

Non-Executive Report of the:  <b>GP Committee</b>  23 February 2021	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Kevin Bartle, Interim Corporate Director Resources	<b>Classification:</b> Unrestricted
<b>Localism Act 2011 – Pay Policy Statement 2021/22</b>	

<b>Originating Officer(s)</b>	Amanda Harcus, Divisional Director HR and Organisational Development
<b>Wards affected</b>	All wards

### Executive Summary

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

A statement for 2021/22 (draft attached as Appendix 1) should be approved and adopted by 31 March 2021, to enable it to be published as soon as is practical in the new financial year. The council's first pay policy statement was in 2012/13 and subsequent pay policy statements were agreed for each of the subsequent years, with the latest being for 2020/21.

The [Local Government Transparency Code 2015](#) includes guidance on the calculation of the pay multiple, which forms part of the pay policy statement. No further supplementary guidance has been published in relation to the 2021/22 pay policy statement.

Should guidance or an updated Code be published after the 2021/22 pay policy has been considered by the GP Committee and/or Full Council, which requires minor amendments, it is proposed that GP Committee delegate the authority to make minor amendments to the Chief Executive following consultation with the Divisional Director of HR and Organisational Development, Chair of the GP Committee and Monitoring Officer. Should any fundamental changes be required, the pay policy statement will be sent back to GP Committee for further consideration.

The 2021/22 proposed pay policy statement has to be approved by GP Committee and adopted by LBTH by the end of March 2021. At the meeting of Full Council, the statement will be considered for adoption, this will be held on 4 March 2021.

The pay policy statement sets out the council's current policies and practice

in relation to pay for all parts of the Council's directly employed workforce (including some elements that cover agency workers), with the exception of school based employees. Any changes to the way in which staff are remunerated would need to be dealt with as outlined in section 5 – Legal comments.

## **Recommendations:**

GP Committee is recommended to:-

Consider the draft 2021/22 pay policy statement, proposing any changes and, subject to such changes, recommend policy for adoption by Full Council on 4 March 2021.

Delegate to the Chief Executive, in consultation with the Divisional Director HR and Organisational Development, Chair of the GP Committee and Monitoring Officer, any minor changes to the 2021/22 pay policy statement.

Consider and agree the amendments to the Council's Constitution in relation to the Terms of Reference for the General Purposes Committee.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The Localism Act 2011 received Royal Assent on 15 November 2011. Additionally, the 'Code of Recommended Practice for Local Authorities on Data Transparency' was published in September 2011, under Section 2 of the Local Government, Planning and Land Act 1980. The Code sets out key principles for local authorities in creating greater transparency through the publication of data. Supplementary guidance, 'Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act', was published on 20 February 2013.
- 1.2 The Act's intention is to bring together the strands of increasing accountability, transparency and fairness, with regards to pay.
- 1.3 The provisions of the legislation required Local Authorities to adopt and publish a pay policy statement for 2011/12 and then for each subsequent financial year. Statements must be approved by Full Council and have regard to the guidance published by the Secretary of State. Authorities will be constrained by their policy statement when making determination on senior officer pay, although the statement may be amended at any time by further resolution of Full Council.

## **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 THE REPORT**

3.1 The pay policy statement must set out the authority's policies for the financial year relating to remuneration of its officers. It 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, 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 2021/22 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'. The statement details the council's current arrangements; using the definitions contained in the Act and associated guidance. The pay policy statement should also set out the council's position in relation to appointments to posts with salary packages over £100,000 and redundancy packages over the same amount.

3.4 The Localism Act defines senior executives, and in this statement they are the Chief Executive, Corporate Directors, the Monitoring Officer and Directors.

3.5 The draft 2021/22 pay policy 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. In addition, the Local Government Transparency Code 2015, also covers the way in which the pay multiple included in the pay policy should be calculated. Should any minor changes to the 2020/21 pay policy statement be required as a result of the publication of an updated Code, these amendments could be made by the Chief Executive, after consultation with the Director Workforce and Business Services, Chair of the GP Committee and Monitoring Officer. Should any fundamental changes be required, the pay policy statement will be sent back to the GP Committee for consideration.

### **Pay Multiple**

3.6 There is a requirement to publish a ratio, or pay multiple. There are a variety of ways to approach this and 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 2020/21 pay policy statement. The ratio last year was 1:5.82 and this year it is again 1:5.82.

3.7 Since 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 is included. This ratio last year was 1:13.65 and this year is again 1:13.65. This allows greater comparison with other boroughs that provide this ratio. Comparison of ratios for this year is not possible until after 01 April 2021 when pay policies are published. However, please see below table which sets out a comparison of ratios against other London boroughs, including the other inner London boroughs, for the previous 2 years. We will bring back a further report to GP Committee to show comparisons for this year.

