

CABINET MEETING: 15 MARCH 2018

PAY POLICY STATEMENT 2018/19

**FINANCE, MODERNISATION AND PERFORMANCE (COUNCILLOR
CHRIS WEAVER)**

AGENDA ITEM: 8

REPORT OF CORPORATE DIRECTOR RESOURCES

Reason for this Report

1. To ask the Council to agree a Pay Policy Statement for 2018/19, in accordance with the requirements of the Localism Act 2011.

Background

2. The Council understands the importance of having a clear written policy on pay for employees. The Pay Policy Statement (Appendix 1) provides a framework to ensure that employees are rewarded fairly and objectively without discrimination.
3. This Pay Policy Statement complies with the statutory requirement under the Localism Act 2011, which has led to the Council adopting annual pay policy statements since 2012. Agreement to (and subsequent publication) of this seventh annual Pay Policy Statement will ensure continued compliance with this legislation.
4. The focus of the legislation is about transparency of pay for Chief Officers and how their pay compares with lower paid employees in the Council. However, in the interests of transparency and accountability the Council has chosen since 2011 to take a broader approach and produce a Pay Policy Statement covering all employee groups, with the exception of teachers (as the remuneration for this latter group is set by the Secretary of State and therefore not in local authority control). This Pay Policy Statement excludes Members of the Council as they are not employees and are governed by separate legislation via the Independent Remuneration Panel for Wales.
5. The legislation also requires the Council to provide information about redundancy payments that are made to employees who leave the organisation. The current Voluntary Redundancy Policy has been in place since 3rd April 2015, and annual reviews since then have resulted in no further changes.

6. Redundancy payments made under the Policy are calculated with reference to a week's pay up to a maximum of £489.00. It should be noted that due to a ruling by an Employment Appeal Tribunal (EAT) in the case of *University of Sunderland v Drossou*, in June 2017, employers must ensure that a week's pay includes remuneration 'payable by the employer under the contract of employment' and that this value should not be limited by what the employee directly receives. The rationale offered by the EAT was that employer's pension contributions formed part of the overall package of 'remuneration' offered to an employee in return for their services. The result of this is that retrospective to 13 June 2017, where appropriate, the employer's pension contributions have been included in the calculation of an employee's weekly pay, subject to the £489 maximum stated in the Voluntary Redundancy Policy. There will be no change to the Voluntary Redundancy Policy for 2018/19.

Chief Officer Pay

7. The Standing Orders (Wales) Amendment Regulations 2014 introduced a requirement that: "*The relevant authority [i.e. full Council] must determine the level, and any change in the level, of the remuneration to be paid to a Chief Officer*".
8. Chief Officers of this Authority are employed under JNC terms and conditions which are incorporated into their contracts of employment. They are therefore contractually entitled to any JNC pay rises and the withholding of such increases, pending agreement by full Council, could result in claims against the Authority of 'unlawful deduction from wages' or 'breach of contract'.
9. Due to the practical implications of this requirement, Welsh Government, agreed that the requirement could be met by full Council voting on a resolution to pay the nationally agreed pay awards, as and when determined by the JNC for Chief Officers. Such a resolution was made by full Council and a clause has been included to this effect in the 2015/16 and subsequent Pay Policy Statements. This clause can only be revoked by full Council, and if such a decision was taken, the Pay Policy Statement would need to be amended accordingly.

NJC Local Government Services Pay Award 2018

10. The National Employers for Local Government Services are currently consulting the trade unions on the pay offer for the period 1st April 2018 to 31st March 2020. The Council's current pay scale is attached in Annex 2, and details of the NJC pay offer are set out in Annex 3.
11. The proposals effective from 1 April 2018 seek to ensure that the gap with the National Living Wage is closed by bottom loading on the lower spine points to Point 19. For all other Spine Points a flat rate increase of 2% is proposed. The National Employers for Local Government Services estimate that the first year of the pay offer would increase the national pay bill by 2.707%.

12. The proposals effective from 1st April 2019 would result in a review of the national range of spine points which would include the merging of spine points at the lower end of the range. The full implications of this will be assessed and reported once the national position is confirmed.

Redundancy Packages

13. Currently, Welsh Government guidance on Pay Policy Statements states that where a Chief Officer will be in receipt of a redundancy package above £100,000 this must be agreed by full Council. In Cardiff, the cap on redundancy payments is £22,005 from 6th April 2017 (current weekly maximum is £489, and the April 2018 increase is yet to be confirmed by the Department for Business, Innovation and Skills). Therefore, a redundancy payment alone will not need to go to full Council. However, as salary paid in lieu and the full cost of early release of pension must be included in the total cost of a redundancy package there may be instances where the agreement of full Council will be required. This is incorporated into the proposed Pay Policy Statement in paragraph 58.

