

THE MORAY COUNCIL
EQUAL PAY AUDIT REPORT (3)

April 2015

CONTENTS

- 1. Introduction**
- 2. What is an Equal Pay Audit?**
- 3. Background**
- 4. Review of the 2013 Audit outcomes**
- 5. Scope of the audit**
- 6. Data collection**
- 7. Findings**
- 8. Actions required**

1. Introduction

The Moray Council supports the principle of equal pay for work of equal value.

As part of this commitment the organisation has undertaken a series of Equal Pay Audits with a view to establishing the current position, progress made and areas for improvement. The latest report builds upon the initial Equal Pay Audit undertaken by the organisation in November 2010 and the follow up in April 2013.

Although good practice suggests, and legislation will require in future, conducting pay audits across the full range of “protected” characteristics, this audit has focused entirely upon gender. Unfortunately, the limited availability of personal data under the other protected characteristics prohibits a broader review at this stage.

2. What is an Equal Pay Audit?

An equal pay audit is regarded as the most effective means of establishing whether an organisation is in fact providing equal pay. The five step model detailed below is the recommended approach by the EHRC in undertaking an audit, which, in principle, is aimed at comparing the pay of men and women undertaking equal work and identifying any areas of pay inequality. An audit should also include a list of actions to address any areas of inequality.

The EHRC within their Code of Practice set out a five step equal pay audit model based on the following key steps :-

1. Decide the scope of the audit and identify the data required.
2. Identify where men and women are undertaking equal work.
3. Collect and compare pay data to identify any significant pay gaps.
4. Establish the cause of any significant pay gaps and decide whether these are free from discrimination.
5. Develop an equal pay action plan or review and monitor situation.

This audit has been undertaken based upon these five key principles.

3. Background

3.1. Legislative position and context

The attainment of equal pay is firmly part of the government agenda and a series of initiatives have been introduced in order to address the gender pay gap in the UK workforce.

The Equal Pay Act 1970 provided the initial legislative mechanism to ensure equal pay between men and women in the same employment where they undertake: -

- Like work, i.e. work of the same or a broadly similar nature.
- Work rated as equivalent i.e. jobs which a job evaluation study has shown to be of equal value.
- Work of equal value i.e. jobs which are of equal value under headings such as skill, effort and decision making.

The Equality Act 2010 consolidates and replaces previous legislation in this area, including the Equal Pay Act 1970 and the Sex Discrimination Act 1975. The Act covers discrimination due to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These categories are commonly referred to as protected characteristics. The Act also established the Public Sector Equality Duty which replaces the previous three equality duties for race, disability and gender and provides protection under the other protected characteristics listed above. The Act places a number of responsibilities and requirements upon Local Authorities both as service providers and as employers.

One of the key requirements under the Public Sector Equality Duties is to publish an equal pay statement no later than 30 April 2013 and every four years thereafter. A copy of the Council's Equal Pay Statement, including the latest updates since its previous review, is attached as **Appendix 1** to this document. Local Authorities are also required to publish information on occupational segregation within the workforce initially based on gender (further reviews will require to also include race and disability).

Occupational segregation can be 'horizontal', where for example women and men are clustered into specific job types, or 'vertical', where women in particular are clustered into lower positions within organisations and are largely absent from senior management and executive positions.

Although there is no legal requirement to carry out equal pay audits this is the mechanism that is recommended by the Equality and Human Rights Commission (EHRC) as the most effective way to identify pay gaps between the genders.

The EHRC have the authority to enforce the new Act and do have the power to investigate organisations that they regard as having a poor record on equal pay. The main role of the EHRC, however, is to provide information, support and encouragement to organisations to assist them in meeting their responsibilities under the Act. As part of this, the EHRC have produced a Code of Practice on Equal Pay which sets out the duties and responsibilities of organisations in this regard.

Generally it is considered that a difference or "gap" of 5% or more between male and female pay as significant and requiring further consideration.

3.2. Scottish Local Government context

The Scottish Joint Council (SJC) reached an agreement in 1999 to unify the terms and conditions of service, including pay, for Manual Workers and APT&C staff. Local Authorities were tasked with implementing local arrangements based on the results of a job evaluation exercise, with employees assimilating to the new SJC spinal column of pay points in accordance with locally agreed pay structures.

