



## PWYLLGOR DIWYLLIANT, POBL A DATBLYGU SEFYDLIADOL PEOPLE, ORGANISATIONAL DEVELOPMENT & CULTURE COMMITTEE

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	20 October 2022
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	Contractual and Legislative Changes
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Lisa Gostling, Director of Workforce & OD (Organisational Development)
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Lisa Gostling, Director of Workforce & OD (Organisational Development)

**Pwrpas yr Adroddiad (dewiswch fel yn addas)**

**Purpose of the Report (select as appropriate)**

Ar Gyfer Trafodaeth/For Discussion

### ADRODDIAD SCAA

#### SBAR REPORT

##### Sefyllfa / Situation

In line with the Terms of Reference for Committee this report provides an overview of the contractual and legislative changes that may impact our workforce and our approach to people management, policies, procedures and our terms and conditions of employment.

The report will provide an overview of recent changes and also provide some insight into proposed or potential changes that may also impact on the way we manage or discharge our people responsibilities.

This report focuses on the period 1 April 2022 to date.

##### Cefndir / Background

It is imperative that HDdUHB keeps up to date with both contractual and legal changes which impact on our staff. This enables us to offer and promote the most recent terms and conditions of employment for our staff and raise awareness of forthcoming changes that may impact them so that they can make informed choices where required. It also enables the Health Board to minimise any associated risks with our offering not being compliant with employment law requirements.

##### Asesiad / Assessment

#### Contractual and Legal Changes

##### **1. National Insurance Contribution rates**

Staff were advised that National Insurance contributions would increase by 1.25% from April 2022.

##### **2. Pension Auto Enrolment**

- Under the Pensions Act 2008, every employer in the UK must put staff that qualify into a workplace pension scheme and contribute towards it. The Government requires

all employees who are aged 22 or over, earn over £10,000 per year and are under State Pension age to be cyclically re-enrolled into a Workplace Pension Scheme every 3 years from the Organisations staging date (01/03/2013). Their aim is for more people to have another income, on top of the State Pension, when they come to retire.

- The Re-Enrolment Date for Hywel Dda University Health Board (HDdUHB) was 1 July 2022. Staff were advised that where they were not in the NHS or National Employment Savings Trust (NEST) Pension Scheme, the Health Board would enrol them from 1<sup>st</sup> July 2022 where they met the qualifying criteria, unless they opted out.

### **3. Pension Contribution Rates**

- Changes to members' pension contribution rates will be made from 1 October 2022. These changes will be phased in over two years, with changes in October 2022 and in 2023 (the exact date in 2023 is still to be confirmed by the government).
- The changes mean that some scheme members will have a higher rate and will be required to contribute more to the scheme than they currently do, and some will have a lower rate and will contribute less.
- Many part-time employees will contribute less from 1 October 2022. This is because contribution rates will be based on what an individual actually earns each year, rather than what they would have earned if they worked full time.

### **4. Pay Award**

- The pay award, as per the advance letter, was actioned in the September 2022 payroll run. This award was backdated to April 2022 and where applicable arrears were also paid in September 2022.
- In conjunction with the agenda for change (AfC) Pay Award, with any change in salary the pension tier contribution percentage are also reviewed to ascertain whether the impact of the Pay Award will take them into the next pension tier in line with NHS Pensions Agency rules.
- Due to the increase in salary in September, the following groups of staff saw a change in their pension tier contributions:
  - Minimum of AfC Band 3
  - Minimum of AfC Band 5
  - Minimum of AfC Band 8a
- This affected some employees depending on their years of service. Staff in Band 3 and Band 5 saw an overall increase in their September 2022 pay, but this may have been less than many may have expected given the pay award. Staff on the minimum of Band 8a with less than 5 years' service saw an overall reduction of 0.23% in their September pay, however, as a result of the contribution changes from 1 October 2022, their pension contribution will reduce from 12.5% to 10%.

### **5. Public Health Wales – Transfer of Undertaking to Hywel Dda University Health Board**

It was proposed that the Local Public Health Teams will transfer from Public Health Wales NHS Trust (PHW) to Local Health Boards. The transfer, which was supported by the Minister for Health and Social Services, is in response to the system-wide

challenges faced around the long-term impact of population health. PHW has agreed a Memorandum of Understanding (MoU) with Health Boards (HBs) that will transfer the local teams to the individual Health Boards and ensure that this team will remain professionally connected and supported by PHW. The MoU is separate to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) process for protecting staff terms and conditions, however it contains a commitment for the parties to act in accordance with TUPE throughout the process. PHW will provide recurrent funding to each HB for the transfer, together with grant funding (to be claimed separately by each HB).

The transfer took effect on 30 September 2022, with some 20 staff becoming employed by Hywel Dda UHB from 1 October 2022.

## **6. Neyland and Johnston GP Surgery– Transfer of Undertaking to Hywel Dda University Health Board**

- In line with the nationally agreed process where contract terminations are enacted, the Health Board has undertaken a Vacant Practice Panel who have made a recommendation to Board on the future provision of General Medical Services for the registered population of Neyland and Johnston.
- Following the public engagement and formal ratification, on 29 September 2022 a decision was reached by the Board that Neyland and Johnston GP Practice will become a Hywel Dda University Health Board (HDUHB) Managed Practice, with some 20 staff becoming employed by Hywel Dda UHB from 1 November 2022. The provisions of TUPE will apply, whereby the contracts of employment of the employees who are essentially dedicated to the GMS contract will transfer employment to the HB.

