

Non-Executive Report of the: Council 21st March 2018	 TOWER HAMLETS
Report of: Zena Cooke, Corporate Director Resources	Classification: Unrestricted
Localism Act 2011 – Pay Policy Statement 2018/19	

Originating Officer(s)	Heather Daley, Divisional Director HR and Transformation
Wards affected	All wards

Summary

This report reflects changes made following the report to General Purposes Committee on 08 February 2018 and to which changes have been agreed in line with the decisions of that Committee.

Under Section 38(1) of the Localism Act 2011, the Council is required to adopt a pay policy statement for each financial year.

The Council's first pay policy statement was adopted for 2012/13 and subsequent pay policy statements were agreed for each of the subsequent years. A statement for 2018/19 (draft attached as Appendix 1) should be approved and adopted by 31 March 2018 to enable it to be published as soon as is practical in the new financial year.

Should guidance change or there be an updated issue of the Local Government Transparency Code 2015 after the 2018/19 pay policy has been adopted, which requires minor amendments to be made to the pay policy statement, it is proposed that Council delegate the authority to make such amendments to the Chief Executive after consultation with the Divisional Director (HR and Transformation), the Chair of the General Purposes Committee and the Monitoring Officer. Should any fundamental changes be required, the pay policy statement will go to General Purposes and then Council for consideration.

The draft 2018/19 pay policy statement is set out in Appendix 1 for adoption. The proposed statement needs to be approved and adopted by 31 March 2018.

The pay policy statement sets out the Council's current policies and practice in relation to pay for all parts of the workforce, with the exception of school based employees.

Recommendations:

Council is recommended to:-

- 1) Resolve to approve the Pay Policy Statement for 2018/2019 as set out in Appendix 1.
- 2) Note the proposed arrangements for the approval of salary packages and severance packages of £100,000 or more as set out in the Pay Policy paragraphs 5 and 12.2.
- 3) Note that the Pay Policy provisions enable the Head of Paid Service to determine a settlement payment where there is no dismissal without the need for agreement of General Purposes Committee unless the payment value is £100,000 or more.
- 4) Agree that if any minor changes to the 2018/19 pay policy statement are required as a result of future government guidance or an updated Local Government Transparency Code, these amendments be delegated to the Chief Executive, after consultation with the Divisional Director (HR and Transformation), the Chair of the General Purposes Committee and the Monitoring Officer. Should any fundamental changes be required, the Pay Policy statement will be referred back to the General Purposes Committee and then Council for consideration.

1. REASONS FOR THE DECISIONS

- 1.1 Chapter 8 of Part 1 to the Localism Act 2011 provides for pay accountability and section 38 requires the Council to prepare a pay policy statement and section 39 requires that that pay policy statement be approved by resolution of Council by 3 March each year and published as soon as reasonably practicable thereafter.
- 1.2 Statutory guidance issued under the Localism Act 2011 in 2012 and supplemented in 2013 advises that members should be offered the opportunity to vote on salary packages of £100,000 or more before they are offered on new appointments. The 2013 Supplementary Guidance also advises that members should be offered the opportunity to vote on severance packages of £100,000 or more.
- 1.3 Settlement payments where there is no dismissal, other than where the threshold in paragraph 1.2 is exceeded reasonably fall within the remit of the Head of Paid Service to approve.

2. ALTERNATIVE OPTIONS

- 2.1 As the publication of a pay policy statement and the nature of its content is a legislative requirement, there are no alternative options.

3. DETAILS OF REPORT

- 3.1 The pay policy statement must set out the Council's policies for the financial year relating to the remuneration of its officers. This must include:
- A policy on the level and elements of remuneration for each chief officer
 - A policy on the remuneration of lowest paid employees (together with a definition of 'lowest paid employees' and reasons for adopting that definition)
 - A policy on the relationship between the remuneration of chief officers and the remainder of the workforce
 - A policy on other specific aspects of chief officers' remuneration (remuneration on recruitment, increases and additions to remuneration, use of PRP and bonuses, and the approach to termination payments).
- 3.2 Additionally, the Council must have regard to other statutory guidance or recommendations e.g. relating to pay multiples, but it should be noted that the statutory guidance emphasises that each LA has the autonomy to take its own decisions on pay and pay policies.
- 3.3 The draft pay policy statement takes into account Local Government Association (LGA)/Association of Local Authority Chief Executives (ALACE) guidance issued to local authority Chief Executives 'Localism Act: Pay Policy Statement Guidance for Local Authority Chief Executives' and the statement details the Council's current arrangements; using the definitions contained in the Act and associated guidance. The Act also requires the Council to have regard to statutory guidance entitled 'Openness and accountability in local pay' under the Transparency Agenda. Guidance issued under the Localism Act 2011 in 2012 and supplemented in 2013 advises that members should be offered the opportunity to vote on salary packages of £100,000 or more before they are offered on new appointments. The 2013 Supplementary Guidance also advises that members should be offered the opportunity to vote on severance packages of £100,000 or more.
- 3.4 Taking this Guidance into account, it is proposed that salary packages of £100,000 or more should receive member approval through General Purposes Committee and this is reflected in the draft Pay Policy Statement. Further that any severance package for a member of staff of £100,000 or more (excluding an employee's right to contractual redundancy/severance and pension/pension lump sum payments) will be subject to the approval of the General Purposes Committee.

