

## **Fair Work First – Implementation Update**

**Report by Saty Kaur, Chief Officer Corporate Solutions**

**Report for Information**

### **1 Recommendations**

Council is asked to:

- note the good practice areas with regards to the Fair Work First agenda;
- note the ongoing work to continue to embed Fair Work First across the organisation; and
- note the work in progress to develop the Workforce Strategy, linked to the Blueprint Transformation Theme 2 – 21<sup>st</sup> Century Workforce which will be drafted in Autumn 2024.

### **2 Purpose of Report/Executive Summary**

To provide Council with information on the steps taken to achieve the Fair Work First requirement.

**Date** Monday 5 August 2024

**Report Contact:**

Saty Kaur, Chief Officer Corporate Solutions

[Saty.Kaur@midlothian.gov.uk](mailto:Saty.Kaur@midlothian.gov.uk)

### 3 Background/Main Body of Report

3.1 Fair Work First is the Scottish Government's policy for driving high quality and fair work, and workforce diversity across the labour market in Scotland by applying fair work criteria to grants, other funding and public contracts being awarded by and across the public sector, where it is relevant to do so. Through this approach, the Scottish Government is supporting employers who adopt fair working practices, specifically:

- payment of at least the real Living Wage (RLW)
- provide appropriate channels for effective workers' voice, such as trade union recognition
- investment in workforce development
- no inappropriate use of zero hours contracts
- action to tackle the gender pay gap and create a more diverse and inclusive workplace
- offer flexible and family friendly working practices for all workers from day one of employment
- oppose the use of fire and rehire practice.

3.2 The [Fair Work Convention's Framework](#) defines Fair Work as work that offers [effective voice](#), [fulfilment](#), [opportunity](#), [respect](#) and [security](#). These dimensions will be present in different ways in different workplaces, aiming to balance the rights and responsibilities of workers and employers. They should be visible in the attitudes, behaviours, culture, policies and practices within an organisation – demonstrating the value placed on fair work and equal opportunity in work. The Fair Work First criteria align with the dimensions of Fair Work, and are focused on:

- providing a decent standard of living and income
- offering security of contract, including hours and earnings; other entitlements including sick pay and pension
- fostering an environment where workers' views are actively sought, listened to and can make a difference, including through a stronger role for trade unions
- giving opportunities for all to learn, develop and progress
- creating a healthy and safe environment, where individuals' wellbeing is actively supported
- enabling people to have a good work-life balance
- supporting people to feel valued and respected and that they have a sense of purpose in work and wider society
- creating fair, diverse and inclusive workforces
- promoting innovation and productivity.

### Examples of best practice

- 3.3 The Scottish Government has provided [resources](#) on Fair Work First including best practice examples for the Fair Work First criteria.
- 3.4 Appropriate channels for effective workers' voice, such as trade union recognition:

#### **Collective voice channels**

- Providing access to trade unions and making workers aware that they can join a union of their choice.
- Involving trade union/worker representatives in key governance and decision-making structures.
- Recognising trade unions for the purpose of collective bargaining and encouraging membership, where this is the workforce's preferred route, and providing appropriate facility time for supporting regular engagement between union/s and members.
- Constructive dialogue between the employer, workers and where appropriate a relevant trade union/s to address workplace issues or disputes, e.g. absence management, grievance, health & safety.

#### **Individual voice channels**

- Regular surveys are carried out to understand worker views, including how well they feel effective voice is facilitated in the organisation, and are involved in agreeing and progressing improvement action.
- Formal and informal arrangements are in place through which meaningful individual and collective dialogue take place, including one-to-ones between workers and management, appraisal/feedback processes, team/organisation meetings.
- Appropriate collective consultation and a clear route for resolving issues at both individual and collective levels, such as through a grievance or collective disputes procedure.
- The organisation promotes a strong culture of openness and transparency and encourages acceptance of different viewpoints.

