

CABINET MEETING: 23 MARCH 2023

PAY POLICY 2023/2024

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

AGENDA ITEM: 5

Reason for this Report

1. To ask Cabinet to:
 - agree changes to the Council's Single Status Pay and Grading Structure as a result of the NJC for Local Government Services pay agreement 2022.
 - note the increase of annual leave agreed by the NJC for Local Government Services employees, and to seek approval to apply the additional leave to other Council employees under local agreement.
 - review the Pay Policy Statement for 2023/24 and recommend to Council for approval 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 2023/24 Pay Policy Statement will ensure continued compliance with this legislation.

Issues

4. Under section 38 of the Localism Act 2011, a relevant authority's pay policy statement must include the authority's policies relating to:

- the level and elements of remuneration for each chief officer
 - remuneration of chief officers on recruitment
 - increases and additions to remuneration for each chief officer
 - the use of performance-related pay for chief officers
 - the use of bonuses for chief officers
 - the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority; and
 - publication of and access to information relating to remuneration of chief officers.
5. 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 (**Appendix 1**) covering all employee groups except for 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

6. The legislation also requires the Council to provide information about redundancy payments that are made to employees who leave the organisation and this is set out in the Council's Local Government Pension Scheme Discretions Policy which was agreed by Cabinet on 14th July 2022 and replaced Appendix 1 of the Voluntary Redundancy Policy. The introduction of the Local Government Pension Scheme Discretions Policy was a mandatory requirement but did not result in any change to the Voluntary Redundancy Scheme. There will be no further changes for the 2023/24 financial year.
7. Redundancy payments made under the Policy are calculated with reference to a week's pay up to a maximum of £571.00. 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 maximum weekly rate, and updated on an annual basis.

Exit Payment Cap

8. Previous Pay Policy Statements have referred to the potential introduction of a cap on exit payments.

9. The Restriction of Public Sector Exit Payments Regulations 2020 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 took place.
10. On 8 August 2022, HM Treasury published a consultation (which concluded on 10 October 2022) on proposals to introduce a new administrative controls process for public sector exit payments over £95,000, and amend the existing process for special severance payments (payments in excess of an employee's statutory or contractual entitlements). This takes a different approach to the previous 'cap' introduced and then revoked in 2020/21.
11. This currently applies to 'Central Government' and does not apply to bodies under the devolved administrations, so at this stage it does not have implications for Local Government in Wales.

Chief Officer Pay

12. 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.
13. 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'.
14. 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 for full Council to 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.
15. 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.

16. 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.
17. 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 9th March 2023. Any additional financial implications arising from the national pay agreements determined after this date that cannot be met within the Council's Revenue Budget will be referred to Council for consideration and decision.

Local Government Services Pay Award 2023

18. The NJC pay agreement effective from 1st April 2023 will be implemented once agreed by the national employers. Until then the Council will continue to apply the NJC 2022 pay agreement in line with those accounted for in the Budget set and agreed by Council on 9th March 2023. Any additional financial implications arising from the national pay agreements determined after this date that cannot be met within the Council's Revenue Budget will be referred to Council for consideration and decision.
19. The NJC for Local Government Services 2022 pay agreement led to changes to the national pay structure which directly impact on the Council's locally agreed pay scale. Effective from 1st April 2023 SCP1 will be removed from the national pay structure. SCP1 is the spot point on the Council's Grade 1, and because of the change it is proposed that all Grade 1 employees will move to SCP 2 and the grade will remain as a spot point. Consequently, Grade 2 which currently comprises SCP2 and SCP3 will become a spot point Grade of SCP 3. As a result, Grade 2 employees will move to SCP 3. This has been accounted for in the Budget set and agreed by Council on 9th March 2023

Gender Pay Gap

20. 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.
21. 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.
22. 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 2023.

23. The Council's Job Evaluation Scheme using the Greater London Provincial Council's Job Evaluation (GLPC) Scheme is used to determine the Grades of posts and ensures that men and women receive equal pay for work of equal value.
24. The Pay Policy Statement reports a change in the Gender Pay Gap from 2021 to 2022. The following table highlights the actual monetary change in pay between the two years:

	31.3.2021 Mean Hourly Rate	31.3.2021 Median Hourly Rate	31.3.2022 Mean Hourly Rate	31.3.2022 Median Hourly Rate
Male	15.33 Grade 7	14.11 Grade 6	15.37 Grade 6	13.71 Grade 6
Female	15.83 Grade 7	13.21 Grade 6	16.22 (+£0.85) Grade 7	13.44(-£0.90) Grade 6
Pay Gap	-3.26% (£+0.50)	6.38% (-£0.90)	-5.59% (+£0.85)	1.97% (-£0.27)

25. 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.
26. For 2022, the Mean hourly pay rates for male employees moved from Grade 7 to within Grade 6. The hourly pay rate for female employees remained in Grade 7 of the Council's Pay & Grading Structure. The Median hourly pay rates for both males and females are within Grade 6, consistent with 2021.
27. The Mean Gender Pay Gap continues to be a negative figure which means that the mean average for female employees is higher than that for male employees, and for 2022 the gap has widened. Contributing factors are the Market Supplement paid to Adult Social care staff, who are mainly female; the average allowance payable to women which has increased at a higher rate than for men; and a greater reduction in women paying into salary sacrifice schemes when compared to men.
28. 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 2021 compared very favourably. So far, few have published their data for 31st March 2022.

