

Report to:	AUDIT COMMITTEE
SUBJECT:	HOLIDAY PAY- UPDATE
1. Purpose of report:	
This report is for noting and is an update to Audit Committee in respect of:	
1.1 Holiday Pay and the Law	
1.2 Treatment of Holiday Pay in Birmingham City Council	
2. DECISIONS RECOMMENDED	
2.1 To note the contents of this Report	
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3. BACKGROUND	
<p>This Report concerns the statutory formula used for the calculation of 'pay' when an employee is on holiday as it is this 'formula' that has been the subject of extensive judicial scrutiny, involving not just domestic courts but also the European Court of Justice (ECJ), so that certain employees are now entitled to receive more than basic pay whilst they are on holiday.</p> <p>The Working Time Regulations were introduced in the UK in 1998 (the Regulations) and gave effect to the European law, the Working Time Directive 1993 (the Directive). These Regulations introduced in the UK, for the first time, rules of general application in respect of maximum hours worked, rest breaks and holidays including a statutory formula for calculating holiday pay.</p> <p>A number of cases have been brought in employment tribunals where employers were challenged on the calculation of holiday pay.</p> <p>Most recently, in November 2014, the matter was further considered by the Employment Appeal Tribunal (EAT) in a case known as Bear Scotland v Fulton and Others (2014) (Bear Scotland)</p> <p>The Private Report considers further the impact of current case law, including any identified risks and the strategy adopted by the Council in dealing with Holiday Pay.</p>	
4. FINANCE	
As set out in the Private Report	
5. RECOMMENDATIONS	
To note the contents of this Report.	
6. REASONS FOR DECISION(S):	
To limit any financial liability that might arise as a result of the recent case law on Holiday Pay	