3.3. Local context

The Moray Council were the first Council in Scotland to implement a Single Status agreement covering pay and conditions of service, which came into effect on the 1 December 2006. Fundamental to this was the introduction of a new pay and grading structure and set of terms and conditions of service for employees covered by SJC arrangements. The nationally agreed job evaluation system was used to grade all posts covered by the agreement. These arrangements aimed to address pay inequalities in previous pay structures and this required significant financial investment which was carefully managed by the Authority. As a result, the new arrangements were introduced incrementally and each individual's placing on the new pay grade was determined by their pre-Single Status hourly rate. In summary, those who were graded at a higher level were placed on the first point of the new salary grade. Those remaining broadly the same were placed on the closest available salary point ensuring no reduction in hourly rate.

As part of the agreement, the Council implemented four year pay protection arrangements for those individuals whose jobs were assessed at a lower level than their salary placing at that point. The pay protection period for this relatively small group of staff ended on the 1 December 2010 at which point those remaining under these arrangements were assimilated to the maximum point of the actual grade for the post. The current arrangement for those whose pay grade is reduced as a result of redeployment or job re-design is to afford three months full pay protection plus three months half of the difference in salary at the point of change.

Prior to the implementation of Single Status, an Equality Impact Assessment (EIA) was undertaken of the proposed pay and grading structure. The independent HR Consultant, who undertook this review, endorsed the pay and grading structure as both technically robust and non-discriminatory.

Subsequent to the implementation of Single Status, the organisation has also successfully migrated the group of staff covered by arrangements for Craft Operatives onto the new pay and grading structure with effect from August 2009. Terms and conditions of service for this group of staff were also migrated onto SJC arrangements at this point.

The salary grades of new jobs across the SJC workforce and grade review claims are dealt with in accordance with locally agreed arrangements using the nationally developed job evaluation toolkit for this purpose.

Whilst pay scales for teachers and associated professionals are agreed nationally, the pay of promoted teaching staff is determined using the national Job Sizing toolkit. The “sizing” of these posts is affected by local determination of the specific remits of individual posts. Other terms and conditions of service for teachers and associated professionals are generally agreed at a national level.

The terms and conditions of service, including pay scales, for Chief Officers are determined at a national level. Whilst the Chief Executive’s salary for each Authority is set nationally, individual Authorities determine the appropriate salary points from the national pay scale that will apply locally to Chief Officers.

The Council produced and published an initial Equal Pay Statement in June 2008. This statement included a number of points for action including a commitment to review progress every three years. **Appendix 1** provides a summary of progress against each of the actions since the 2013 review.

The Council has previously undertaken a survey which has sought to establish whether there are barriers to women wishing to progress to senior roles within the organisation. As a consequence of this review an action plan was developed and a network group established.

The implementation of Single Status across Scotland provided the catalyst for equal pay claims against local authorities across Scotland. A number were lodged against the Moray Council. However, the Council has now concluded all outstanding equal pay claims.

As part of the commitment to Equal Pay and in recognition of the impact of traditional occupational segregation, the Council implemented the nationally recognised Living Wage with effect from April 2012. Each subsequent annual increase in the Living Wage rate has also been implemented.

4. Review of the 2010/13 Audit outcomes

The 2010 Audit concluded that the organisation would undertake the actions listed under the following bullet points. A brief update on progress under each of these points is provided:-

- Review current pay protection arrangements for SJC staff to ensure approach is consistent with equalities requirements.
2013 update - The four year pay protection arrangements as part of the Single Status Agreement ended on the 1st December 2010 and all those remaining in receipt were assimilated to the appropriate salary grade for their post at that point. The current pay protection arrangements (3 months full pay and 3 months half pay) are not deemed to be in contradiction with the principles of equal pay and provide a limited period of transition to the new salary grade for those who move to a lower graded post for whatever reason.
2015 update – the policy of 3 months full and 3 months “half the difference” remains in force.
- Continue to adopt a robust and consistent approach to the grading of new posts and the consideration of grade reviews.
2013 update - The Council continues to adopt a robust and systematic approach to the grading of new posts and grade reviews using the Job Evaluation toolkit provided as part of the Single Status Agreement.
2015 update – The Council has recently participated in a pilot testing exercise looking at some changes to the national Job Evaluation Scheme which are aimed at ensuring that the scheme remains compliant with the principles of equal pay and the requirements of the Equal Pay Act.
- Review terms and conditions of service for SJC employees to ensure that current arrangements are consistent with equalities requirements.
2013 update - The Council continues to review terms and conditions of service for SJC employees. This process has led to changes in payments for travel expenses including current proposals to assimilate all staff including teaching and associated professionals onto a common scheme.
2015 update – There are no significant developments scheduled in this regard at this stage.
- It is proposed that a review of overtime working is conducted as part of the ongoing budget review process including consideration of flexible working options. It is likely as a result of this that the amount of overtime worked will be reduced. This will subsequently reduce the possibility of gender inequality in this respect.
2013 update - Whilst this review was concluded the nature of many Council services made it difficult to radically change overtime arrangements although stricter controls and monitoring are now in place. Significant progress has been made in relation to flexible working with employees across a range of services now afforded flexible working arrangements which have benefits for both services and individual staff members.
2015 update – No further update to provide.