#### **3.5 Investment in workforce development:**

- Learning & development is integrated in the organisation's strategic planning and workers and management jointly identify development needs and priorities, ensuring both individual and organisational needs are met.
- Regular equality and diversity training is provided for all staff.
- Learning & development opportunities are provided, and regularly reviewed, to help build the organisation's resilience and responsiveness to change.
- Managers have development discussions with individuals and teams and prioritise this as part of operational activity.

- Workforce Development Plans and Succession Management Plans are in place.
- Formal and informal learning is offered across the workforce, relating to people's particular role and wider development.
- The organisation is committed to providing apprenticeships.
- The organisation is committed to supporting the Young Person's Guarantee.
- Staff are supported to keep their professional qualifications up-to-date.
- The organisation has an appropriate charter mark achievement such as Investment in People or EFQM.
- The organisation invests in and utilises the skills and knowledge of union equality, learning and other workplace representatives and resources.
- Constructive engagement with union learning reps and Scottish Union Learning activities.
- Carbon literacy training is provided for all staff.

### **3.6 No inappropriate use of zero-hours contracts:**

- All staff are employed on open-ended or fixed term contracts with confirmed hours and work pattern.
- All staff have a contract which accurately reflects the hours worked, guarantees a fair minimum number of hours per week and does not involve compulsory overtime.
- Staff get reasonable notice of shifts – at least 4 weeks ahead of time and are paid for cancelled shifts within this period.
- Core and flexible staff resources are reviewed at least annually to determine if any staff on a zero-hours or minimum-hours contract can be moved to a permanent or fixed-term contract with a fixed number of hours and/or a regular pattern.
- Zero-hours contracts are not used to the detriment of workers with protected characteristics and where this is happening, the organisation is taking remedial action.
- Zero-hours contracts are not used to fill actual longer-term vacancies.
- There is a clear, published policy and process to enable someone to request a move from a zero-hour contract with guaranteed and set hours.
- Gained or working to gain Living Hours Accreditation.

### **3.7 Action to tackle the gender pay gap and create a more diverse and inclusive workplace:**

- Recruitment, retention and promotion processes prevent bias and barriers, for example, 'blind' recruitment; providing additional support/adjustments at application and interview stages; diversity in interview panels; and exit interviews are used to understand why a person is leaving.
- Workplace adjustments are in place and made for disabled staff or those with long term health conditions who need it. Additional support for adjustments are accessed through Access to Work.

- Flexible working - which could be a reasonable adjustment to some – is encouraged across the organisation from day one of employment, subject to business need.
- Workers have opportunities to influence the organisation's approach to workplace equality, including by sharing their own experiences.
- The organisation gathers data to understand its workforce diversity and has a plan in place to address under-representation.
- Governance structures are gender balanced and the organisation is working to ensure parity for racialised minorities, disabled, young people and workers over 50 years.
- Enhanced maternity, parental and adoption leave and pay are available for all staff, and staff are supported to return to work through keep in touch days and refresher courses.
- A private, healthy and safe environment is provided for breastfeeding mothers to express and store milk.
- Everyone has equal access to appropriate learning & development opportunities.
- All staff have opportunities to discuss their support needs with management.
- There are clear career pathways for women, with support for those returning to work after maternity or a career break and to help minority ethnic, disabled and workers over 50 years to progress.
- The organisation is a recognised Carer Positive employer.
- Employers are able to provide safe spaces for workers to express their concerns and raise issues and where workers are confident that their concerns are dealt with appropriately by trained personnel.
- Policies are in place that align with Equally Safe, Scotland's strategy for preventing and eradicating violence against women and girls (VAWG).
- Staff and policies recognise Commercial Sexual Exploitation as a form of VAWG and support the policy principles, applying these to relevant policy and practice.
- The organisation gains Equally Safe at Work accreditation to prevent workplace sexual harassment.
- Employers promote and support mentally healthy workplaces where mental health and wellbeing is meaningfully discussed and where stigma and discrimination is addressed.
- The organisation provides support to women experiencing menopause in the workplace. Information is available from NHS Inform and Close the Gap.
- The organisation has a safety policy for workers who finish work outside of public transport hours to enable them to get home safely.

