk

NATIONAL EXTERNAL AUDIT REPORT – EQUAL PAY IN COUNCILS IMPACT REPORT

PURPOSE OF REPORT

1. To provide information on the Accounts Commission report *Equal Pay in Councils Impact Report*.

RECOMMENDATION

2. It is recommended that the Committee considers the report.

BACKGROUND

3. A copy of the Accounts Commission report [Equal Pay in Councils Impact Report](#), published in June 2020, has already been circulated to all Audit and Scrutiny Committee Members. Under the Committee's specialisation arrangements, the Members leading the review of this particular report are Councillor McLean and Councillor Swift. The Head of HR and Corporate Services has provided comments on the report and a copy of those comments is attached (see Appendix A).

RECOMMENDATION

4. It is recommended that the Committee considers the report.

Local Government Access to Information Act 1985

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Background Papers:-

1. Accounts Commission Report – *Equal Pay in Councils Impact Report*.

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AUDIT AND SCRUTINY COMMITTEE24 SEPTEMBER 2020ACCOUNTS COMMISSION – EQUAL PAY IN COUNCILSReport by Deputy Chief Executive**PURPOSE OF REPORT**

1. The purpose of this report is to advise the Audit and Scrutiny Committee on how the Council is placed against the national picture as outlined in the Accounts Commission report “Equal Pay in Councils Impact Report”.

RECOMMENDATIONS

2. The Audit and Scrutiny Committee is asked to note the contents of the Accounts Commission report and the position as it relates to East Renfrewshire.

BACKGROUND

3. In June 2020 Accounts Commission published “Equal pay in councils Impact report” which summarised the impact made by the Accounts Commission’s performance audit Equal Pay in Councils published on 7 September 2017.

4. The audit examined equal pay in government, focusing on five themes:

- how councils implemented the Single Status Agreement (SSA).
- how much councils had spent settling equal pay claims
- how councils demonstrated that they were dealing effectively with equal pay claims and minimising future risks
- how effective the governance and oversight arrangements of the SSA were
- what lessons could be learned for the future.

5. The audit did not investigate or consider councils’ job evaluation systems, individual employee terms and conditions, individual claims or past litigation.

EQUAL PAY

6. The national SSA between the Scottish Local Government employers and the trade unions was reached on 1 July 1999. Prior to this agreement there was widespread recognition between local authority employers and trade unions that pay inequalities based on gender existed within local government pay schemes. These pay inequalities were particularly evident within the Manual Worker scheme where historically predominantly male occupational groups received bonus payments while predominantly female occupational groups did not. The national SSA provided for the introduction of a fair and non-discriminatory pay and grading structure based on the outcomes of a jointly developed job evaluation scheme to remove any pay inequalities based on gender.

7. The audit found that implementing the SSA was a complex process that required all councils to undertake a large-scale job evaluation process and that the challenges had been underestimated with overall implementation taking twice as long as originally planned. The

report concludes that this was due to the lack of collective national leadership and also as a result of no additional funding being available to implement the new pay and grading structures.

8. The single status agreement consisted of two separate aspects (i) new pay and grading model and (ii) proposals on terms and conditions of service. The SSA brought significant additional costs and some councils and trade unions found themselves balancing the risk of industrial unrest with affordability. In 2007 East Renfrewshire Council was only the third authority in Scotland to have achieved a collective agreement on both the pay and grading scheme and revised terms and conditions with implementation effective from 1 July 2006.

9. All councils received equal pay claims. The audit found that between 2004 and 2016 around 70,000 equal pay claims had been lodged against councils with 27,000 claims outstanding at the time of completion of the audit. The number of claims made against councils varied widely, some of this could be explained by the activity of 'no-win no-fee' lawyers in certain areas.

10. In 2017 the Audit Commission had reported the cost of compensation agreements and settling claims, along with legal fees, amounted to around £750 million. By the end of 2018/19 that figure had increased to £1.314 billion, 90% of the additional increase as a result of the claims settled by Glasgow City Council.

11. Equal pay claims that councils deal with need to be considered on their own merits and the specific circumstances need to be taken into account when determining whether and how to settle on the basis of compensation (not pensionable) or back pay (pensionable). The majority of councils settled on a compensation basis.