- Consider the broadening of the scope of any future audit to include teaching and other associated professional staff.
2013 update - This audit does include some consideration of the gender profile of teaching and other associated professional staffing.
2015 update – As above.
- Consider a review of the diversity monitoring arrangements of the workforce with a view to increasing the levels of data capture.
2013 update - Whilst work has been done to identify measures which can assist in the process of data capture there remains significant gaps in information.
2015 update – This remains a challenge which requires further consideration.

In addition to the above, over the last couple of years the Council has introduced a centralised shortleeting process whereby the majority of vacancies are shortleeted for by specialist staff within Human Resources. This has added efficiency to the recruitment process and restricts further the scope for discriminatory practices in employment.

During the last year we have seen the very high profile tribunal cases in relation to what constitutes a week's pay for the purposes of holiday pay. In general terms, it has been decided that an employee's holiday pay should reflect their normal remuneration. Through Cosla, national guidance has been developed which provides direction on how Council's should implement the outcome of the tribunal rulings. The Moray Council have implemented a revised method of calculating the holiday pay element which reflects this guidance.

5. Scope of the audit

A full Equal Pay Audit would require an organisation to consider the issue of pay equality for all "protected" groups. EHRC advise that in order to examine the relative pay of a protected group it is important that the organisation has information for all, or most, of the staff covered by the review. Given the limitations of information for certain "protected groups" such as disability, religion or belief, and sexual orientation, this audit only considers the respective pay of men and women within the organisation.

For the purpose of this audit, information has been collected and analysed for all employees covered by SJC, Craft and teaching staff (**Appendices 8 and 9**)

6. Data collection

The Moray Council has a total of 4648 job holders across the SJC and Craft pay groups (including almost relief staff). In total, 1160 (25%) of these jobs are held by males and 3488 (75%) by females. The gender composition of the workforce is almost identical to the figures from the 2013 audit where 26.5% were male and 73.5% female.

The teaching workforce comprises of 1199 staff comprising of 247 males (20.6%) and 952 females (79.4%). This again includes a number of relief (supply) staff.

No personal data was investigated during the compilation of this information. These reports are based on information extracted from the HR/Payroll system at the start of April 2015.

The following reports have been produced for the purposes of this audit:-

- Salary Scales for SJC staff effective from 1st April 2014 (**Appendix 2**)
- All staff average hourly rates within each grade by gender (**Appendix 3**)
- Part-time and job share staff average hourly rate within each grade by gender (**Appendix 4**)
- All staff incremental placing within each grade by gender (**Appendix 5**)
- Part-time and job share staff incremental placing within each grade by Gender (**Appendix 6**)
- The percentage of staff in receipt of the main allowances by gender (**Appendix 7**)
- The split of staff by gender within the various pay scales for teaching staff (**Appendix 8**)
- Part-time and job share staff incremental placing within each grade by Gender for teaching staff (**Appendix 9**)

The data indicates the percentage value of any pay gaps within salary grades. This is shown as a -% if females are paid less than males.

The Council still operates two distinct normal working weeks of 36.25 and 37 hours for SJC staff. The normal working week for teaching staff is nationally agreed at 35 hours. The information is therefore also split on this basis as appropriate within the appendices.

7. Findings

The majority of longer serving employees have moved through the incremental scale of the respective salary grade to the top of the scale.

New appointees to Moray Council jobs are generally appointed on the first point of the salary scale for the respective position and progress through the salary grade on the basis of annual anniversary increments until the top of the scale is reached. The few exceptions to this are in circumstances where recruitment to a specific and essential post has proven challenging and a higher salary placing has been essential in order to attract and

appoint a suitably qualified and experienced individual. For example, during the last year it has been necessary to advertise and appoint new starters to craft positions such as Electrician and Plumber at the top of the salary scale. A number of recruitment campaigns for these positions have been unsuccessful and market intelligence informs us that our pay rates are not competitive. Despite advertising these positions at the top of the salary scale few applications are forthcoming but it has been possible to recruit to some of the vacancies. This policy is continually under review and will only remain in place for the period where such positions are demonstrably hard to fill.