Non-Guaranteed Working Hours

29. 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 to cover peaks in workload, or where the workload is on a one-off basis, such as Events.

Annual Leave

30. The annual leave entitlement for the majority of Council employees is 27 days, rising to 32 days after 5 years' service, and in addition, there are 8 public holidays. This leave entitlement is set out in the Council's Single Status Collective Agreement agreed by Cabinet in September 2011. Under local agreement this leave entitlement also applies to employees whose pay is negotiated under Craftworkers, Chief Officer pay terms (OMs and above) and the Chief Executive.
31. As part of the NJC pay agreement for 2022/23 an additional day's annual leave was agreed for all NJC staff with effect from 1st April 2023.
32. It is proposed that the increase in annual leave of 1 day also be applied to those employees whose terms and conditions are set out in paragraph 30 above.
33. Therefore, with effect from 1st April 2023 the annual leave entitlements would rise to 28 days on appointment and 33 days after 5 years' service.
34. In addition, the public holidays will increase from 8 to 9 for the 2023/24 leave year because of the public holiday to mark the coronation of HM King Charles III.

Reason for Recommendations

35. To ensure that the Council's Single Status Pay and Grading Structure is aligned to the NJC for Local Government Services pay structure by fully implementing the 2022 pay agreement.
36. To ensure that the annual leave entitlements agreed by the NJC for Local Government Services employees are implemented and that the local agreement reached with other Council employees continues to be in effect.
37. To respond to the legal requirement under the Localism Act 2011 by agreeing the Pay Policy Statement, the publication of which will also provide openness and accountability in how the Council rewards its employees.

Financial Implications

38. The rates of pay and conditions set out in the Pay Policy Statement (Appendix 1) are reflected in the Council's budget for 2023/24. The

2022/23 agreement included an additional day's annual leave for NJC staff with effect from 1st April 2023. Where the additional day's leave is considered to result in the likelihood of staff cover requirements (schools, waste, and social care), provision for this has been incorporated within the 2023/24 Budget. For all other areas, it is anticipated that the additional day's leave will be accommodated within current staffing levels. The budgetary impact of the removal of SCP1 and associated spot points for Grade 1 (SCP2) and Grade 2 (SCP3) are also incorporated within the 2023/24 budget.

Legal Implications

39. 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 2023/24 must therefore be approved by full Council by 31st March 2023.
40. 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, to which the Council must have regard: [Pay accountability within local government \[HTML\] | GOV.WALES](#).
41. Legal Services is instructed that the proposed Pay Policy Statement for 2023/2024 meets the requirements of the Act and the Welsh Government Guidance.
42. The Pay Policy Statement must be published in such manner as the Council thinks fit, which must include publication on the Council's website.
43. The Council's pay structures are considered to be compliant with Equalities legislation.

HR Implications

45. The change to the Council's Pay & Grading structure arises from the deletion of SCP1 as part of the NJC for Local Government Services pay agreement for 2022. The change will impact on those employees currently on SCP1 and SCP2, meaning that their pay will continue to be aligned with the national pay grades.
46. The change in annual leave entitlements for those employees employed on terms and conditions identified in paragraph 30 will ensure adherence to the local agreement reached in September 2011 with those employees.
47. Other than stated in paragraphs 45 and 46 above, the Pay Policy 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.
48. The trade unions have been consulted on the Pay Policy Statement.

Property Implications

49. There are no property implications.

RECOMMENDATIONS

Cabinet is recommended to:

1. agree changes to the Council's Single Status Pay and Grading Structure as a result of the NJC for Local Government Services pay agreement 2022, by the removal of SCP 1 and as a consequence agreeing spot point Grades for Grade 1 (SCP2) and Grade 2 (SCP3).
2. note the increase in annual leave agreed by the NJC for Local Government Services employees and approve the additional leave for other Council employees identified in paragraph 30, under local agreement.
3. recommend that Council
 - (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 2023, as accounted for in the Budget set and agreed by Council on 9th March 2023.
 - (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 Revenue Budget will be referred to Council for consideration and decision.
 - (iii) approve the attached Pay Policy Statement (2023/24) Appendix 1.

SENIOR RESPONSIBLE OFFICER	Chris Lee Corporate Director Resources
	17 March 2023

The following appendices are attached:

Appendix 1: Pay Policy Statement 2023/24, together with Annex1