- 3.5 Additionally, it is also proposed that any salary packages of £100,000 or more and any redundancy/severance package of £100,000 or more are noted by Council at each annual update of the Pay Policy Statement.
- 3.6 The above approach meets the requirement for Member involvement as well as transparency.
- 3.7 Some of the proposed changes to the Pay policy will necessitate changes to the Constitution. In particular, the proposals set out in paragraph 1.3 will necessitate the deletion of the requirement for General Purpose Committee agreement to agree settlements as set out in paragraph 3.3.10 (8) of the Constitution. Any settlements of the kind described in recommendation 1.3 will be approved by the Head of Paid Service in consultation with the Monitoring Officer and section 151 Officer and input from the Divisional Director Human Resources and Transformation.
- 3.8 Under Article 15.02(a)(i) of the Constitution the Monitoring Officer has power to approve all changes to the Constitution that reflect decisions taken by the Council and will be able to make such changes once the Pay Policy is approved.
- 3.9 The draft statement refers to information already published by the Council in relation to senior salary data to meet with the requirements of the Government's transparency agenda. The Local Government Transparency Code 2015 also covers the way in which the pay multiple included in the pay policy should be calculated. It is proposed that any minor changes to the 2018/19 pay policy statement that are required as a result of the publication of an updated Code, be made by the Chief Executive, after consultation with the Divisional Director (HR and Transformation), the Chair of the General Purposes Committee and the Monitoring Officer. Should any fundamental changes be required, the pay policy statement will be referred back to the General Purposes Committee and then Council for consideration.

Pay Multiple

- 3.10 There is a requirement to publish a ratio, or pay multiple. There are a variety of ways to approach this, but the Hutton Review of Fair Pay in the Public Sector (2011) supported the publication of the ratio of the council's highest paid employee (the Chief Executive) to that of its median earner (i.e. the mid-point between the highest and lowest salaries). This multiple is quoted in the draft statement. The ratio last year was 1:6.1 and this year is 1:5.97.
- 3.11 For the 2014/15 pay policy statement, an additional ratio demonstrating the relationship between the council's highest paid employee (total salary package) and the lowest salary of the non-schools workforce was included. This ratio last year was 1:10.90 and this year is 1:11.19. This allows greater comparison with other boroughs that provide this ratio.
- 3.12 The Local Government Transparency Code 2015 states that the pay multiple is defined as the ratio between the highest paid taxable earnings for the given

year (including base salary, variable pay, bonuses, allowances and the cash value of any benefits-in-kind) and the median earnings figure of the whole of the authority's workforce. If this definition is applied, the ratio is 1:5.97. (Please note that this figure will be updated in March, when a full tax year can be taken into consideration, to ensure it is accurate and up to date).

- 3.13 When considering the 2015-16 pay policy in January 2015, the HR Committee asked about schools and apprentices in relation to the pay multiples. For clarity, apprentices and schools' staff are not included in the pay multiple calculations. Apprentices are excluded due to the fact the multiples apply to employees only. Schools can adopt their own pay policy and therefore their staff would be covered by these. The Pay Policy is clear that the pay multiples only apply to the non-schools' workforce.