SETTLING EQUAL PAY CLAIMS

12. East Renfrewshire began to receive equal Pay Claims from 2005. These claims were from a mixture of Trade Unions and No Fee Lawyers. The claims that were received were categorised into 3 groups:

- 1st wave claims based on historical pay grades which included the payment of bonus to predominately male groups prior to the implementation of Single Status and job evaluated pay scales.
- Residual claims based on the period between implementation of the new grades May 2007 and the date it was backdated to 1 July 2006
- 2nd wave claims. These claims started being raised in 2010 and were based on the 3 year pay protection amount paid to employees who were losing money as a result of the new pay model. This was deemed to have prolonged the inequality.

13. On 16 February 2006 the Cabinet approved a report seeking approximately £3.337m for 1st wave claims to fund compromise agreements for 663 then current employees and 119 qualifying former employees. Delegated authority was given to the Deputy Chief Executive by the council in March 2008 to deal with the current and future Equal Pay claims.

14. The council settled the majority of 1st wave claims in 2006. A provision was made in the Annual Accounts and from 2006 until December 2014 the council negotiated and settled

all remaining 1st wave and residual claims. This settled all 1,238 first wave claims at a total of more than £7.6 million.

15. A decision was taken in agreement with our Legal advisors and the Tribunal to settle all 1st wave claims prior to negotiating on 2nd wave claims. The council reviewed its level of provision to ensure that sufficient funds were available to deal with 460 second wave claims that had been lodged by August 2011. The council settled 429 2nd wave claims at a cost of £477,125. All other claims were dismissed as either not being valid, duplicate claims or not being followed up by the claimant.

16. All employee claims were represented by the Trade Unions or No Fee Lawyers. The settlements proposed were all on a compensation basis. All individuals had to seek and receive independent legal advice on the amount offered and the basis on which the offer was made before signing the agreement.

17. At the time of the data being collected for the previous Accounts Commission report which was published in September 2017 East Renfrewshire had 6 outstanding claims. These claims were resolved in March 2017 and the council has now dealt with all outstanding claims.

18. The Council continues to ensure that our pay system delivers equal pay and we continue to utilise the Scottish Joint Council third edition job evaluation guidance as organisational changes are implemented.

GENDER PAY GAP

19. The Audit Commission report also considered the gender pay gap in the report. Gender pay gap is not the same as unequal pay. Unequal pay is giving women less than men for equal work whereas gender pay gap is the difference between men's and women's average hourly pay within an organisation. Unequal pay can be one of the range of factors underlying the gender pay gap, but it is not the only one. Other factors that can contribute to the gender pay gap can be occupational segregation which is where some roles tend to be undertaken by males rather than females, full-time workers sometimes qualifying for extra payments, women being underrepresented in senior management and leadership roles, women taking on the majority of care duties and inflexible working practices.

20. The gender pay gap figure is expressed as a percentage and where this is positive it indicates that women are paid less than men. In Scotland, the median or mid-point pay gap between all male and female employees (full-time and part-time workers in all sectors of the economy) fell from 16.1% in 2017 to 14.3% in 2019. This is below the UK-wide estimated gap of 17.3% in 2019.

21. All Scottish public bodies have been required to publish information on their gender pay gap every two years as part of the Public Sector Equality Duty (PSED) since 2013. In addition local authorities have reported their performance through the Local Government Benchmarking Framework (LGBF) for the past four years. The LGBF measurements are not directly comparable as this measurement uses an average difference rather than the median used in the PSED data.

22. The report found that rural councils tend to report wider gender pay gaps through the LGBF. In 2017 the Scottish Government commissioned gender pay gap research by Scotland's Rural College which found that the gender pay gap had decreased over the past decade in rural, island and remote parts of the country.

23. The Scottish Government published A Fairer Scotland for Women: Gender Pay Gap Action Plan in March 2019. This set out a list of actions for the public, private and third sector to address the various drivers of the gender pay gap. This includes tackling labour market inequalities faced by women particularly among disabled women, minority ethnic women, women from poorer socio-economic backgrounds and women with caring responsibilities.