Borough	2019/20		2020/21	
	Highest to median	Highest to lowest	Highest to median	Highest to lowest
Tower Hamlets	1:5.97	1:12.91	1:5.82	1:13.65
Hackney	1:5.05	1:8.18	No data	No data
Greenwich	1:6.29	No data	1:6.12	No data
Southwark	1:6.19	No data	No data	No data
Camden	No data	1:9.1	1:5	1:8.2
Westminster	No data	No data	1:5.5	No data
Islington	No data	No data	No data	1:8
Wandsworth	No data	No data	1:7.89	No data
Kensington and Chelsea	No data	No data	1:5.2	No data
Hammersmith and Fulham	1:4.8	1:8.44	1:5.3	1:9.9
City of London	1:7	1:12	No data	No data
Lewisham	No data	No data	No data	No data
Lambeth	No data	No data	No data	No data
City of London	1:7	1:12	No data	No data
Haringey	1:5.8	1:9.6	1:5.8	1:9.5
Newham	No data	No data	No data	No data

3.8 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 1:5.91 (Please

note that the ratio figures will be updated in April 2021, when a full tax year can be taken into consideration, to ensure they are accurate and up to date).

- 3.9 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 must publish their own pay policy, which is different to the Council's 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**

- 3.10 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."
- 3.11 The London Living Wage (LLW) increases annually and the latest rise was announced on 9 November 2020. The LLW rate increased from £10.75 to £10.85 per hour.
- 3.12 The council has 6 months in which to apply the new LLW rates, i.e. by 9 May 2021.
- 3.13 The lowest paid staff in the council are currently paid on spinal column point 1, which equates to (£21,815 annual) £11.95 per hour, which is already above the new LLW rate of £10.85 per hour.

### **Changes to the Pay Policy**

- 3.14 The following changes have been proposed for the Pay Policy 2021/22:-
- Section 8 now includes information on starting salaries, as well as salary progression, and reads:-

*"8.1 Starting salaries for staff shall be based on the lowest spinal column point of the grade, unless the individual is already earning more than this, in which case we will match their salary where this is available to match. Staff will only be placed on a higher spinal column point in exceptional circumstances (subject to evidence and business case agreed before an offer is made to a candidate and in line with budget affordability), which must be pre-agreed by the Director of Workforce, OD and Business Services ahead of offers being made, the exception to this provides the chief executive authority to agree and set pay for corporate directors and directors in conjunction with the Director Workforce and Business Services.*

8.2 *There should be no increase in spinal points for staff directly matched to a post. If staff are directly matched at the same grade, they should be on the same salary point. If staff are directly matched at a higher grade, it should be at the bottom spinal point of the new grade. If there is a cross over in spinal point between the old and new grade the individual stays at the same spinal point in the new grade.*

8.3 *For staff below Chief Officer level, incremental progression is on an annual basis for those staff who are not at the top of their grade. In exceptional circumstances an increment may be withheld due to poor performance. Chief Officers have to demonstrate satisfactory performance through a formal annual appraisal before being awarded incremental progression.”*

- Section 9.4 has been amended to include other payments for recruitment and retention purposes, as well as Market Supplements, and reads:-

*“The Council’s Director Workforce and Business Services, also has the ability to agree the payment of market supplements and other payments for recruitment and retention purposes, where there is a strong business case and appropriate criteria are met. (Details are set out in the Council’s Market Supplement Policy and Recruitment and Retention Policy).”*

### **Public Sector Exit Payment Cap**

3.15 The Public Sector Exit Payment Regulations 2020 came into force on 4 November 2020 and introduced a £95k cap on the total value of exit payments. However, on 12 February 2021, after extensive review of the application of the Cap, the Government concluded that the Cap may have had unintended consequences and the Regulations should be revoked. HMT Directions have been published that disapply the Cap until the Regulations have been revoked. Therefore, the exit cap should be treated as if it never applied.

3.16 Section 12.5, which previously covered the Public Sector Exit Payment Regulations, is deleted to reflect this change.

### **Constitutional Changes**

3.17 To ensure the Council’s Constitution follows the processes set out in the pay policy, the following change is required to the Constitution. Under section 10, the following addition is needed to the Terms of Reference for the General Purposes Committee:-

*“To consider any recruitment and exit payments over £100,000 in accordance with the Council’s Pay Policy Statement.”*

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 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.

#### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
  - Data Protection / Privacy Impact Assessment.
- 5.2 This report sets out the council's pay policy for 2021/22, 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.

#### **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 There are no specific financial implications arising from the recommendations within this report.
- 6.2 The costs of meeting the Council's Pay Policy will need to be contained within existing staffing budgets agreed through the Annual Budget and MTFS process. The annual Employees budget is circa £200m.

#### **7. COMMENTS OF LEGAL SERVICES**

- 7.1 The main legal considerations regarding the pay policy requirements are set out in the body of the report.
- 7.2 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.
- 7.3 When formulating its annual Pay Policy Statement, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010,

the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector duty).

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None

### **Appendices**

- Appendix 1 – Draft Pay Policy Statement 2021/22
- Appendix 2 – Redundancy/severance packages over £100,000

### **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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