## **7. Primary Care Update**

For the first time contract negotiations and reform is happening across the four contractor professions which includes the first ever NHS contract for Optometry.

## **Looking Forward**

### **1. Potential for Industrial Action**

- In response to the Welsh Government 2022/23 pay award announcement on 22 July 2022, the Royal College of Nursing (RCN) wrote to Executive Nurse Directors to advise that the RCN Council had decided to move to a statutory ballot on industrial action.
- We were notified by letter dated 5 September of the intention to ballot all members for industrial action with the ballot opening on 15 September. Should the ballot carry then we understand they may announce strike action between 28 October 2022 and 13 April 2023.
- We have subsequently been advised that UNISON will be balloting its members between 27 October and 25 November 2022. No further details are available at this time.

### **2. Off Payroll Working (OPW) – IR35**

- The OPW rules have been in place since April 2000. The rules set out that where an individual is working like an employee, they should pay tax like an employee,

- In 2017 and 2021 the Government introduced administrative reforms to improve compliance with the rules. The reforms shifted responsibility for determining employment status, and for ensuring the right tax is paid to HMRC, from the individual's intermediary to the client engaging them.
- As part of the Government's Growth Plan, the Chancellor announced on 23 September 2022 that the way in which the OPW rules are administered is changing, by repealing the 2017 and 2021 reforms.
- This means that from 6 April 2023, an individual's Personal Service Company (PSC) will again be responsible for determining their employment status and paying the appropriate amount of Income Tax and National Insurance contributions for all their working engagements. These changes are not retrospective, and organisations need to continue to operate under the current rules until 6 April 2023.

### **Potential Legislative Changes being considered by the Government**

- The following are examples where we may see changes coming in as part of the Employment Bill or other duties or codes being introduced:
  - Carers Leave - To assist those with unpaid caring responsibilities, the government is intending to provide a new right to carers' leave. The right will be for a week each year unpaid.
  - Extending redundancy protection for women and new parents - The government has been looking at options and in particular a proposal to extend the current protected period to cover six months after the maternity leave ends.
  - Neonatal care and leave - This change would provide a new statutory entitlement to neonatal leave and pay for employees whose babies are in neonatal care for an extended period. The plan is to provide up to 12 weeks' paid leave.
  - Right to request predictable hours after 26 weeks – this came from the Taylor Review and has been added to the Employment Bill. It would provide zero-hour workers with the right to request predictable hours in their contract after six months.
  - A Statutory Code on "fire and re-hire" has also been discussed.
  - Sexual Harassment - Possible duty requiring employers to prevent sexual harassment as well as extending the time limit to bring a claim to 6 months.

We have communicated a number of the above changes to staff as they have arisen and continue to consult and work with staff on those that remain work in progress.

We will be in a better position to provide an assessment of any forthcoming changes as the detail becomes clearer and can provide further updates to Committee in subsequent meetings.

### **Argymhelliad / Recommendation**

The People, Organisational Development & Culture Committee is requested to note the Contractual and Legislative Changes Report.

<b>Amcanion: (rhaid cwblhau)</b> <b>Objectives: (must be completed)</b>	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	3.13 Approve workforce and organisational development policies and plans within the scope of the Committee.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not Applicable
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	7. Staff and Resources 7.1 Workforce
Amcanion Strategol y BIP: UHB Strategic Objectives:	1. Putting people at the heart of everything we do Not Applicable
Amcanion Cynllunio Planning Objectives	1F HR Offer (induction, policies, employee relations, access to training )
Amcanion Llesiant BIP: UHB Well-being Objectives: <a href="#">Hyperlink to HDdUHB Well-being Objectives Annual Report 2018-2019</a>	5. Offer a diverse range of employment opportunities which support people to fulfill their potential

<b>Gwybodaeth Ychwanegol:</b> <b>Further Information:</b>	
Ar sail tystiolaeth: Evidence Base:	Current Legislation
Rhestr Termiau: Glossary of Terms:	Included in the body of the report
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Diwylliant, Pobl a Datblygu Sefydliadol: Parties / Committees consulted prior to People, Organisational Development & Culture Committee:	N/A

<b>Effaith: (rhaid cwblhau)</b> <b>Impact: (must be completed)</b>	
<b>Ariannol / Gwerth am Arian:</b> <b>Financial / Service:</b>	None arising from this paper

<b>Ansawdd / Gofal Claf: Quality / Patient Care:</b>	Not applicable
<b>Gweithlu: Workforce:</b>	As impacted.
<b>Risg: Risk:</b>	None arising from the presentation of this report as the report is for information only however the most significant risk presented relates to the potential for industrial action.
<b>Cyfreithiol: Legal:</b>	It is essential that the UHB has up to date policies and procedures in place which comply with legislation as a minimum standard.
<b>Enw Da: Reputational:</b>	Failure to apply the appropriate entitlements under the legislation and policy framework effectively may lead to formal complaints which may have a reputational impact.
<b>Gyfrinachedd: Privacy:</b>	Not applicable
<b>Cydraddoldeb: Equality:</b>	Not applicable