



Report for:
ACTION

Item Number:

Contains Confidential or Exempt Information	NO.
Title	Pay Policy Statement 2023-2024
Responsible Officer(s)	Sue Evans, interim Director of Workforce and OD
Author(s)	Andrew Scully, HR Business Partner and Head of HR Operational Services
Portfolio(s)	Councillor Steve Donnelly, Inclusive Economy
For Consideration By	Full Council
Date to be Considered	Wednesday 8 th March 2023
Implementation Date if Not Called In	Not applicable
Affected Wards	None
Keywords/Index	Localism Act 2011; Hutton Review of Fair Pay in the public sector: Final report (March 2011); Local Government Transparency code 2015; The Accounts and Audit (England) Regulations 2015; Local Government Pension Scheme – Discretions Policy, Ealing Council 2015; Pay Policy Statement; Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England – 12 May 2022; Living Wage Foundation; real Living Wage (rLW); London Living Wage (LLW), Openness and accountability in local pay (February 2012)

Purpose of Report:

Chapter 8 of the Localism Act 2011 (the “Act”) contains the requirement for an annual Pay Policy Statement to be approved by Full Council and then published. Publication must include publication on the Council’s website.

1. Recommendations

1. That Full Council approve the attached Pay Policy Statement (appendix 1) and note the supporting appendices 2, 3, 4 and 5;
2. That Full Council approve a policy, for 2023-24, to pay the rLW formerly known as the LLW rate or above to direct employees (whether permanent or fixed term) and to ensure agency workers are paid the rLW. The rLW will be paid for the time periods during which employees are carrying out what might be described as (for example) the normal duties of the post. However, it will not be paid for the time periods on which employees are on a standby shift, or a sleep-in shift, and not carrying out the normal duties of the post;

3. That Full Council note that decisions on pay grades for chief officers will be determined by Chief Officer Panel, in accordance with their existing terms of reference; and
4. That Full Council commend to Governing Bodies of Schools that they consider paying the rLW rate to schools-based employees (whether permanent or fixed term) and to agency workers working in Schools.

2. Reason for Decision and Options Considered

- 2.1. The Act requires Full Council to approve a Pay Policy Statement for the financial year 2023-24. It will also require a Pay Policy Statement to be approved for each future year.
- 2.2. The Pay Policy Statement (appendix 1) and supporting appendices 2, 3, 4 and 5 meets the requirements of the Localism Act 2011 and the Local Government Transparency Code 2015 and the Accounts and Audit (England) Regulations 2015.
- 2.3. The Act requires that authorities include in their Pay Policy Statement, their approach to the publication of and access to information relating to the remuneration of chief officers. The Council already publishes information on its public website. This is set out in the Pay Policy Statement.
- 2.4. Full Council is asked to approve a policy, for 2023-24, to pay the rLW [formerly known as the LLW] rate or above to direct employees, agency, and temporary workers, note that the Council has obtained Living Wage accreditation.
- 2.5. The Pay Policy Statement is substantially unchanged except for the implications of the announced increase in the rLW on Thursday 22nd September 2022 to £11.95 per hour from £11.05 per hour as described in paragraph 3.9. below.

3. Key Implications

Localism Act 2011 and Pay Policy Statement

- 3.1. The Act requires Full Council to approve a Pay Policy Statement for the financial year 2023-24.
- 3.2. Full Council should note that the provisions of the Act do not apply to staff in the local authority's schools.
- 3.3. The Act states that:
*"A pay policy statement for a financial year must set out the authority's policies for the financial year relating to: -
the remuneration of its chief officers
the remuneration of its lowest-paid employees, and
the relationship between—
(i) the remuneration of its chief officers, and
(ii) the remuneration of its employees who are not chief officers.*
- 3.4. Furthermore, the Act specifies that:
*"the Statement must include the authority's policies relating to:
(a) the level and elements of remuneration for each chief officer;*

- (b) remuneration of chief officers on recruitment;
- (c) increases and additions to remuneration for each chief officer;
- (d) the use of performance related pay for chief officers;
- (e) the use of bonuses for chief officers;
- (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority; and
- (g) the publication of and access to information relating to remuneration of chief officers.

3.5. In addition, the Act states that:

“A pay policy statement for a financial year may also set out the authority’s policies for the financial year relating to the other terms and conditions applying to the authority’s chief officers”

3.6. Guidance produced under section 40 of the Act recommends that a pay multiple is included in these statements as a way of illustrating the authority’s approach to pay dispersion.

Furthermore, Full Council is asked to note that the Local Government Transparency Code 2015 requires the publication of a pay multiple on the authority’s website defined as:

“the ratio between the highest paid taxable earnings for the given year (including base salary, variable pay, bonuses, allowances and the cash value of any benefits in kind) and the median earnings figure of the whole of the authority’s workforce”

The pay multiple as at 31st December 2022 is 5.15. This is well within what is regarded as good practice as described by Will Hutton* in his 2011 Fair Pay Review in the Public Sector which identified acceptable multiples at or around 8.00.

