

COUNCIL:

18 MARCH 2021

CABINET PROPOSAL

PAY POLICY 2021/2022

Reason for this Report

1. To ask the Council to agree a Pay Policy Statement for 2021/22, in accordance with the requirements of the Localism Act 2011.

Background

2. Cardiff Council understands the importance of having a clear written policy on pay for employees. The policy statement provides a framework to ensure that employees are rewarded fairly and objectively without discrimination.
3. The Council also has a statutory requirement under the Localism Act 2011 to prepare a Pay Policy Statement on an annual basis. The first statement was in place by 31st March 2012 and they have been produced annually since then. Agreement (and subsequent publication) of the 2021/22 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 Welsh Government Ministers and therefore not in local authority control). This policy also excludes Members of the Council as they are not employees and are governed by separate legislation via the Independent Remuneration Panel for Wales.

Voluntary Redundancy Scheme

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. Other than the change set out in paragraph 6, and annual reviews have resulted in no further changes. There will be no change to the Voluntary Redundancy Policy for 2021/22.

6. Redundancy payments made under the Policy are calculated with reference to a week's pay up to a maximum of £538.00. Since 13th June 2017, as a result of 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 where appropriate, the employer's pension contributions are included in the calculation of an employee's weekly pay, subject to the £538 maximum stated in the Voluntary Redundancy Policy.

Exit Payment Cap

7. As previous Pay Policy Statements have referred to the potential introduction of a cap on exit payments it has been necessary to provide an update on recent changes.
8. The Restriction of Public Sector Exit Payments Regulations 2020 that came into force on 4 November 2020. However, in February 2021 the UK government issued a Treasury Direction to disapply the regulations, whilst the process of formal revocation can take place.
9. It is understood that the UK Government may bring forward further proposals in due course.

Chief Officer Pay

10. The Standing Orders (Wales) Amendment Regulations 2014 introduced a requirement that: "*The relevant authority must determine the level, and any change in the level, of the remuneration to be paid to a Chief Officer*". The impact of this amendment was that *all* changes to Chief Officer pay had to be voted on by full Council, not just those which are determined locally. This included any pay rises which had been nationally negotiated by the JNC for Chief Officers and that they could not be paid, unless and until, they had been agreed by full Council.
11. As Chief Officers of this authority are employed under JNC terms and conditions which are incorporated into their contracts of employment, they are contractually entitled to any JNC pay rises. A decision to withhold payment (unless preceded by action to effect appropriate changes to contracts) could result in claims against the authority of 'unlawful deduction from wages' or 'breach of contract'.
12. Taking account of the contractual obligations, and the potential time delays resulting from local determination to pay JNC nationally agreed pay rises, the WLGA pursued the matter with Welsh Government on behalf of local authority employers. As a result it was agreed that the requirement that full council must determine nationally agreed

contractually entitled pay rises for Chief Officers could be met by full Council voting on an appropriate resolution to insert a suitable clause in their Pay Policy Statements to cover this issue.

13. As a result, in agreeing the 2015/16 Pay Policy Statement, Council resolved that the authority's Pay Policy Statement, from 2015/16 onwards, would include the following paragraph:

The JNC for Chief Officers negotiates on national (UK) annual cost of living pay increases for this group, and any award of same is determined on this basis. Chief Officers employed under JNC terms and conditions are contractually entitled to any national JNC pay rises. This Council will therefore pay these nationally agreed pay awards as and when determined unless full Council decides otherwise.

14. Should the Council at any time decide that it does not wish to implement nationally negotiated JNC pay increases then that would need to be a decision of Full Council, and the Pay Policy Statement would need to be amended to reflect that decision.
15. This report recommends that the resolution continues to be applied provided that such pay increases are in line with those accounted for in the Budget set and agreed by Council on 4th March 2021. Any additional financial implications arising from the national pay agreements determined after this date that cannot be met within the Council's agreed Budget will be referred to Council for consideration and decision.

Local Government Services Pay Award 2021

16. The NJC pay agreement effective from 1st April 2021 will be implemented once agreed by the national employers. Until then the Council will continue to apply the NJC 2020-21 pay agreement in line with those accounted for in the Budget set and agreed by Council on 4th March 2021. Any additional financial implications arising from the national pay agreements determined after this date that cannot be met within the Council's agreed Budget will be referred to Council for consideration and decision.

