

Non-Executive Report of the: General Purposes Committee 25 January 2017	
Report of: Zena Cooke, Corporate Director Resources	Classification: Unrestricted
Localism Act 2011 – Pay Policy Statement 2017/18	

Originating Officer(s)	Stuart Young, Interim Divisional Director HR and Transformation
Wards affected	All wards

Summary

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 2013/14, 2014/15, 2015/16 and 2016/17 (Appendix 2). A statement for 2017/18 (draft attached as Appendix 1) should be approved and adopted by 31st March 2017 to enable it to be published as soon as is practical in the new financial year.

The Local Government Transparency Code 2015 (Appendix 3) includes further guidance regarding 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 2017/18 pay policy statement and a Local Government Transparency Code 2016 is also yet to be published.

Should guidance or a 2016 Code be published after the 2017/18 pay policy has been considered by the GP Committee and/or Full Council, which requires minor amendments to be made to the pay policy statement, it is proposed that the GP Committee delegate the authority to make such amendments to the Chief Executive after consultation with the Divisional Director (HR and Transformation), the Chair of the GP Committee and the Monitoring Officer. Should any fundamental changes be required, the pay policy statement will be sent back to the GP Committee for consideration.

The draft 2017/18 pay policy statement is included at Appendix 1 for consideration by the GP Committee. The proposed statement has to be approved and adopted by the end of March 2017. The meeting of Full Council, during which the statement will be considered for adoption, will be held on 22nd March 2017.

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. Any changes to the way in which staff are remunerated would need to be dealt with as outlined in section 8 – Legal comments. The model pay policy produced for schools could be reviewed for 2017/18 to include a commitment to pay London Living Wage.

Recommendations:

The General Purposes Committee is recommended to:-

1. Consider the draft pay policy statement, proposing any changes to be made and, subject to such changes, recommend that Full Council agrees the draft statement.
2. Agree that if any minor changes to the 2017/18 pay policy statement are required as a result of future government guidance or a Local Government Transparency Code 2016, these amendments be delegated to the Chief Executive, after consultation with the Divisional Director (HR and Transformation), the Chair of the GP Committee and the Monitoring Officer. Should any fundamental changes be required, the pay policy statement will be sent back to the GP Committee for consideration.

1. REASONS FOR THE DECISIONS

- 1.1 The Localism Act 2011 received Royal Assent on 15 November 2011. In addition to the Act, 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 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 REPORT

- 3.1 The pay policy statement must set out the authority'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. The original guidance was published in 2012, with updated guidance published in February 2013, which stated that the pay policy statement should 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, Directors, the Monitoring Officer and Assistant Directors.
- 3.5 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. 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. The government have consulted on changes to the Code for 2016 but at the time of writing, the results have not been published. Should any minor changes to the 2017/18 pay policy statement be required as a result of the publication of a Local

Government Transparency Code 2016, these amendments could be made by the Chief Executive, after consultation with the Divisional Director (HR and Transformation), the Chair of the GP Committee and the 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, 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 1:6.7 and this year is 1:6.1.
- 3.7 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 1:10.87 and this year is 1:10.90. This allows greater comparison with other boroughs that provide this ratio.
- 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 1:6.1. This is the same as the figure already used. (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).
- 3.9 When considering the 2015-16 pay policy in January 2015, 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. The model pay policy provided to schools could be revised for 2017/18 to include pay multiples.
- 3.10 Once other councils have published their pay policies, there will be a further report to GP Committee including benchmarking information as to how the council's pay multiples compare to those of other London boroughs.

London Living Wage

- 3.11 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.”