The Council's current policy on pay protection for those redeployed to a lower graded post or facing a reduction in earnings due to a restructuring type exercise is to afford three months of full pay protection and an additional three months of 50% of the difference.

As indicated above, the Council implemented the nationally recognised Living Wage with effect from April 2012. The Council implemented the living wage through the introduction of a pay supplement for those paid below the living wage rate at that time of £7.20. No amendment was made to the actual pay and grading structure. The payment of the Living Wage as a minimum pay rate has been introduced across all Scottish Council's through the national pay bargaining process. The increase in Living Wage rates (£7.65 for 2014 and £7.85 for 2015) continues to outstrip the national pay award for those above the rate thus eroding the differential between supervisor and worker pay. The implications of this over time are potentially significant in terms of the integrity and effectiveness of the current pay and grading structure. In Moray, the effect of this to date has been to raise the rate of pay for over 500 employees to £7.65 per hour at this point with a further increase to £7.85 scheduled. Whilst these employees are engaged in a number of different roles the predominance has been in building cleaning, caretaking and school crossing patrol service.

From **Appendix 2** it can be seen that the percentage difference between the top and bottom of each of the 13 salary grades ranges from 7.5 % to 11%. However, **Appendices 3 and 4** indicate that the pay gap between the genders, based on average hourly rates within each of the salary grades, is 2.4% reduced from 4% in 2013. As such, no significant pay gaps within salary grades have been identified as part of this audit.

Taking the overall average hourly rate of pay for males and females across the SJC & Craft workforce, there is a 19.2% differential compared to 20.8% in 2013 with males averaging £12.03 and females averaging £10.09 per hour. If teaching staff are included the overall gap is 10.5%.

The Council has applied an analytical job evaluation scheme, which is agreed nationally, to assess the relative "worth" of all jobs across the SJC workforce. There is no evidence that the pay and grading structure contain any gender bias. Therefore, it is not considered that the dominance of females in certain grades is as a result of direct or indirect discriminatory practices but rather is due to gender typical job choices.

The information presented in **Appendix 4** highlights a gender split across the salary grade structure which is not representative of the workforce as a whole. It is likely that this is as a result of traditional particular gender predominance in certain part time occupations. For example, Grade 1 includes over 300 Cleaning posts which are predominantly occupied by females. Similarly, Grade 3 includes over 300 Home Carers who are almost without exception female staff. This pattern is not unique to the Moray Council and can be seen across local government employers. Given the rigour and scrutiny surrounding recruitment practices there is no evidence of any deliberate attempt to perpetuate these traditional gender job choices instigated by managers across the Council.

From the data gathered, summarised within **Appendix 7**, it is clear that there are differences in terms of the payment of allowances, particularly in areas which are predominantly staffed by either females or males. For instance a higher proportion of males are paid overtime rates (both time and a half and double time) than females. Many of these are employed in traditional “male” occupations such as Road worker, Craft trades, Refuse and Cleansing where the work tends to be full-time as opposed to the part-time nature of female dominated roles. It is understood that the needs of these services necessitate significant work, at times, beyond normal contractual hours and as such there is a clear business need to incentivise working hours beyond a full-time commitment. The predominance of female staff receiving enhanced hours payments for working out with “normal” hours reflects the increasing demands upon the Home Care service which provides care for the elderly in the evenings and at weekends. T

The data also identifies that many female workers in areas such as Home Care, Catering and Building Cleaning work additional hours beyond their contractual requirement but are afforded plain time for these hours. It should be noted that this results from a consistent Council wide policy where overtime rates are not applied until an individual has worked in excess of 37 hours in any given week. The payment of enhancements beyond 37 hours serves to induce employees to work beyond the natural maximum commitment in order to meet service requirements. It is often not economical to simply employ additional staff as demand is sometimes seasonal and often unpredictable. Therefore, on balance this approach is considered reasonable.

Salary scales for teachers and associated professionals are determined nationally. In relation to promoted teaching staff, the appropriate salary placing is determined using the national Job sizing toolkit. The toolkit considers a range of factors related to a school and the remit of a post in order to determine the appropriate salary placing. Significant work nationally has deemed that the toolkit is non-discriminatory.

Taking the overall average rate of pay for males and females in this category there is a 4.6% differential, with males averaging £22.78 and females averaging £21.78 per hour. This does not provide grounds for concern at this stage.

Given the financial constraints upon local authorities Ongoing reviews of service provision will look at all areas of Council activity and will invariably have a significant impact upon staffing levels and work practices. The Council is committed to undertaking Equality Impact Assessments on all savings proposals and this will in general terms include the impact upon staff.

