



# Buckinghamshire & Milton Keynes Fire Authority

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**Meeting and date:** Overview and Audit Committee, 21 July 2021

**Report title:** Equal Pay Audit

**Lead Member:** Councillor Steven Lambert; People, Equality and Diversity and Assurance

**Report sponsor:** Mick Osborne; Chief Operating Officer / Deputy Chief Fire Officer

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**Action:** Noting

## **Recommendations:**

1. It be noted the Authority is achieving equitable pay between genders, and the other protected characteristics of age and race
  2. The action plan and recommendations, as detailed in Appendix one, be noted
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## **Executive summary:**

Under the Equality Act 2010, it is unlawful for an employer to discriminate between men and women in terms of their pay and conditions where they are in the same employment and are doing the same or similar work, work rated as equivalent, or work of equal value.

An equal pay audit is the most effective way of checking the Service is complying with its equal pay obligations, ensuring it delivers a pay system free from bias. In addition to gender, analysis was also undertaken for additional protected characteristics of age, disability, and ethnicity. An equal pay audit involves comparing pay of employees doing equal work and has three main purposes:

- to identify any differences in pay between those doing equal work
- to investigate the causes of any differences in pay between those doing equal work, and
- to eliminate instances of unequal pay that cannot be justified

In 2013, the outcome of the last equal pay audit was presented to the Executive Committee. This audit confirmed the integrity of the Service's pay and grading structures. Whilst no equal pay issues were identified within that audit, opportunities for simplification of processes, procedures and practices were identified, including a

review of the Support Services pay and grading system design, which then formed part of a wider review of Support Services terms and conditions of employment.

To ensure impartiality, an external consultant was appointed in January 2020 to undertake the Service's equal pay audit. The snapshot date for the equal pay audit was 1 January 2020. The meaningful comparator data included base salary and 12-months' worth of allowance data for protected characteristics of gender, age, disability, and ethnicity.

The equal pay audit has confirmed the Service is achieving equitable pay between gender, and the other protected characteristics of age and race. There is insufficient data on disability to be able to analyse effectively.

Recommendations have been made, as detailed in the Action Plan in Appendix one, and these will be addressed throughout 2021/22.

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### **Financial implications:**

The on-going cost of the pay protection arrangements is £20,412 per year. This is contained within the existing revenue budget.

It is anticipated that other actions contained within the action plan in Appendix one will be cost neutral.

### **Risk management:**

The Service must ensure its pay structures meet the requirements of the Equality Act 2010. An equal pay audit is an appropriate method of ensuring the Service has a fair, transparent, inclusive pay and reward structure, free from bias, which therefore mitigates risk of equal pay claims in the future.

Equal pay claims are usually brought in an employment tribunal, which can make a declaration of the claimant's rights and require payment of any arrears of pay (in the case of pay) or damages (in the case of a non-pay contractual term). However, in some circumstances a claim can be brought in the civil courts.

Whilst no unjustifiable differences in pay have been identified between protected characteristics of gender, age and race, and there are therefore no underlying indirect discrimination issues, the equal pay audit has highlighted several recommendations where there are potential risks. To mitigate these risks, an action plan has been drafted, as detailed within Appendix one.

### **Legal implications:**

The Equality and Human Rights Commission (EHRC) issued 'Equal Pay: Statutory Code of Practice' under section 14 of the Equality Act 2006 (as amended). This is focussed on gender pay discrimination under the Act and recommends that all employers carry out regular equal pay audits.

However, it also recommends that methods used to identify and remedy unlawful gender pay discrimination can also be used to remedy unlawful pay discrimination on other grounds (such as race or disability).

The equal pay audit has been undertaken in accordance with the 5–step model in EHRC’s Statutory Code of Practice.

An employer can pay a man more than a woman (and vice versa) for doing equal work, but only if it can prove that the variation in pay is due to a material factor which is not directly or indirectly discriminatory on the grounds of gender. Pay protection arrangements following a job re-grading exercise can in principle amount to a valid material factor defence.

**Privacy and security implications:**

The Authority is committed to protecting and respecting the privacy of employee and the responsible handling of data. Due to the Equal Pay Audit detailing personally identifiable information this will not be shared, however the content has formed the basis of this report and the recommendations.

