

Full Council

14th March 2017



Report of: Human Resources Committee

Title: The Council's Pay Policy Statement for the period 1st March 2017 to 31st March 2018

Ward: N/A

Councillor Presenting Report: Councillor Helen Godwin (Chair of HR Committee)

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Recommendation

That the Full Council approves the Pay Policy Statement for the period 1st March 2017 to 31st March 2018.

Summary

The Localism Act 2011 requires local authorities to agree and publish a PPS annually before the start of the financial year to which the statement relates.

The significant issues in the report are:

- The Full Council is asked to agree that the PPS be back-dated to 1st March 2017, so it will cover the 13 months from that date until 31st March 2018.
- The Chief Executive will be paid a spot salary of £160k, which is within the 10:1 ratio of lowest to highest-paid. The Performance Management Panel (which is the subject of a separate report to Full Council) will agree objectives and development, assess performance and may award Performance-Related Pay (PRP) of up to 15% of the gross salary for the post. PRP may be accrued annually but not paid until the postholder leaves (and may be forfeited in the event of a gross misconduct dismissal).
- In line with the proposals agreed by Full Council at its budget meeting, the pay rates of Strategic Directors and Service Directors will be frozen at 2016/17 levels and there will be no progression from the Appointment Rate to the Competence Rates for Service Directors. (Strategic Directors are employed on one spot salary of £136k and are not eligible for PRP).
- The facility to award an "Uplift Band" to Service Directors for performance reasons has been removed, though the facility to award an Uplift Band to Service Directors for recruitment or retention reasons remains.
- The Council continues to work with the trade unions to reform the current pay spine.
- The Government is changing the law in relation to "off-payroll" working, but changes to the law in relation to exit payments have not yet been enacted.

Policy

1. The Localism Act 2011 requires local authorities to agree and publish a pay policy statement annually before the start of the financial year to which the statement relates.
2. The Council's Constitution states that the HR Committee determines the pay and grading and other terms and conditions of 1st and 2nd tier posts and postholders. Determining the terms and conditions on which all other staff hold office is delegated to the Head of Paid Service who may arrange for the discharge of these functions through Strategic Directors. All officers exercising HR functions must do so in accordance with the Council's HR policies and any advice provided by the Service Director HR.

Consultation

3. Internal

The Senior Leadership Team was consulted on the proposal to freeze the pay of Strategic Directors and Service Directors in December 2016.

The trade unions have been informed of the proposals.

The HR Committee considered the draft Pay Policy Statement for 2017/18 at its meetings on 2nd February and 6th March 2017. The relevant extract of the draft minutes of the Committee's 2nd February meeting is as follows:

"The Committee received a report of the Interim Service Director Human Resources, Change and Communications and considered the public forum statement submitted by Unite in conjunction with this item. The Committee was asked to recommend the Pay Policy Statement 2017/18 be approved by the Full Council.

The HR Business Partner summarised the significant issues in the report. In response to members questions the following points were raised:

- a. It was noted that the proposal not to progress the pay of Service Directors could affect the Council's ability to recruit and retain skilled managers, and should be recognised as a risk.*
- b. It was noted that the current pay proposals were in line with current market rates and aligned with provisions explicit in the Corporate Strategy considered by Cabinet. It was noted that in circumstances where the need to recruit specialist skills required enhanced payments, any proposals for a Market Pay Supplement would be brought to the Committee for approval.*
- c. Officers were in discussions with the trade unions to understand the full cost implications of developing a new pay structure. An April 2018 implementation was proposed.*
- d. It was noted that restrictions on exit payments had not yet been enacted by the Government. Once in force, any severance proposal which exceeded the cap would need a waiver approved by the Full Council.*

- e. *It was noted that a change in the law which comes into force from 6th April 2017 would require payments to contractors to be subject to PAYE rules. This was a significant change which was likely to have a big impact on the market and could reduce the costs of employing specialist interim managers on short term contracts.*
- f. *It was noted that any proposed bonus [performance-related pay] paid to the Chief Executive would be calculable on annual basis based on performance, but would not be payable until the end of the contract.*
- g. *The pay policy should note i) the Council's commitment to the Living Wage Foundation; ii) the proposal to progress the pay structure for April 2018; iii) identification of the risk associated with the pay freeze for Chief Officers. **Action: James Brereton***

The Committee RESOLVED:

To recommend the Pay Policy Statement 2017/18 be approved by the Full Council as outlined in the report, subject to the comments and actions arising."

The relevant extract of the draft minutes of the Committee's 6th March meeting is as follows:

"The Committee received a report from the Interim Service Director Human Resources, Change and Communications, presented by Sandra Farquharson and considered a public forum statement from Steve Paines, Unite in conjunction with this item.