- 3.12 The London Living Wage (LLW) increases annually and the latest rise was announced on 31st October 2016. The LLW rate increased from £9.40 to £9.75 per hour.
- 3.13 The council has 6 months in which to apply the new LLW rates, i.e. by 30th April 2017. It is proposed the new rate is introduced from 1st 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.
- 3.14 The lowest paid staff in the council are currently paid at the London Living Wage rate of £9.40 per hour. It is proposed that from 1st April 2017, the lowest paid staff are moved on to spinal column point (SCP) 6, which will equate to £9.99 per hour – an increase of 59p per hour or SCP 7, which will equate to £10.07 per hour, depending on their length of service.
- 3.15 SCPs 6 and 7 have not been used for a number of years due to past increases in the LLW, prior to the 2 year pay award being agreed, which meant the LLW rate surpassed the hourly rates for these points. Following the 2 year pay award agreed last year, SCPs 6 and 7 are both now back above the LLW rate and it is therefore proposed that they start to be used again.
- 3.16 Prior to the 2 year pay award agreed last year, the lowest paid staff had progressed to SCP 8, which at that time was the lowest point above the LLW rate. It was therefore agreed that last year, as the pay award was pending, staff who had been receiving SCP 8 (£9.35 per hour) would receive an increase to the actual LLW rate (£9.40 per hour).
- 3.17 The Trade Unions requested that SCPs 6 and 7 are not reintroduced as they are seeking to increase the pay of those paid at the lower end of the pay scales. However, as the 2016-18 pay award is weighted so that the biggest hourly increase is at the lower end of the pay spine, SCPs 6 and 7 are now above the LLW rate.
- 3.18 There are currently 561 staff who are receiving the LLW. This figure excludes staff who were on SCP 8 but their substantive post grade is Scale1A2, as they will remain on SCP 8, or progress to SCP 9 if they have the requisite service. The 561 staff have a substantive post grade of Scale1A1 and have only previously progressed to SCP 8 due to the LLW increases.
- 3.19 In relation to the 561 staff receiving the LLW, it is proposed that as SCPs 6 and 7 are now above the LLW, they be moved back on to SCP 6 or 7 as appropriate. Staff who have the service to have progressed to the top of Scale1A1 grade will be placed on SCP 7 and those who have not will be placed on SCP 6.

- 3.20 Although this approach means reducing the SCP that these staff were previously on, they will receive an actual pay increase of at least 59p per hour. This approach also means that staff are once again receiving pay in line with the evaluated grade for their post.
- 3.21 Many of the 561 employees work part time, meaning that there are 325 full-time equivalents. The maximum cost increase (based on the current rate of £9.40 per hour) of this approach, assuming all staff were to be paid on SCP 7 (which would apply to the overwhelming majority), would be £399,425 per annum.
- 3.22 Although the 2017-18 Pay Policy does not specifically say which SCP these staff should be placed on, it does say that “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.” This approach complies with that principle.
- 3.23 It is proposed that as well as moving staff currently paid on LLW whose substantive grade is Scale1A1 on to SCPs 6 and 7 as appropriate, that new starters in posts graded Scale1A1 are placed on a starting point of SCP 6, which is the lowest SCP in the grade.
- 3.24 The significant increase of the hourly rate at the lower end of the pay scale means that SCPs 6 and 7 can be reintroduced, relieving the concertina effect that was occurring in the lower grades.
- 3.25 If, however, staff were paid at the London Living Wage rate of £9.75 per hour instead of being placed on the appropriate SCP, the cost (based on the assumptions in 3.21 above) would be around £207,480.
- 3.26 It is likely that by 2018 the current pay spine will not be fit for purpose. Given this, a Task and Finish Group looking at a future pay spine for London, taking into account, amongst other things, the concertina effect that rises to the LLW is having on the bottom of the current pay spine, has been established and some initial work done. The council is represented on this group, which may be called on to do further work in 2017, depending on how national discussions about amendments to the pay spine progress.

Future Legislative Changes

Change expected by end of 2016/early 2017 - Repayment of Public Sector Exit Payments

- 3.26 The Small Business, Enterprise and Employment Act 2015 became law on 26th March 2015. The Act includes provision for secondary legislation in relation to the repayment of public sector exit payments. Draft Repayment of Public Sector Exit Payments Regulations 2015 have been created, which are due to come into force in late 2016/early 2017.