**Duty to collaborate:**

Each employer must ensure their pay structures meet the requirements of the Equality Act 2010. Other than for best practice sharing, collaboration has not been appropriate for the Service’s 2020 equal pay audit.

**Health and safety implications:**

There are no health and safety implications arising from this report.

**Environmental implications:**

There are no environmental implications arising from this report.

**Equality, diversity, and inclusion implications:**

The Authority’s annual Pay Policy Statement sets out its position regarding equality, fairness, and transparency.

Undertaking an equal pay audit demonstrates the Service’s commitment as an employer to remove unfair pay practices.

Whilst both gender pay and equal pay deal with the disparity of pay women receive within the workplace, it is important to note that the gender pay gap is different to equal pay.

The gender pay gap examines the difference in the average earnings of men and women, irrespective of role or seniority. It captures any pay differences between men and women on a broader level and is not unlawful. The Service recognises the business benefit of ensuring it attracts, retains, and rewards the right calibre of individuals, and is committed to reducing its gender pay gap.

Equal pay is the legal requirement for men and women to be paid the same for undertaking the same or similar work or work of equal value. It applies to all contractual terms, not just pay, and requires all elements to be equal.

An equal pay audit ensures employees are not paid differently for doing the same or similar work, and this on its own, does not prevent a gender pay gap. Employers can have an effective equal pay policy and still have a gender pay gap, this is often due to having more men in senior and highly paid positions and women in lower paid and part-time roles.

**Consultation and communication:**

Appropriate changes to processes, procedures and working practices will be implemented to drive improvements.

Recommendations identified within the equal pay audit, and as detailed within the action plan will be worked on with key stakeholders throughout 2021/22.

Effective communication and consultation with employees, staff representatives and managers are key components to the successful implementation of change. Every effort will be made to ensure individuals are fully involved and their feedback captured and considered during any process.

**Background papers:**

[24 March 2021: Executive Committee report](#) - Gender Pay Gap Report 2020

[17 February 2021: Fire Authority report](#) – Pay Policy Principles and Statement 2021/22

[30 July 2014: Executive Committee report](#) - Review of pay, grading, and terms and conditions for staff covered by the Buckinghamshire and Milton Keynes Fire Authority, Support Services Staff, Scheme of Conditions of Service

[The Equality Act 2010](#)

[Equalities and Human Rights Commission](#)

[Statutory Code of Practice on equal pay](#)

[ACAS: Equal pay](#)

Appendix	Title	Protective Marking
1	Recommendations for action	

Part C: Equal Pay Audit detailed the summary of findings and recommendations concerning the pay for Support Services and Operational employees. All recommendations have been considered, as detailed below, and in the interest of efficiency and to avoid duplication, some issues have been combined.

Issue	Consideration	Recommendation	Owner	Update / Target completion
Pay and grading structure  <i><b>Support Services</b></i>	The current pay and grading structure is transparent and appropriate. Grades are based on the Hay reference levels and as such provide a robust and defensible base  The span of grades are narrow, with the pay difference between the minimum to maximum small. Therefore, there is little variance in pay  The grades do not overlap, which eliminates the potential for ‘work related as equivalent’ claims	Whilst the current pay and grading structure is fit for purpose, Scale A currently refers to the National Minimum Wage, which is no longer used by the Service, and therefore should be removed	Finance & Assets	Q2 21/22
Exempt pay point	The current pay and grading structure is transparent and appropriate, and grades	The risk could be eliminated by removing the protected pay rates, either through marked time protection or buy-out payment.	HR	Subject to regular review

Appendix 1 Equal Pay Audit – recommendations for action

<p><b>Support Services</b></p>	<p>are based on Hay reference levels which provide a robust and defensible base</p> <p>The pay and grading structure was updated September 2014 and moved from nine to 15 grades. Each grade consists of two pay points described as development and competent. A legacy from moving to the new pay structure is that the nine (those in the old structure) have a third point, now classified as exempt, and slightly above the competent pay point</p> <p>The exempt pay point can be considered a protected rate of pay, and as this is not time bound, could be used as comparators in equal pay claims. As of July 2021, there are 23 employees on the exempt pay point.</p> <p>Whilst the numbers on the exempt pay point has reduced, there remains an</p>	<p>However, as employees have been on this exempt level since 2014, and the numbers within this group continue to decrease, it is recommended the exempt pay point remains</p> <p>The exempt pay point will continue to be protected, not available to new employees, and those protected employees moving internally voluntarily, or whose posts are evaluated to a different grade will move to the development or competent pay points. The exempt pay point will then disappear over time through natural processes. This is as agreed in the report submitted to the Executive Committee on 30 July 2014</p>		
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Appendix 1 Equal Pay Audit – recommendations for action