The Committee considered the significant issues in the report and the following points were noted in response to members' questions:

Concerns were raised in recognition that any potential uplift in salary could breach the Council's aspiration to maintain a 10:1 ratio.

It was confirmed that the proposed performance related pay uplift of up to 15% was in line with the Council's current award of performance related pay to Service Directors for recruitment and retention reasons.

The Committee was advised of the proposal to amend the Pay Policy at para 8(a) to confirm that the any accrued PRP will be paid if the contract is terminated early save for circumstances where the employment is terminated for reasons of Gross Misconduct.

The Committee Resolved:

That the Pay Policy Statement for the period 1st March 2017 to 31st March 2018 be approved by the Full Council."

- 4. **External**
None required.

Context

5. The Pay Policy Statement explains the Council pay policies for its highest and lowest-paid employees. It is written and published in line with the Localism Act 2011 (the Act) and guidance issued by the Secretary of State (the Guidance). The draft Pay Policy Statement forms Appendix A to this report.
6. Freezing the pay of Strategic Directors and Service Directors at 2016/17 levels will affect three Strategic Directors and 20 Service Directors. The bar on pay progression will affect 18 Service Directors (there is one spot rate of pay for Strategic Directors and two Service Directors are already on the Competence Rate).
7. The Council continues to work with the trade unions in developing a new pay structure. Implementation was planned for 1st April 2017, but this has been put back to 1st April 2018. There will be additional costs involved in introducing a new pay spine, which will need to be considered and evaluated.
8. The Council has paid its own employees no less than the Real Living Wage (as set by the Living Wage Foundation) since October 2014. The Council aspires to become a Living Wage Employer, which requires the Council to do all it can in law to ensure that those who deliver services on the Council's behalf (eg, contractors) pay their own staff no less than the Real Living Wage. This is subject to affordability considerations, and discussions with the Living Wage Foundation on potential timescales.
9. The Government intends to introduce restrictions on exit payments, but these have yet to be enacted. The Government is also changing the law to further curtail "off-payroll" working in the public sector with effect from 6th April 2017.

Proposal

10. As shown under "Recommendations" above.

Other Options Considered

11. To not freeze pay at 2016/17 levels for Strategic Directors and Service Directors and to not prevent pay progression for Service Directors. It is estimated that this would add around £70k to the Council's pay-bill.

Risk Assessment

12. Failure to produce a compliant pay policy statement by the required deadline would place the Council in derogation of law.
13. Failure to keep track with market pay rates for chief officers is likely to lead to recruitment and retention difficulties.

Public Sector Equality Duties

- 14a) Before making a decision, section 149 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 who 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.
- 14b) An Equality Impact Relevance Check is attached at Appendix B. In addition, there is a risk that someone may claim differential treatment as the Chief Executive is the only post that has the potential to attract an award of PRP. However, Uplift Bands/Market Pay Supplements continue to be available for recruitment and retention reasons. Also, the PRP for the Chief Executive post is intended to recognise the demanding requirements of the fixed term contract.

Legal and Resource Implications

Legal

“This report fulfils the legal requirement placed on the Council by s.38 (1) of the Localism Act 2011 to produce an annual pay policy statement.”

Advice provided by Husinara Jones (Senior Solicitor), 24th January 2017.

Financial

(a) Revenue

"As indicated in the report, the financial implications of the revised/proposed new pay structure are not yet known as this is currently being developed. It is, however, essential that the financial implications of the proposed new pay structure are fully costed, over the period of the Medium Term Financial Plan (MTFP), to review its affordability in the context of the Council's overall budget constraints. Given the planned introduction of 1st April 2018, it is essential that this is considered as soon as possible to ensure that it can be considered in the context of the Council's MTFP."

(b) Capital

"The pay structure for the Council relates to all staff, including those employed to deliver capital projects. Therefore, any changes to the current pay structure may have a financial implication on the cost of capital schemes, where the cost of employed staff is recharged to those capital schemes."

Advice provided by Kevin Lock (Finance Business Partner), 24th January 2017.

Land

Not applicable.

Personnel

"The new pay rates for Strategic Directors and Service Directors implemented on 1st June 2016 were inclusive of the 1% pay award agreed by the Joint Negotiating Committee for Chief Officers of Local Authorities for the years 2016/17 and 2017/18. There is no contractual right for Service Directors to progress from the Appointment Rate to the Competence Rate."

Advice provided by Mark Williams (HR Business Partner), 24th January 2017.

Appendices:

- A – Draft Pay Policy Statement
- B – Equality Impact Relevance Check

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None.