

Staffing Policy Committee
27th November 2024

Employment Rights Bill - HR policy workplan update

Purpose

1. The purpose of the report is to update Staffing Policy Committee on the HR policy workplan and the forthcoming changes to employment legislation that will impact on this.

Background

2. As part of the HR Strategy Team's ongoing policy review schedule, updates continue to be made to a number of key policies to reflect legislative amendments as well as revisions required as a result of Oracle implementation and use of automated 'journeys' to support more streamlined processes.
3. Alongside this, the team are reviewing the reforms announced by the government on 10 October 2024 through the draft Employment Rights Bill and assessing impacts on the council and our HR policy framework.
4. The Employment Rights Bill encompasses 28 individual reforms and is accompanied by the 'Next Steps to Make Work Pay' policy paper which provides context regarding the reforms and outlines the vision and objectives driving the proposed changes.
5. The majority of the proposals outlined in the draft Bill will be subject to parliamentary debate and various public consultations and therefore the detail on these has not yet been confirmed. However, key 'headline' measures are noted as being:
 - a. **Day one right to claim unfair dismissal** – The Bill seeks to remove the current two-year qualifying period for unfair dismissal, to allow employees to bring an employment tribunal claim from the first day of their employment. The Government's 'Next Steps' paper states that a statutory 'probationary period' will be introduced which will allow for a dismissal procedure. Consultation will follow on this and the measure's interaction with the existing ACAS Code on Disciplinary and Grievance procedures and the length of the statutory probationary period.
 - b. **Flexible working 'default'** – The Bill introduces an extension to the existing day one entitlement to request flexible working, making flexible working the 'default' position from the first day of employment, with employers needing to set out why any refusals are 'reasonable'.
 - c. **Reforming the law on dismissal and re-engagement** – The Bill introduces restrictions on when this practice can be used to implement changes in terms and conditions. The Government will be seeking views on these proposals through public consultation.
 - d. **Use of zero hours contracts** – The Bill seeks to give workers on zero hours contracts the right to move to a guaranteed hours contract that reflects the hours actually being worked, as calculated over a 12-week reference period. 'Reasonable notice' will be required of any changes in shifts or working time,

with 'proportionate compensation' payable for any shifts cancelled or curtailed at short notice. Consultation will follow on the detail of the proposal.

- e. **Other day one rights** – the Bill also proposes that unpaid parental leave, paternity leave and sick pay will be available from day one of employment. Statutory Sick Pay (SSP) lower limit to be removed to enable low earners to also qualify for SSP.
 - f. **Extension of maternity protections** – the Bill proposes enhanced maternity protections and protection from dismissal.
 - g. **The Fair Work Agency** – the establishment of a new single agency for the enforcement of statutory employment law rights including National Minimum Wage and SSP enforcement. More detail is expected from the Government on this.
6. Outside of the scope of the Employment Rights Bill - but included within the Next Steps paper - are planned reviews of parental leave, carers leave and TUPE, as well as reconfiguration of the current legal distinction between 'employees' and 'workers' and proposed move to a single worker status.

Main considerations

7. Detailed assessment of impact of the draft Employment Rights Bill on the council's HR policies is underway. This will be dependent on progress and outcomes of the planned public consultations on the various measures.
8. The council already has clearly established frameworks relating to flexible working and family and parental rights, although it is anticipated that policies relating to flexible working, family and parental rights, probation periods and the council's approach towards use of casual workers, will require significant review.
9. The Employment Rights Bill will need to be considered and passed by both the House of Commons and the House of Lords. It has already been confirmed that the Bill's 'second reading' in the House of Commons will take place on 21 October 2024, which will be Parliament's first opportunity to scrutinise the Bill and debate its contents. It should be noted that some provisions may be amended, scaled back or even removed during the Bill's passage through both houses.
10. The Government continues to affirm its commitment to consulting on many of the measures proposed, with some consultation commencing shortly and others deferred until next year. Consultation is expected to begin imminently on zero hours contracts, changes to sick pay, fair pay agreements and trade union rights.
11. The HR Strategy team will be following the public consultations and assessing outcomes and the impact of the measures on existing policies. Any substantial changes or requirement to introduce new policies as a result of the Bill's enactment, will be shared with Staffing Policy Committee at future meetings.

Reason for the policy/ changes to the policy

12. It is necessary for the council to review existing policy frameworks in response to legislative changes to ensure that our employment/HR policies are compliant with the latest employment legislation.

Environmental impact of the proposal

13. N/A.

Equalities impact of the proposal

14. Equality impact assessments will be arranged for any new or significantly revised policies resulting from legislative changes. All comments from these panels will be considered.

Risk Assessment

15. To be legally compliant, it is necessary for the council's HR policies to adhere to up-to-date employment legislation. Non-compliance places the council at risk of employment claims.

Financial Implications of the proposal

16. Financial implications can be fully assessed once outcomes from consultation on the Bill is known. The measures relating to extensions to the day one rights and removal of qualifying length of service for unfair dismissal claims could represent additional financial risks to the council.

17. Proposals in respect of review of use of zero hours workers and consideration of a single employment status, may also result in increased financial impact, although scope and impact of these cannot be assessed until further detail is known on these measures.

Recommendations

18. It is recommended that Staffing Policy Committee notes the updates and awaits further updates once these are known.

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