

**Report title: Living Wage Accreditation: Update and recommendations**

**Wards affected: All**

**Strategic Director: Max Wide, Strategic Director, Business Change**

**Report Author: Richard Billingham, Service Director: HR**

**RECOMMENDATION for the Mayor's approval:**

**1. To note that Bristol City Council are in the process of undertaking a full assessment of financial implications, in conjunction with current suppliers, to understand the impact of becoming accredited with the Living Wage Foundation.**

**2. That Cabinet receives a further update during the third quarter of 2015/16, once the work above has been completed, in order to make further decisions based on the analysis and evidence.**

**Key background / detail:**

- a. Full Council approved a paper on 16<sup>th</sup> September 2014 which recommended paying the Living Wage to all employees of Bristol City Council. Within this paper, a commitment was also made to provide Cabinet with an update on progress towards achieving full Living Wage Accreditation status before the end of the municipal year. The purpose of this paper is to provide this update and associated recommendations.
- b. Key details:
  1. Working towards Living Wage Accreditation is consistent with recommendation 23 of the Mayor's Fairness Commission report, and with Bristol City Council's Pay Policy Statement, both of which make clear Bristol City Council's aim to "strive to become a fully Accredited Living Wage employer".
  2. Full Living Wage accreditation requires renegotiation of existing contracts in which suppliers provide staff to work on our behalf to provide services, at scheduled contract renewal points.
  3. Full involvement of Officers from Finance, Procurement, Legal, Policy and Human Resources has been obtained in the production of this paper.
  4. It is difficult at this stage to undertake a robust financial assessment of the likely impact of achieving full accreditation, and it is therefore recommended that Cabinet note that further work is necessary to fully assess the impact, and this work is likely to take six months.
  5. There are currently 161 contracts in scope, for which the payment of the Living Wage may be an issue. The vast majority of these are due for renewal in the next three financial years, but some run as far into the future as 2028.
  6. The total value of the contracts is £953m, with an annual value of £200m.

**BRISTOL CITY COUNCIL  
CABINET  
7<sup>th</sup> April 2015**

**REPORT TITLE:** Living Wage Accreditation: Update and Recommendations for further work

**Ward(s) affected by this report:** n/a

**Strategic Director:** Max Wide, Strategic Director, Business Change

**Report author:** Richard Billingham, Service Director - HR

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**Purpose of the report:**

*To provide Cabinet with an update on the work being undertaken to assess the impact of Living Wage Foundation Accreditation.*

**RECOMMENDATION for the Mayor's approval:**

- 1. To note that Bristol City Council are in the process of undertaking a full assessment of financial implications, in conjunction with current suppliers, to understand the impact of becoming accredited with the Living Wage Foundation.**
- 2. That Cabinet receives a further update during the third quarter of 2015/16, once the work above has been completed, in order to make further decisions based on the analysis and evidence.**

**The proposal:**

1. Background

1.1 Recommendation 23 of the Mayor's Fairness Commission report, considered by Cabinet on 5<sup>th</sup> August 2014, stated: "*Bristol City Council should aim to become a fully accredited Living Wage Employer, first with staff and then working through procurement, contracting and best value policies to raise awareness and understanding of the benefits of it with contracted services before implementing this requirement over time (at scheduled contract renewal points)*".

1.2 The Fairness Commission also advocated that the Authority work to develop a Social Value Policy to ensure that the services that are commissioned and procured can improve the economic, social and environmental well-being of the area as part of the Public Services Social Value Act 2012, which should incorporate the Council's commitment to delivering Living Wage Accreditation.

- 1.3 In response to these recommendations and building upon previous work undertaken by the Council, including the Scrutiny Inquiry day on the Living Wage in Autumn 2014, a paper was brought to Full Council proposing that all BCC staff earning below the Living Wage be paid a supplement to increase their salary to the Living Wage from 1<sup>st</sup> October 2014 onwards. It was also proposed that a non-consolidated payment should be paid to BCC staff who had been earning less than the Living Wage, to cover the period between 1<sup>st</sup> April 2014 and 30<sup>th</sup> September 2014. These recommendations were supported by Full Council, and subsequently implemented in full.
- 1.4 Full Living Wage Foundation Accreditation further requires that a firm, timetabled plan is in place to ensure that all suppliers providing staff to deliver Bristol City Council services pay these staff at least the Living Wage. This requires renegotiation of all procured contracts of this nature, generally as they come up for renewal, however with some longer-term contracts, it may be necessary to renegotiate during the existing term of the contract. This would apply to any relevant new contracts.
- 1.5 Within the paper considered by Full Council on 16<sup>th</sup> September 2014, a commitment was also made to provide Cabinet with an update on progress towards achieving full Living Wage Accreditation status before the end of the municipal year. The purpose of this paper is to provide this update.