### **3.8 Offer flexible and family friendly working practices for all workers from day one of employment:**

- Organisational policies and practice are in place to support flexible and family working, developed collaboratively by the employer, workers, where present, trade union or other worker representative, in line with legal requirements in terms of reasonable adjustments, and are regularly reviewed.
- Jobs are designed around business outcomes, not based on fixed locations or times to provide flexibility.
- Flexible working and family friendly policies are highlighted in job adverts.
- Employers and workers have constructive conversations about requests for flexibility. Trial periods or pilots can be used to test workable solutions for the individual, team and employer.
- Managers get appropriate training and support to enable them to effectively manage individuals who work flexibly.
- Flexible and family friendly options are available at all levels in the organisation and for all staff – not just women or mothers, and to encourage partners to share caring responsibilities
- Flexible working can be offered as a temporary arrangement to accommodate particular circumstances with review points agreed at the outset by the employer and the worker.
- Learning and development is arranged to accommodate different flexible working arrangements and, where practicable, technology is used to facilitate access.
- Enhanced provision is available to support workers with families, such as more tailored maternity, adoption, and shared parental leave and pay.
- Accessible systems and protocols, such as IT equipment and digital diaries, are used to facilitate effective work practices, enabling remote workers to participate alongside their site-based colleagues.
- Meetings are arranged at times that enable workers to attend (in person, by phone or virtually) so everyone can contribute and feel included.
- Effective use of flexible and family friendly practice is modelled from the top down.
- Employers develop and maintain a home and other remote working policy with consideration given for workers with protected characteristics and suitable provision to support workers' mental health and overall wellbeing.
- Working from home and other remote working is not monitored by invasive worker monitoring software.
- Employers, workers and, where present, union or other worker representative, collaborate to agree an approach to flexible and out-of-hours working, with clear boundaries between work and non-work time - enabling workers to disconnect outside working hours.
- Employers with international connections provide flexibility on hours to manage time differences.

### 3.9 Midlothian current position

#### Real Living Wage evidence

- Living Wage Accreditation – the Council is a recognised Living Wage Employer, and this is renewed annually
- The Council pays Living Wage for all apprenticeships and 16–17-year-old workers, as all staff are paid within the current grading system.
- All agency/contractors are paid in line with the relevant FTE role therefore RLW applies.

#### Individual Voice

- Project specific staff engagement where people can submit individual feedback i.e. hybrid working survey, listen and learn exercises (i.e. Neighbourhood Services. Building Maintenance Services)
- Manager forum (established in 2024) brings together Team Leaders and Service Managers to widen their knowledge, build management skills and resilience, talk to Senior Managers and the Corporate Management Team and develop relationships with peers
- Leadership forum brings together officers in senior leadership roles to discuss strategic issues affecting the organisation, inform and influence the strategic direction of the organisation and the priorities, discuss the financial challenges and identify new ways of working and innovative cross Council solutions.
- Directorate drop in sessions lead by the Executive Directors with all staff to update on Council issues, priorities and listen to issues that staff have identified

#### Collective voice

- Employee benefits information posted with all job vacancies on MyJobScotland which references the Council's commitment to Trade Union membership
- Induction checklist which references Trade Union membership
- Recognition and Procedural Agreement which has a Fair Work Statement signed by Trade Unions and outlines reasonable time off for Trade Union duties
- JCG exists, chaired by the Council Leader, meets every 6-8 weeks and is actively attended by Trade Unions, elected members and Council officers
- Other Trade Union forums that meet regularly include Midlothian Negotiating Committee for Teachers (MNCT) chaired by the Education Chief Operating Officer, Corporate Joint Working Group (CJWG) chaired by the Chief Officer Corporate Solutions and Directorate Consultative Group (DCG) chaired by the Executive Director Place.