Gender Pay Gap

17. 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.
18. 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.
19. With more public sector employers being required to report on their Gender Pay Gap, and in line with the Council's commitment to fairness

and transparency, it is proposed that the Council continues to voluntarily publish its Gender Pay gap report as part of the annual Pay Policy Statement, to be published by 31st March 2022, however this year the UK Government has extended this date to 30th October 2021.

20. The Council uses the Greater London Provincial Council's Job Evaluation (GLPC) Scheme to determine the grades of posts using a consistent set of criteria. This ensures that the Council's grading structure is fair, transparent and equitable, and that men and women receive equal pay for work of equal value.
21. The Pay Policy Statement reports a change in the Gender Pay Gap from 2019 to 2020. The following table highlights the actual monetary change in pay between the two years:

	2019 Mean Hourly Rate	2019 Median Hourly Rate	2020 Mean Hourly Rate	2020 Median Hourly Rate
Male	14.16	12.78	14.04 (-12p)	12.85 (+07p)
Female	13.96	12.37	13.68(-28p)	11.97 (-40p)
Pay Gap	1.44%	3.21%	2.56%	6.85%

22. A positive percentage figure reveals that typically, or overall, employees who are female have lower pay than male employees. According to the national government's Gender Pay Gap information at www.gov.uk, this is likely to be the situation for most employers.
23. For 2020, the Mean hourly pay rates for both males and females are within Grade 6 of the Council's Pay & Grading Structure. The Median hourly pay rates for both males and females are within Grade 5, although the rate for male employees is the overlapping point between Grade 5 and Grade 6.
24. The reasons for the increase in the Gender Pay Gap for 2020 are varied. There have been changes to the numbers of employees employed at the different grades. There are fewer female employees employed at Grades 1 to 4 and more employed at Grades 5 and 6, but this is where both the Mean and Median hourly pay rates fall. However, this positive changes is offset by an overall increase in male employees in most Grades, but in particular at Grade 7 and above.
25. Changes to the national pay structure effective from 1st April 2019 which resulted in a reduction in spinal column points at a number of different grades will also have contributed to the change in the Gender Pay Gap.
26. When compared to those Core Cities and local authorities in Wales that have published their Gender Pay Gap, the Council's position as at 31st March 2019 compared very favourably. So far, few have published their

data for 31st March 2020. Despite the increase the Council's Gender Pay Gap at 31st March 2020, it still compares favourably with the 2019 position of others, and the 2020 position, where data has been published.

Non-Guaranteed Working Hours

27. 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, or where the workload is on a one off basis, such as Events.

Reason for Recommendations

29. To respond to the legal requirement under the Localism Act 2011 but the production of the policy statement will also provide openness and accountability in how the Council rewards its employees.

Financial Implications

30. The rates of pay and conditions set out in the Pay Policy Statement are reflected in the Council's budget for 2021/22.

Legal Implications

31. 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 2021/22 must therefore be approved by 31st March 2021.
32. The Act requires the Pay Policy Statement to cover certain specific matters and the Welsh Government has issued statutory Guidance in relation to Pay Policies.
33. The proposed Pay Policy Statement for 2021/22 meets the requirements of the Act and Welsh Government Guidance.
34. The Pay Policy must be published in such manner as the Council thinks fit, which must include publication on the Council's website.
35. The Council's pay structures are considered to be compliant with Equalities legislation.

HR Implications

36. The pay recommendations 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.
37. The trade unions have been consulted on the Pay Policy Statement.

Property Implications

38. There are no property implications.

CABINET PROPOSAL

Subject to Cabinet agreement at Cabinet on 18 March, Council is recommended to

- (i) confirm that the decision to agree the Pay Policy Statement constitutes agreement to implement the cost of living pay increases determined by the relevant negotiating body effective from 1st April 2021, as accounted for in the Budget set and agreed by Council on 4th March 2021.
- (ii) determine that any additional financial implications arising from the national pay agreements determined after this date that cannot be met within the Council's agreed Budget will be referred to Council for consideration and decision.
- (iii) approve the attached Pay Policy Statement (2021/22) Appendix 1.

THE CABINET
11 March 2021

The following appendix is attached:

Appendix 1: Pay Policy Statement 2021/22, together with Annex1