24. The report highlighted that as well as ensuring the council is taking all the necessary steps to comply with equalities legislation it was important that Elected Members also received monitoring information, where appropriate, from integration authorities and arm's-length external organisations (ALEOS) that deliver services in their behalf.

25. The gender pay gap in East Renfrewshire Council over the last 3 years has improved 8.8%, 7.5% and 6.3% for 2017/18, 2018/19 and 2019/20 respectively. The council remained in the fourth quartile of the LGBF gender pay gap measure for 2018/19 however the figures have yet to be issued for 2019/20. There are a number of factors which contribute to this including the level of occupational segregation especially in the lower grades and the fact we do not outsource our high volume lower graded workers such as homecare, catering and cleaning roles which are predominantly posts held by females.

26. Occupational movement will be reviewed as part of the Council's gender pay gap analysis to understand if, when compared with the private sector, it is more difficult for staff to achieve job progression due to factors such as reduced management positions or career paths.

27. We are committed to equalities at the Council and this is reflected in our positive rate of high female salary earners with 59.3% of the highest paid 5% employees who are women. Seventy five percent of the council's employees are females and there continues to be a higher proportion of female to male employees in our lower grades.

28. The council supports the reduction of the gender pay gap and steps are being taken which should have a positive impact on future gender pay gap reporting. We will also undertake more analysis of the gender pay gap to review, not just hourly rates of pay, but also include allowances and overtime payments to understand any positive or negative impacts on gender pay gap.

29. The Council has taken a number of steps to combat the effects of occupational segregation. This includes providing flexibility in care and work responsibilities, leave provisions for carers, parental leave and promoting flexible working options for any role in local government. We are also actively job evaluating positions where material changes to job tasks have been identified and providing opportunities to employees to gain job related qualifications which link to employment and grade progression, examples of this are provided below.

30. A large proportion of Homecare roles were regraded in April 2020 in line with the council job evaluation scheme which has resulted in their grades increasing from 3 to 4, and again from grade 4 to 5 based on the achievement of a SVQ2 qualification funded by the HSCP. This increase in grade will subsequently impact salary. In addition consultation of consolidation of the Scottish Local Government Living Wage is ongoing due for implementation March 2021. The proposed model would see a positive impact on the gender pay gap.

31. Steps have also been taken in the Early Years area to create opportunities for people to join the workforce who may not have had the opportunity to gain formal qualifications due to caring responsibilities or financial means. Following guidance from a Scottish

Government linked organisation that works with ethnic minorities we have removed the need for formal qualifications for entry level early years Play Worker posts. Successful candidates without qualifications are supported to achieve a specially-commissioned and funded SVQ qualification on the job with Clyde College, delivered in the community at Barrhead High.

FINANCE AND EFFICIENCY

32. The total costs of settling all equal pay claims in the Council totalled £8.1 million. The provision for this was reviewed and monitored as part of the council's annual budget setting process.

33. Negotiations for consolidation of the Scottish Local Government Living Wage are ongoing and the council is supportive of this process. East Renfrewshire Council pays the Scottish Local Government Living Wage as a non-consolidated supplement, and we have shared a proposal with the trade unions. In addition an independent consultancy undertook a full equality impact assessment of the proposed model covering gender and other protected characteristics to ensure it is fair and equitable. Trade Union consultation is ongoing with the view to consolidate by March 2021.

CONCLUSIONS

34. The Council is well positioned against the national report and has no outstanding equal pay claims.

35. The Council supports the principles of equal pay and continues to maintain all jobs in line with the Scottish Joint Council third edition job evaluation scheme.

36. The Council continues to review the gender pay gap and seeks opportunities to improve by appropriately impact assessing any proposed changes to terms and conditions.

RECOMMENDATIONS

37. The Audit and Scrutiny Committee is asked to note the contents of the Accounts Commission report and the position as it relates to East Renfrewshire.

Caroline Innes
Deputy Chief Executive

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September 2020

BACKGROUND PAPERS

Accounts Commission Equal Pay in Councils Impact Report, June 2020
Annual Survey of Hours and Earnings, Office for National Statistics (ONS)
The Gender Pay Gap Briefing Paper, House of Commons Library, March 2020

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