London Living Wage

- 3.14 The council is an accredited Living Wage Employer. This means that we adhere to the Living Wage Foundations accreditation statement, which states that "Employees based in London Boroughs (shall be paid) not less than the London Living Wage; and increase the amount which it pays to affected employees by the same amount as any increase to the London Living Wage, within 6 months of the date on which any increase in the London Living Wage is officially announced."
- 3.15 The London Living Wage (LLW) increases annually and the latest rise was announced on 06 November 2017. The LLW rate increased from £9.75 to £10.20 per hour.
- 3.16 The council has 6 months in which to apply the new LLW rates, i.e. by end of April 2018. It is proposed the new rate is introduced from 01 April 2017. Whilst the council's standard procurement documentation does not stipulate when contractors are required to apply the LLW, it is further proposed to align the increase for third party service providers with directly employed workers.
- 3.17 The lowest paid staff in the council are currently paid at the lowest Spinal Column Point (SCP) above the LLW rate, which is SCP 7, £10.07 per hour (£18,384 per annum). SCP 8 is currently £10.27 per hour (£18,747 per annum). There has been no pay award agreed as yet for 2018, but given the recent history of nationally negotiated pay awards for NJC employees, it is likely that the national pay award for 2018 will be weighted towards the highest rise at the lowest end of the scale. Since an increase of only 1.3% on SCP 7 would take it above the LLW rate, it is suggested that:
- Changing the pay for the lowest paid staff, in terms of increasing them to the SCP 8, are not implemented pending the outcome the nationally negotiated pay award
 - If no agreement on the pay award has been reached by 01 April 2018, the salaries of the lowest paid staff are increased to the LLW rate of £10.20 per hour, with any back pay being paid as appropriate once the pay award has been agreed

- Should lowest paid staff not receive a pay increase of 1.3% or more through the pay award, then they be moved to the lowest SCP above the LLW rate
- Should lowest paid staff receive a pay increase of 1.3% or greater, then they will remain on their existing SCP 7, which would be the lowest SCP above the LLW

3.18 The approach outlined above would fit with the Council's approach as set out in the Pay Policy statement, which is that:

“The Council will implement the increase to the London Living Wage on 1st April 2018 and as the London Living Wage rises in future years, the council will continue to increase pay levels for the lowest paid staff to ensure that they are paid the nearest scale point above the London Living Wage.”

3.19 In terms of the prospective cost of implementing the new LLW, it is likely that lower graded staff will receive a 1.3% pay award or greater and that the cost for implementing the LLW will be exactly the same as the percentage of the pay award, i.e. staff will remain on the same SCP (unless they are also due incremental progression) and receive the nationally agreed pay award.

3.20 If a lower than 1.3% pay award is agreed, it will be more expensive to implement because it would mean increasing pay from SCP 7 to SCP 8 (plus the national pay award for SCP 8).

2018/19 Pay Claim - National

3.21 The last NJC pay award covered 2016/17 to 2017/18. The award for both years was a headline one per cent, in addition to increasing the bottom pay points to take account of the new National Living Wage. Increases ranged from 6.6% at the bottom end of the spine to 1% from spinal column point (SCP) 18 upwards. In 2017/18, increases ranged from 3.4% at the bottom of the spine to 1% from SCP 18 upwards.

3.22 The pay deal included a commitment to review the ‘Green Book’ pay spine to meet the challenge of achieving the Government’s target of a National Living Wage (NLW) equal to 60% of median earnings (forecast to be around £8.75 per hour in 2020). This resulted in formation of a technical working group of LGA officers and unions.

3.23 On 14 June 2017 the Trade Unions submitted a pay claim for 2018/19 of 5% on all pay points and deletion of the bottom of the NJC and London SCPs 6-9. The technical working group has been looking to devise a potential new national pay spine.

3.24 On 05 December 2017, an offer was made by the National Employers Side which covers the two years from 01 April 2018. It would mean a 2% wage rise next April for the majority of council staff currently earning more than £19,430, and a further 2% in April 2019. The proposal would give lower paid staff a higher wage rise of up to 16% over the two years.

3.25 The proposal also includes a revamp of National Joint Council pay scales.

2018/19 Pay Claim - London

3.26 The creation of a potential new national pay spine creates significant difficulties for London. The costs are likely to be greater by trying to replicate whatever might be agreed at national level and cost modelling shows that, over two years, the cumulative cost could be between 4%-7.5%. As a result, there is a potential London may have to determine its own pay arrangements for 2018 and beyond.

3.27 A Task and Finish Group (with Tower Hamlets representation) was established through London Councils to look at the implications for London (where the London Living Wage (LLW) raises further issues – and as a LLW Employer, this would impact on Tower Hamlets) and analyse potential pay spines and associated costs.