UK Government Changes

14. Alongside the position set out in paragraph 9 above, the UK Government is in the process of introducing a number of changes which impact on public sector exit payments. These changes, which have not progressed further since they were reported to Cabinet in 2017, are as follows:
 - (i) Introduction of a £95k Exit Payment Cap

As a result of the Enterprise Act 2016, the UK Government introduced legislation which included provisions to cap the total value of public sector exit payments, (including payment of compensation and pension strain) at £95,000. HM Treasury are yet to finalise the regulations and therefore the cap is not yet in place. Welsh Government will have the power to relax the cap in relation to exit payments made by authorities that wholly or mainly exercise devolved functions, which includes local authority staff. Until the regulations are finalised it is unclear as to how Welsh Government will operate the waiver in practice.
 - (ii) Wider Review of the Public Sector Exit Payment Schemes

Concurrently, the UK Government intend to introduce a framework of changes to the terms of public sector exit payment schemes which will affect local government employees, including teachers. Although it was expected that changes will be made to the relevant schemes by June 2017 the UK Government has not provided details on their proposed approach to date.
 - (iii) Recovery of Exit Payments (Clawback)

The final change will be the ability to recover exit payments made to employees earning over £80,000 who leave the public sector but are then re-engaged in the public sector within a 12 month period.

15. There is a clear link between the changes outlined in (i) and (ii) above. Indications are that the changes to the terms used to calculate exit payments will (most likely) be less beneficial to the employee, and the consequence of this is that the cap of £95,000 is less likely to be breached in future.

Gender Pay Gap

16. The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, which relate to public sector employers in England and Wales, requires the publication of gender pay gap data based on a 'snapshot' date of 31st March.
17. Since the publication of the regulations it has been clarified that local authorities in Wales are not covered by the requirement to formally publish a Gender Pay Gap report, but instead must manage gender pay differences. On this basis, there is no requirement on the Council to publish anything other than the data we have published to date.
18. With more public sector employers being required to report on their Gender Pay Gap, and with increasing media and public interest, the Council has been in receipt of requests for information under the Freedom of Information Act. It is anticipated that such requests will further increase, and in line with the Council's commitment to fairness and transparency, it is proposed that the Council voluntarily publishes its Gender Pay gap report as part of the annual Pay Policy Statement, effective from the proposed 2018/19 statement, which will be published by 31st March 2018.

Non-Guaranteed Working Hours

19. In December 2016 the Welsh Government issued principles and guidance on the appropriate use of non-guaranteed hours arrangements in the devolved public services in Wales. These principles and guidance were developed by the Public Services Staff Commission in social partnership with the Welsh Government's Partnership Council and its sector groups. The Council is committed to the principles determined by Welsh Government which apply to those employees who are employed on a relief, casual or sessional basis. These employees are used in services within the Council where there is either a need to bring in an additional workforce in order to cover peaks in workload, such as in the Emergency Duty Team, or where the workload is on a one off basis, such as Events.

Reason for Recommendations

20. To comply with the legal requirement under the Localism Act 2011 to produce a Pay Policy Statement, and at the same time to provide transparency and accountability in the Council's arrangements for rewarding its staff.

Legal Implications

21. Under Section 38 of the Localism Act 2011 the Council must prepare a Pay Policy Statement for each financial year before the commencement of that year. The Pay Policy Statement for 2018/19 must therefore be approved by 31st March 2018.
22. The Act requires that the Pay Policy Statement covers certain specific matters and the Welsh Government has issued statutory Guidance in relation to Pay Policies.
23. The proposed Pay Policy Statement for 2018/19 meets the requirements of the Act and Welsh Government Guidance.
24. The Pay Policy Statement must be published on the Council's website.
25. The Council's pay structures are considered to be compliant with Equalities legislation.

Financial Implications

26. The rates of pay and conditions set out in the Pay Policy Statement are reflected in the Council's budget for 2018/19.

Human Resource Implications

27. The recommendation will not impact on employees across the Council as it merely outlines in one policy, existing and agreed arrangements for pay and remuneration of employees.
28. The implications of the Local Government Services 2018/20 national pay award will be assessed once the position national employers conclude negotiations.

RECOMMENDATIONS

Cabinet is recommended to approve the attached Pay Policy Statement 2018/19 (Appendix 1) for consideration by Council on 22 March 2018 and notes:

- (i) the employer's pension contributions have been included in the calculation of an employee's weekly pay, where appropriate
- (ii) that the Council will need to take steps to implement changes arising from the NJC for Local Government Pay for 2018/20
- (iii) the inclusion of the Gender Pay Gap report
- (iv) the commitment to the principles and guidance on the appropriate use of non-guaranteed hours arrangements in the devolved public services in Wales, as developed by the Public Services Staff

Commission in social partnership with the Welsh Government's Partnership Council and its sector groups.

CHRISTINE SALTER
Corporate Director Resources
9 March 2018

The following appendices are attached:

Appendix 1 – Pay Policy Statement 2018/19

Annex 1 – Salary scales documents detailing all Council grades.

Annex 2 – NJC for Local Government Services: Pay Award Proposal
2018/20