## **2. Progress to date**

- 2.1 On 8<sup>th</sup> December 2014, the Living Wage Foundation spent a day with Bristol City Council, discussing the process of achieving Living Wage Foundation Accreditation, and any associated barriers. They held separate sessions with Elected Members, Officers and Union representatives.
- 2.2 The key points arising from this session were as follows:
- Accreditation does not require all of our procured contracts to adhere to the Living Wage immediately. It instead requires that a timetabled plan to achieve this is agreed between Bristol City Council and the Living Wage Foundation.
  - Accreditation is not withdrawn if, despite best efforts, an employer is unable to agree implementation of the Living Wage with an existing contractor.
  - Legal advice would be sought throughout from Bristol City Council's Legal team and the Living Wage Foundation would not expect Bristol City Council to be placed at a legal risk, nor would they withdraw accreditation if all reasonable efforts have been made to renegotiate within the current Legal framework.
  - The Living Wage Foundation is sensitive to the fact that, like many local authorities and especially those with large, long-term contracts (such as domiciliary / residential care), the timetable for full implementation may extend over more than five years.
  - The Living Wage Foundation has 25 Accredited Local Authorities, of which only one is a core city (Birmingham City Council), and none of which include Bristol's neighbouring authorities.

2.3 Officers from Human Resources, Procurement, Finance and Policy have undertaken some initial exploratory work to begin to assess the implications of becoming Living Wage Foundation Accredited. The initial findings of this work are set out below.

### **3. Procurement implications**

3.1 Within Bristol City Council there are 161 procurement contracts for which the payment of the Living Wage could be a factor. Of these contracts, the renewal dates range from 2015 through to 2028, with the vast majority being renewable within the next three financial years. This includes significant PFI contracts, for instance Hengrove Leisure Centre.

3.2 The total value of these contracts at present is £953m, and the annual value is £200m.

3.3 It has proved difficult to ascertain whether these providers are currently paying their staff the Living Wage. In most cases, Bristol City Council are charged a fee for the provision of services, and the proportion of this fee that goes towards an individual's salary is unclear and often commercially sensitive.

3.4 One option for ascertaining this information is for Officers to directly ask the question of suppliers. There are some risks associated with this:

- This may be viewed as representing a policy position on becoming an accredited Living Wage employer prior to undertaking the full assessment, which could in turn impact future contract negotiations.
- Since the Living Wage is not presently enshrined in law, it would be illegal to take any action that suggested that we would automatically favour any supplier that paid their staff the living wage. However, experience from the Living Wage Foundation who have worked with many other employers on achieving accreditation shows that achieving this within legal parameters is possible.
- The current Legal steer on this issue is that building payment of the living wage into the contract itself, rather than the award criteria, is of lower risk. There is a higher risk where suppliers use workers not resident in the UK. The majority of our contracts would not fall into this criteria. However, as each contract is different and the renewal timetable for each varies, the legal issues associated with each contract renewal should be considered independently in turn.

3.5 As a result of these risks, it is important that the question is framed as an information gathering exercise and that the same question is asked of all suppliers.

3.6 A further consideration, which is already recognised as good practice on the journey towards Living Wage Accreditation, is to request two separate quotes

from each supplier: one that includes paying their staff the living wage, and one that does not (if they do not already pay their staff the Living Wage).

#### **4. Financial implications**

4.1 As noted in section 3 above, assessing the financial impact of obtaining Living Wage Accreditation is extremely complex. Given the broad range of potential impact, it is felt that the most prudent option is for Officers to undertake a full assessment of the potential impact through supplier engagement.

4.2 Cabinet are advised that this process involves a considerable amount of work and thus may take at least six months to complete with confidence.

4.3 Cabinet are further advised that some suppliers may consider this information commercially sensitive and thus may be reluctant to volunteer it.

4.4 It is important to note that the People Directorate has a high number of contracts, many of which are high-value (e.g. Residential Care, Domiciliary Care). This, coupled with the fact that the People Directorate is already experiencing significant spending pressures, could mean that the impact on the People Directorate is significant. This is a further reason to advocate a full assessment of the situation, prior to giving any further commitment.

4.5 It should be noted, however that some suppliers are already paying the Living Wage, so Living Wage Accreditation does not necessarily mean that all contracts will become more expensive as a result.

#### **5. Recommendations**

5.1 To note that Bristol City Council is in the process of undertaking a full assessment of financial implications, in conjunction with current suppliers, to understand the impact of becoming accredited with the Living Wage Foundation.

5.2 That Cabinet receives a further update during the third quarter of 2015/16, once the work above has been completed, in order to make further decisions based on the analysis and evidence.

#### **Consultation and scrutiny input:**

**a. Internal consultation:**

**Strategic Leadership Team, Business Change Directorate Leadership Team, Legal Services, Procurement, Human Resources, Policy and Research, People Directorate Commissioning**

**b. External consultation:**

Living Wage Foundation

## Other options considered:

1. To not proceed at all with achieving Living Wage Accreditation. This would not be aligned with the policy direction set out following the Mayor's Fairness Commission, and would result in Bristol not being accredited as a Living Wage employer. This was therefore not recommended.
2. To give full sign up at this stage to proceeding with Living Wage Accreditation. There are many unknowns at this stage, and it was not deemed prudent to give full commitment without first undertaking a full assessment of the implications.