There is a short statement on the Council's website highlighting the Council's commitment to advancing the Fair Work First criteria, including the real Living Wage and effective voice conditions. This has been developed with and signed off by Trade Union representatives and included in the Recognition and Procedural Agreement: [Fair Work practices | Fair work practices \(midlothian.gov.uk\)](#)

#### Other actions

- A short statement is to be added to the Council's website to state that the Council does not use zero hours contracts and opposes the use of hire and rehire practice
- A range of family friendly policies have been adopted by the Council demonstrating action to tackle the gender pay gap and create a family friendly workplace including:
  - Adoption Policy
  - Carer Policy
  - Family Leave Policy
  - Flexible Retirement Policy
  - Hybrid Working Policy
  - Maternity Policy
  - IVF and Miscarriage Policy
  - Equalities and Diversity Framework
  - Gender Based Violence Policy
  - Menopause Policy
  - Mental Health and Wellbeing Policy
  - Recruitment and Selection Policy
  - Sexual Harassment Policy
  - Transgender Equality Policy
- The Council is also Equally Safe accredited (Bronze).

### **3.10 Areas for improvement**

Workforce is a key enabler for change and is a significant area of focus in the Council's Transformation Blueprint (agreed in 2022). Under Theme 2 – 21<sup>st</sup> Century Workforce, a range of areas are being progressed to strengthen the capacity of the workforce, address recruitment and retention challenges and ensure that Midlothian Council is an 'Employer of Choice'.

The principles of Fair Work ensure that all employees are treated fairly, free from inequality and that the Council advances opportunities for all.

Areas of focus under the Blueprint Transformation include:

- Investment in development for employees at all levels of the organisation, including specific development programmes for managers and leaders
- Further investment in apprenticeships, building on the success of the Foundation and Modern Apprenticeship programmes lead by Communities, Lifelong Learning and Employability, particularly with increased adoption of Graduate Apprenticeship



opportunities that tackle sectors where recruitment is more challenging.

- Long term staff engagement programme to ensure that every employee's voice is heard
- Launch of a new Equalities programme linked to recruitment, gender pay gap, race pay gap and ensuring that the workforce is more diverse and representative of the communities that we serve
- Review of overtime, casual workers, agency and fixed term contracts to ensure services have clear, sustainable workforce plans linked to service delivery
- Review of HR policies to ensure that all policies have Fair Work principles embedded and that they are cognisant of the needs of the organisation

The Council's new Workforce Strategy will include the above points and other areas as identified through the development of the strategy. This will be supported by a clear delivery plan, linked to Theme 2 – 21<sup>st</sup> Century Workforce. It is anticipated that the new Workforce Strategy will be in draft form in Autumn for consideration and adoption.

#### **4 Report Implications (Resource, Digital and Risk)**

##### **4.1 Resource**

There are no additional resource requirements for developing the Workforce Strategy and the Fair Work First elements that are currently implemented. All new initiatives as part of the delivery plan will be costed accordingly and resourced (where required).

##### **4.2 Digital**

No digital impacts.

##### **4.3 Risk**

Workforce is highlighted as a risk in the Council's Strategic Risk Profile and reported quarterly to Audit Committee.

##### **4.4 Ensuring Equalities (if required a separate IIA must be completed)**

No Integrated Impact Assessment required at this stage however as new initiatives are designed; appropriate equalities impact assessments will be carried out.

##### **4.4 Additional Report Implications (See Appendix A)**

See Appendix A

## **Appendices**

### **Appendix A – Additional Report Implications**

## **APPENDIX A – Report Implications**

### **A.1 Key Priorities within the Single Midlothian Plan**

Not applicable

### **A.2 Key Drivers for Change**

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

### **A.3 Key Delivery Streams**

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious
- None of the above

### **A.4 Delivering Best Value**

Not applicable

### **A.5 Involving Communities and Other Stakeholders**

Not applicable

### **A.6 Impact on Performance and Outcomes**

Not applicable

### **A.7 Adopting a Preventative Approach**

Not applicable

### **A.8 Supporting Sustainable Development**

Not applicable