8. Actions required

Areas that we will monitor and work to strengthen include: -

- Continue to adopt a robust and consistent approach to the grading of new posts and the consideration of grade reviews.
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- Monitor the impact of Living Wage increases on the pay and grading structure in order to ensure that pay differentials and career paths remain viable.
- Monitor and review terms and conditions of service for SJC employees periodically ensuring that any revisions introduced are consistent with equalities requirements.
- Broaden the scope of any future audit to include other protected characteristics.
- In light of the above, consider a robust review of the diversity monitoring arrangements of the workforce with a view to increasing the levels of data capture.
- Monitor and review the recruitment practices for teaching posts across Moray with due consideration to equalities as appropriate.

**Human Resources
April 2015**

THE MORAY COUNCIL EQUAL PAY STATEMENT UPDATE APRIL 2015

The Moray Council is committed to the principle of equal opportunities in employment and believes as part of that principle that male and female employees should receive equal pay for the same or broadly similar work, for work rated as equivalent and for work of equal value.

We recognise that a right to equal pay between males and females free of sex bias is enshrined within both European Community law and United Kingdom legislation.

We believe that, in eliminating sex bias in our pay system, we have sent and continue to send a positive message to our employees and the community in general. It makes good organisational sense to have a fair transparent pay system. Avoiding unfair discrimination improves morale and enhances efficiency.

The Council has worked in partnership with the recognised Trades Unions to this end and has implemented an equal pay compliant agreement on pay and conditions of service for Scottish Joint Council employees.

The Council has and will continue to:

- Identify and eliminate any unlawful practices that may impact on pay
- Take appropriate remedial action

The Council prepared an initial Equal Pay Statement in June 2008 which included a range of actions demonstrating the Council's commitment to equal pay. The statement included a commitment to review progress against these commitments every three years. An initial review was undertaken in 2011 with a summary of progress at that time against each of the criteria, provided in italics below. A further update on progress was undertaken in April 2013. The latest update is also provided below:-

- Develop and review employment policies ensuring equal pay compliance;-

The Council is using the established Equalities Impact Assessment (EIA) process for this purpose. During the course of the last twelve months a number of policies have been developed or reviewed including Health & Work; Grading Review, Higher Duty Allowance; and a raft of family friendly policies. A further review schedule has been put in place for the forthcoming year as detailed within the Personnel Services Service Plan.

2013 update - In addition to the above, a number of other policies have also been reviewed including Adoption Leave; Code of Conduct; Harassment; and Equality & Diversity. The latter policy also now encompasses issues of diversity as well as equality. In addition, the EIA process is now enshrined in the

corporate decision making process as evidenced by the importance attached to the EIA's undertaken as part of the budget setting process.

2015 update – This practice has been further enshrined in the policy review framework over the last two years.

- Develop a plan on longer term pay equality:-

A plan is currently in the early stages of development.

2013 update - As part of the commitment to Equal Pay and recognition of the impact of traditional occupational segregation the Council implemented the nationally recognised Living Wage with effect from April 2012.

2015 update – The Council has implemented the last two Living Wage increases and is committed to the principle of pay equality.

- Complete job evaluation appeals:-

All Job Evaluation Appeals were completed in December 2007. All appellants were advised of the outcome and amended salary grades implemented as appropriate in early 2008. The Moray Council is one of the first Councils in Scotland to complete this project.

2013 update - Locally developed pay protection arrangements ended with effect from 1 December 2012 the effect of which is that all Scottish Joint Council employees are now in receipt of the salary grade determined for their post.

2015 update – As above. The grade of new posts and grade reviews are determined using the national Job Evaluation scheme. The scheme is currently being reviewed nationally to ensure currency.

- Apply the nationally agreed job sizing arrangements for teaching staff:-

The Authority is continuing to apply the nationally agreed job sizing process as the need arises.

2013 update - This still applies albeit there have been some national revisions to the scheme.

2015 update – As above.

- Review the pay and conditions of service for craft operatives:-

Following significant consultation and agreement Craft Operatives are now paid on SJC pay scales.

- Respond to grievances and complaints to the Council on equal pay:-

The Council is dealing with any such grievances and claims through recognised procedures in this regard.

2013 update - Equal pay claims all but settled. The Council has been working hard to conclude any outstanding equal pay claims with only a handful remaining.

2015 update – All claims are now settled.

- Review progress every three years:-

The Council is scheduled to review progress annually.

2013 update - A further update on progress will be reported in April 2015 with a wholesale review of the Equal Pay Statement no later than 30 April 2017.
2015 update – As above.

Human Resources
April 2015