## Risk management / assessment:

<b>FIGURE 1</b>							
<b>The risks associated with the implementation of the (subject) decision :</b>							
No.	RISK  Threat to achievement of the key objectives of the report	INHERENT RISK  (Before controls)		RISK CONTROL MEASURES  Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK  (After controls)		RISK OWNER
		Impact	Probability		Impact	Probab...	
1	Financial implications could be too significant to make accreditation viable	High	Medium	To undertake a full assessment of the financial implications, and only make a full decision on whether to proceed once these are better understood	Medium	Low	
2	Suppliers could increase their costs and gain competitive advantage once our position on Living Wage Accreditation is known	Medium	Medium	To work proactively with suppliers to engage them in the process	Medium	Low	
3	Local SMEs could be 'frozen out' of the market by being less able to be flexible with process while delivering the Living Wage to their staff due to economies of scale	Low	Medium	Ensure that payment of the Living Wage is not the sole criteria on which bids are judged, and undertake full market assessment to evaluate and manage this risk	Low	Low	

<b>FIGURE 2</b>							
<b>The risks associated with <u>not</u> implementing the (subject) decision:</b>							
No.	RISK  Threat to achievement of the key objectives of the report	INHERENT RISK  (Before controls)		RISK CONTROL MEASURES  Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK  (After controls)		RISK OWNER
		Impact	Probab...		Impact	Probab...	
1	Bristol City Council does not work further towards achieving its aim of becoming an Accredited Living Wage employer, as recommended by the Fairness Commission	Medium	High	Ensure that the options are explored and full evidence gathered prior to making a final decision	Medium	Medium	
2	Reputational risks associated with the above	Medium	Medium	As above	Medium	Low	

## Public sector equality duties:

**Before making a decision, section 149 of the Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:**

*i) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.*

*ii) advance equality of opportunity between persons who share a relevant protected characteristic and those do not share it. This involves having due regard, in particular, to the need to:*

*- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic.*

*- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);*

*- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*

*iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.*

As there is much further work to be undertaken in respect of achieving full Accreditation, a comprehensive Equalities Impact Assessment will be carried out in conjunction with this work.

However, the most significant contracts for which paying the Living Wage will be an issue are in Domiciliary Care and Home Care. These contracts are staffed by a relatively high number of women, and a higher than average proportion of individuals from a BME group. If Bristol City Council were ultimately to proceed with the accreditation process, it would be likely to have a positive impact on people within these groups who operate on our contracts.

## **Eco impact assessment**

No significant environmental impacts arising from this paper – as confirmed by **Steve Ransom, Environmental Programme Manager**.

## **Resource and legal implications:**

### ***Finance***

#### **a. Financial (revenue) implications:**

It is anticipated that there will be a financial cost to the Council of gaining Living Wage Accreditation. However, the extent of this is dependent on the number of the Council's suppliers who already pay at Living Wage levels, and for those that don't, the extent to which they would pass the additional cost on in their contract pricing. BCC does not currently have access to information on the pay rates of our suppliers.

It is not currently possible to say what the potential financial cost to the Council may be of achieving accreditation. Therefore, it is recommended that the Council work with suppliers, to estimate the financial implication for BCC.

**Advice given by Janet Ditte – Service Manager: Finance Business Support**  
**Date 23<sup>rd</sup> January 2015**

**b. Financial (capital) implications:**

It is also possible that there could be an additional finance cost to capital schemes of achieving Living Wage Accreditation, where schemes include labour costs. It is recommended that the Council should work with the Living Wage Foundation to assess what the impact has been for local authorities who have already achieved accreditation.

**Advice given by Janet Ditté – Service Manager: Finance Business Support**  
**Date 23rd January 2015**

**c. Legal implications:**

**This is a complex area which involves cases up to the European Court of Justice. Accordingly, a full legal appraisal is recommended to ensure this measure will comply with certain EU law.**

**Advice given by Sinead Willis / Solicitor**  
**Date 27 January 2015**

**d. Human Resources implications:**

**This proposal will not directly affect staff employed by Bristol City Council. However, once further work has been completed to assess the full impact and a decision is made on whether to proceed on this basis, the impact will need to be further assessed.**

**Advice given by Alex Holly, People Business Partner**  
**Date 24<sup>th</sup> February 2015**

**Appendices: None**

**Access to information (background papers):**

*Mayor's Fairness Commission report:*

[http://www.bristol.gov.uk/sites/default/files/documents/council\\_and\\_democracy/140630%20-%20Fairness%20Commission%20final%20report%20FINAL.pdf](http://www.bristol.gov.uk/sites/default/files/documents/council_and_democracy/140630%20-%20Fairness%20Commission%20final%20report%20FINAL.pdf)

*Report to Full Council on 16<sup>th</sup> September 2014 on Living Wage:*

[https://www.bristol.gov.uk/committee/2014/ta/ta000/0916\\_7a.pdf](https://www.bristol.gov.uk/committee/2014/ta/ta000/0916_7a.pdf)