*“William Nicolas Hutton is a British political economist, academic administrator, and journalist.

3.7. The Act and Guidance make reference to remuneration packages of £100,000 and above and Full Council are asked to note that decisions on pay grades of £100,000 and above will be determined by Chief Officer Panel (COP), in accordance with their existing terms of reference. Government guidance is that Full Council takes decisions about remuneration packages of £100,000 per year or more (as well as severance packages of £100,000 or more).

rLW formerly known as the LLW

3.8. London has had a Living Wage campaign since 2001. Since March 2005 it has been independently calculated and published by the Greater London Authority (GLA). The rLW formerly known as the LLW in London is currently £11.95 per hour announced on Thursday 22nd September 2022 (£11.05 per hour prior to the 22nd September 2022 increase) which is higher than the National Minimum Wage (NMW) and represents the minimum reasonable rate of pay in the Capital. The rLW will be paid for the time periods during which employees are carrying out what might be described as (for example) the normal duties of the post. However, it will

not be paid for the time periods on which employees are on a standby shift, or a sleep-in shift, and not carrying out the normal duties of the post.

- 3.9. In 2022-23 as a direct employer of staff the Council met the requirements of paying the rLW by means of implementing the Pay Policy Statement for 2022-23, with no employee paid on the Greater London Provincial Council (GLPC) or other (i.e., Soulbury) pay spines falling below the rLW.
- 3.10. Where the contractual entitlement to salary for a post is lower than the rLW, then the proposal is that, for 2023-24, the difference be paid as a discretionary supplement. Employees will not receive a contractual guarantee that the supplement will continue indefinitely. Prior to 1 April in each subsequent financial year, the Council should decide as to whether the supplement will be paid in that forthcoming year or not. The supplement can also be withdrawn by the Council during a financial year. This arrangement has been applied in previous years and in previous Pay Policy Statements.
- 3.11. Full Council is asked to approve continuation of a policy, for 2023-24, that no employee or agency worker is paid less than the rLW. This policy will be reviewed annually and determined each year by Full Council.
- 3.12. For schools-based employees it is up to each school to decide whether to adopt the rLW. Full Council is asked to commend to Governing Bodies that they consider paying the rLW rate to schools-based employees (whether permanent or fixed term) and to agency workers working in schools.
- 3.13. The payment of the rLW continues to be addressed during contract procurements. There is a Local Authority Toolkit produced by the Living Wage Foundation. The Toolkit specifies that the move to paying a London Living Wage (LLW {rLW}) should be phased in over the life of the contract, not necessarily from day one.

4. Financial

- 4.1. The Pay Policy Statement 2023-24 will have no impact on current budgets. The rLW is already paid to employees of the Council and agency workers engaged through the contract with Adecco UK Limited.
- 4.2. The 2022-23 Pay Policy Statement mentioned that it was conceivable that the rLW Wage could rise during 2022-23 (see section headed “Low Pay”). This did happen. A new rate for rLW is likely to be announced in October/November 2023, however, this is set by an external organisation, the Living Wage Foundation, and the likely increase is not known at this time.
- 4.3. Budget holders are expected to manage their resourcing (both employees and agency or contract resources) within their approved staffing budgets.

5. Legal

- 5.1 Full Council has to comply with the requirements contained in Chapter 8 of the Localism Act 2011 which require Full Council to approve a Pay Policy Statement. The Council must also comply with its obligations under

the Accounts and Audit (England) Regulations 2015, Local Government Transparency Code and the Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England – 12 May 2022. Statutory guidance on the Council's Pay Policy Statement was provided by the DCLG in February 2012: "Openness and accountability in local pay: Guidance under section 40 of the Localism Act".