	additional annual cost to the Service of £20,412 per annum.			
Fleet management pay structure  <b>Support Services</b>	Fleet Management has their own grade structure that sits alongside the main Support Services pay structure and outside of the Hay reference points  In addition to base salary, employees receive a number of additional allowances, including a market supplement, tool allowance and two hours guaranteed overtime	Work with key stakeholder to undertake a review of the Fleet pay structure and for this work to include: <ul style="list-style-type: none"> <li>• Review all role profiles</li> <li>• Undertake the Hay job evaluation process</li> <li>• Determine local market comparators</li> </ul> Following consultation with affected employees, integrate Fleet management structure into the Support Services pay scales. Review market supplement guidance and make amendments if necessary	HR	Q4 21/22
Allowances  <b>Support Services</b>	There are a number of allowances paid, some of which have been in place for a number of years. These arrangements should be reviewed to; determine whether they remain necessary; what the risk are of removing them; whether the amounts are accurate; could they be paid differently, i.e. part of base pay	1) Guaranteed overtime: Investigate the arrangement for guaranteed overtime to determine if there is a genuine operational requirement for these additional hours  2) Mess allowance: Review the allowance currently paid to compensate for an employee’s time to purchase consumables for	HR	Q4 21/22

Appendix 1 Equal Pay Audit – recommendations for action

		<p>Headquarters employees (milk, tea and coffee), which employees contribute toward in order to fund the ‘tea-boat’</p> <p>3) Standby allowance: Review the allowances paid to ensure continued requirements and they still represent a proportionate means to achieving a legitimate aim</p>		
<p>Pay elements</p> <p><b><i>Operational employees</i></b></p>	<p>There are a significant number of pay elements for operational employees, some of which are unclear as to what the payment is for</p> <p>Specific pay elements highlighted are:</p> <ol style="list-style-type: none"> <li>1. Detection Identification and Monitoring (DIM) payments</li> <li>2. Principal Officer allowance</li> <li>3. Housing allowance</li> </ol>	<p>Working with key stakeholders, review all pay elements to determine whether there is a genuine operational requirement for this element and any payment is a proportionate means to achieve a legitimate aim</p> <p>Ensure each pay element has been through the correct governance process and legitimately established, i.e. appropriate approval, the correct pension scheme has been applied, selection is open and transparent and the process is clearly communicated to employees to ensure consistency</p>	<p>Service Delivery</p>	<p>Q4 21/22</p>

Appendix 1 Equal Pay Audit – recommendations for action

<p>Overtime</p> <p><b>Support Services &amp; Operational</b></p>	<p>Overtime at plain time</p>	<p>Investigate why some fulltime employees received overtime at plain time</p>	<p>HR</p>	<p>Q2 21/22</p>
<p>Flexible working</p> <p><b>Support Services</b></p>	<p>The Covid-19 pandemic has demonstrated organisations can work more flexibly, away from the traditional nine to five model. As the Fire Service operates a 24/7 service, greater levels of flexibility in working patterns could be explored and not just seen as an employee benefit, but as a way forward for the Service to meet its strategic goals in a challenging and changing working environment. Developing flexible working with a business focus could benefit both the employer and employee</p>	<p>Define requirements and determine how workforce agility can contribute to overall Service objectives and how this generates value for both the Service and employee.</p> <p>Exploring:</p> <ul style="list-style-type: none"> <li>• Varied working hours</li> <li>• Working patterns</li> <li>• Voluntary reduced hours</li> <li>• Regular homeworking</li> </ul> <p>Review and update the Flexible Working procedure and draft any new procedures following this piece of work</p>	<p>HR</p>	<p>Q3 21/22</p>