- 3.27 The Regulations will mean that individuals earning more than £80,000, who receive an exit payment and then take a new job anywhere in the public sector within a year, either on or off payroll, will have to repay, to the employer who made the payment, all or part of their exit payment.
- 3.28 In anticipation of the regulations, a separate paragraph was included in the Pay Policy for 2016-17, under section 12.5 – re-employment following redundancy/early retirement, to cover the requirement in the regulations as follows: -

“Any employee or office holder who earns above the threshold set out in the Repayment of Public Sector Exit Payments Regulations 2016, will be required to repay in full or part (as set out in the Regulations), to the employer who made the payment, any exit payment they receive should they return to any part of the public sector (see the Regulations for a full list), either on or off payroll, within 12 months, once the Regulations are operable. This requirement can only be waived in exceptional circumstances and by a decision of Full Council.”

Change expected in 2017 – Public Sector Exit Payment Cap

- 3.29 At present there is no limit on public sector exit payments. The government announced on 23rd May 2015 that it intends to end six figure exit payments for public sector workers. The government therefore proposes to introduce a cap of £95k on the total value of exit payments.
- 3.30 This cap will include all forms of exit payment available to employees on leaving employment, for example cash lump sums, such as redundancy payments, the cost to the employer of funding early access to unreduced pensions (‘pension strain’), severance payments, ex gratia payments and other non-financial benefits, such as additional paid leave. The cap of £95k on the total value of the exit payment would apply whether these benefits are taken individually or in combination.
- 3.31 Where multiple payments are made, these will be aggregated to be measured against the £95k cap. At present, it is proposed that the following will not be in scope: -
- Compensation payments in respect of death or injury attributable to employment, serious ill health and ill health retirement and certain fitness related requirements
 - Payments made to conclude/settle litigation, including claims for unfair dismissal and/or breach of contract
- 3.32 It is proposed that waivers would be available in exceptional cases and will require the approval of Full Council. There will be a requirement for the council to maintain records and publish annual details of all exit payments made within the financial year

- 3.33 Draft Public Sector Exit Payment Regulations 2016 have been created by the Treasury, in exercise of the power conferred upon them by section 153A(1) of the Small Business, Enterprise and Employment Act 2015. However, these are still in draft form and an implementation date is yet to be set. The LGA has advised it is awaiting further legislative developments and guidance will be issued in due course.
- 3.34 At present, it is unclear how the proposals set out in the Regulations will override either the statutory or contractual rights of employees. It is likely that further legislation will be required to give effect to these proposals where they override contractual provisions. The proposals may also require legislative amendments to the Local Government Pension Scheme.
- 3.35 The proposed changes are aimed at senior managers within the public sector. However, there will be a greater impact on employees with longer service, even at middle income level, in relation to the cost of providing unreduced pension benefits.
- 3.36 It is not proposed to add anything to the pay policy at this stage with regard to these proposals. If changes are needed once the final regulations are implemented and their impact is clear, they will be made at that time.
- 3.37 A further report and guidance will be produced on these regulations and their impact once the final details are known.

Trade Union Consultation

- 3.38 The draft pay policy and this report have been shared with Unison, GMB and Unite for their comments but none were received.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The MTFs includes a provision of £1.6m in 2017/18 to cover increases in employee costs as a result of pay inflation and changes in London Living Wage (LLW).
- 4.2 Aside from that, the other recommendations within the report are not expected to lead to any additional financial commitments for the council. However, there will be some additional administrative responsibilities arising from these changes which will need to be managed through existing resources.

5. LEGAL COMMENTS

- 5.1 The legal considerations are set out in the body of the report and therefore there are no additional legal implications arising.

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 2017/18, 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

Repayment of Public Sector Exit Payments

Appendices

Appendix 1 – Draft Pay Policy Statement 2017/18

Appendix 2 – Pay Policy Statement 2016/17

Appendix 3 – Local Government Transparency Code 2015

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:

- Stuart Young, Interim Divisional Director, HR and Transformation 020 7364 5918