- 5.2 The Local Government and Housing Act 1989 contains a definition of "chief officer" which is set out in the proposed policy.
- 5.3 The Localism Act contains a requirement that the Council must decide upon a definition of "lowest paid employees" and must set out the reasons for that decision.
- 5.4 The statement must articulate the Council's policies towards workforce pay, particularly its chief officers and its lowest paid employees.
- 5.5 As per s112 of the Local Government Act 1972, the remuneration of employees may be such reasonable remuneration as the Council thinks fit, although section 112(2A) stipulates that the terms and conditions for chief officers must comply with the pay policy statement.
- 5.6 The proposed statement complies with the statutory requirements for pay policy statements as set out in the Localism Act 2011.
- 5.7 The Council does not have an unfettered discretion to pay any amount of remuneration whatsoever. It must not pay a salary which is unreasonably high. It must ensure that it does not make payments to employees which could be seen as "gifts" (subject to certain specific, narrow exceptions).
- 5.8 It is not unlawful for the Council to approve a policy of always paying at least the rLW to any employee, even where that salary exceeds the recommended salary arrived at by the use of a job evaluation scheme. This is subject to the proviso that the rLW must not be a salary which is unreasonably high for the post in question.
- 5.9 If the Council having considered any factors which might appear relevant, decided that it was reasonable to ensure, for the year 2023-24, that no employee received a lower rate of pay, then that would not be an irrationally generous approach to determining the salary of its lowest paid employees for 2023-24.
- 5.10 Where the contractual entitlement to salary for a post is, for any reason, lower than the rLW, then the proposal is that, for 2023-24, the difference be paid as a discretionary supplement. Employees will not receive a contractual guarantee that the supplement will continue indefinitely. Prior to 1 April in each subsequent financial year, the Council should decide as to whether the supplement will be paid in that forthcoming year or not. The supplement can also be withdrawn by the Council during a financial year.
- 5.11 The 2012 statutory guidance recommends (at paragraph 14) that pay packages in excess of £100,000 are approved by full council before they are offered in respect of a new appointment. This Council, having taken this Guidance into account, achieves this by way of the Chief Officer Panel approving all chief officer pay scales. All chief officer appointments

are made by the Chief Officer Appointments Panel and it is clear at the point of appointment what pay scale is applied to each post.

6. Value For Money

6.1 No issues.

7. Sustainability Impact Appraisal

7.1 No issues.

8. Risk Management

8.1 No issues.

9. Community Safety

9.1 No issues.

10. Links to the Priorities for the Borough

10.1 The council's administration has three key priorities for Ealing. They are:

- Creating Good Jobs
- Tackling the Climate Crisis
- Fighting Inequality

A fair and progressive Pay Policy helps motivate and support officers in their work for and on behalf of the Council.

11. Equalities, Human Rights and Community Cohesion

11.1 An Equality Analysis Assessment was undertaken when the Pay Policy Statement for 2012-13 was produced and was attached to the report on the Pay Policy Statement submitted to Council on Tuesday 3rd April 2012 and an Equality Analysis Assessment was undertaken when the London Living Wage was agreed by Cabinet on Tuesday 23rd October 2012. An updated Equality Analysis Assessment is attached at appendix 5.

12. Staffing/Workforce and Accommodation implications

12.1 Throughout.

13. Property and Assets

13.1 No issues.

14. Any other implications

14.1 No issues.

15. Consultation

15.1 No issues.

16. Timetable for Implementation

16.1 After Full Council approval publication of Pay Policy Statement for the financial year 1st April 2023 to 31st March 2024 on the council's website.

17. Appendices

- 17.1 Appendix 1 – “Ealing Council – Pay Policy Statement for the year 1st April 2023 to 31st March 2024”;
- 17.2 Appendix 2 – “Ealing Council – Pay Policy Statement for the financial year 1st April 2023 to 31st March 2024 – Salary Rates from 1st April 2022;
- 17.3 Appendix 3 – “Ealing Council – Pay Policy Statement for the financial year 1st April 2023 to 31st March 2024 – Policy Statement – Local Government Pension Scheme – Discretions Policy, Ealing Council 2015”;
- 17.4 Appendix 4 – “Ealing Council – Pay Policy Statement for the financial year 1st April 2023 to 31st March 2024 – Pay Protection arrangements as at 12th February 2013”; and
- 17.5 Appendix 5 – “Ealing Council – Pay Policy Statement for the financial year 1st April 2023 to 31st March 2024 – Equality Analysis Assessment”.

18. Background Information

Localism Act 2011;

The Accounts and Audit (England) Regulations

2015. Local Government Transparency code 2015.

Hutton Review of Fair Pay in the public sector: Final report (March 2011). Local Government Pension Scheme – Discretions Policy, Ealing Council 2015.

Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England – 12 May 2022.

[Openness and transparency in local pay \(Statutory guidance from the DCLG\) – February 2012](#)).

Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011 Supplementary Guidance (February 2013).

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph
Internal				
Tony Clements	Chief Executive			
Sue Evans	Interim Director of HR & OD			
Mark Nelson	Head of Schools HR Consultancy			
Jenny Connett	Pensions Manager			
Helen Harris	Director of Legal and Democratic Services			
Emily Hill	Interim Strategic Director of Corporate Resources			
Shabana Kausar	Assistant Director – Strategic Finance			
Baljinder Sangha	Finance Manager – Planning & Monitoring			
Zamil Ahmed	Assistant Director – Commercial Hub			
Sam Bailey	Head of Democratic Services			

Report History

Decision type:	Urgency item?
Key decision	No
Report no.:	Andrew Scully, HR Business Partner. 020-8825-6930. ScullyA@ealing.gov.uk