3.28 As a result, there are three likely scenarios for London: -

1) Replicate NJC arrangements – which would be fairly straightforward, since it follows the arrangement that has been in place since April 2000. Cost modelling shows, however, this is likely to cost London up to 3.5% more than any national deal.

2) Develop separate Outer and Inner London allowances that could be added to the NJC pay spine and do away with the London pay spines – the principles would be relatively easy to understand and would follow the nationally agreed pay deal. However, new longer pay scales and assimilation arrangements will change the pay and grading structures of London boroughs.

3) London could continue with its own pay spines and determine its own pay award based on relevant and appropriate principles of any pay award agreed at NJC level, e.g. the overall percentage increase agreed nationally - London could try and follow the spirit of the national pay award increases, within an affordability framework.

3.29 The Council's paybill for the last financial year was £118,892,558 (excluding on costs). A 5% increase on all SCPs would add £5,944,627 to the paybill, taking it to £124,837,185. Please note this is an approximation and is likely to be lower as not all staff are employed on NJC terms and conditions, though if 5% were to be agreed for NJC staff, it is likely a similar claim would be made for other staff. There would be additional costs associated with the removal of SCPs 6-9.

3.30 The determination of any national pay award is a matter for the national employers' side. The issue for London employers is the manner in which any final pay agreement is translated into the London context.

- 3.31 In terms of next steps, the London position in terms of objectives in translating any nationally agreed deal to London needs to be confirmed by the Employers side of Greater London Provincial Council (GLPC), which is likely to meet in early 2018.
- 3.32 Given the announcement that the public sector pay cap is going to be 'flexible' from now on, the changes that need to be made to the National and London pay spines identified above, and the National Employers Side pay offer, it is likely that any pay award for 2018/19 for London will be a minimum of 2%, though again it is likely to be bottom loaded, with a new pay spine for 2019 and any cost increases are proposed to come from Councils existing budgets.

Non-permanent Workforce Resources

- 3.33 It is proposed to insert a new section in to the 2018/19 Pay Policy that covers the Council's approach to the engagement of non-permanent staffing resources (see section 11 of the Pay Policy 2018/19).
- 3.34 The inclusion of the principles that underpin the way in which such resources will be engaged supports a more transparent approach and is in keeping with the Council's refreshed core values.
- 3.35 The suggested rates in the table under section 11 of the Pay Policy 2018/19 reflect the rates previously paid for workers at this level of the organisation and could, in exceptional cases, be used in conjunction with market supplements should a suitable candidate be unable to be secured based on the rates alone.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The MTFS includes a provision of £3.1m in 2018/19 to cover increases in employee costs as a result of pay inflation and changes in the London Living Wage (LLW).
- 4.2 The recommendations within this report are not expected to incur any additional financial commitment for the Council. However, the cost of any additional administrative responsibilities arising from these changes will need to be contained and managed within existing resources.

5. COMMENTS OF THE CHIEF LEGAL OFFICER

- 5.1 The main legal considerations regarding the pay policy requirements are set out in the body of the report.
- 5.2 Any changes to pay scales or pay awards are dealt with through collective bargaining and will not require contractual amendments as these are already accounted for in current terms and conditions however any changes to the way in which staff are remunerated would need to be dealt with by consultation and an agreed contract variation or the offer of new contractual

terms through re-engagement following the Council's agreed employment processes.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 An equality analysis will be carried out on the draft policy statement, but it should be noted that the statement describes existing policies and practice rather than proposing new ones. Should there be amendments, further advice on the impact will be given.

7. BEST VALUE (BV) IMPLICATIONS

7.1 This report sets out the council's pay policy for 2018/19, which is required by law. It ensures that employees receive an appropriate salary for the work they undertake and that the council's approach to pay is set out clearly.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no implications.

9. RISK MANAGEMENT IMPLICATIONS

9.1 The draft statement describes existing policies and practice. Any risks, e.g. from proposing changes in the future to pay and benefits, would be assessed at the time.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 There are no implications.

Linked Reports, Appendices and Background Documents

Linked Report(s)

None

Appendices

Appendix 1 – Draft Pay Policy Statement 2018/19

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

Localism Act 2011

LGA / ALACE - ‘Localism Act: Pay Policy Statement Guidance for Local Authority Chief Executives’

DCLG - Openness and Accountability in Local Pay: guidance under section 40 of the Localism Act

DCLG - ‘Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011’ Supplementary Guidance

Communities and Local Government - The Code of Recommended Practice for Local Authorities on Data Transparency

Officer contact details for documents:

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