

| Council      |                         |             |               |
|--------------|-------------------------|-------------|---------------|
| Report Title | Pay Policy Statement    |             |               |
| Key Decision | Yes                     | Item Number |               |
| Ward         |                         |             |               |
| Contributors | Head of Human Resources |             |               |
| Class        | Open                    | Date        | 30 March 2016 |

## 1. Introduction

The purpose of this paper is to present a policy statement on the pay of officers as per Section 38 of the Localism Act 2011.

## 2. Summary

The Localism Act requires each local authority to publish a statement which identifies the Council's approach to pay and in particular sets out pay arrangements for the chief officer posts i.e. heads of service, executive directors and the chief executive.

## 3. Recommendations

Agree the pay policy statement as attached as Appendix 1 to this report.

## 4. Statement content and operation

The statement sets out the levels of remuneration for the Council's chief officers as well as Council's general approach to pay i.e. it identifies how jobs are evaluated, graded and the relationship between roles. The report explains the position of additional payments and identifies the relevant terms and conditions as required by statute.

Once agreed by the Council, the Pay Policy Statement will form the basis on which the Council remunerates employees particularly those at the chief officer level, as required by Section 41 of the Localism Act 2011

Guidance under the Localism Act sets out an expectation that the Council will have regard to any proposal that the Mayor may have before the statement is considered. The proposed statement was therefore put to the Mayor and Cabinet on 10<sup>th</sup> February 2016, where it was agreed.

## 5. Independent Executive Remuneration Panel

The Council has set up an Independent Executive Remuneration Panel (IERP), the terms of reference of the panel are:

To advise the Council's appointments panel on the appropriate pay framework and pay structure relating to the chief executive.

To advise the Chief Executive on the appropriate pay framework and pay structure relating to Executive Directors and Heads of Service.

To consider and commission reports on pay levels relevant to Heads of Service, Executive Director and Chief Executive roles.

To consider how individual pay anomalies should be addressed.

To provide a sounding for consultation on national pay issues.

With the publication of the pay statement the Council will be compliant with nearly all aspects of the Hutton Fair Pay Code. The panel meets at a minimum on a yearly basis to make any recommendations to the statement. .

The IERP has agreed the proposed pay statement for 2016/17.

## **6. Financial Implications**

The cost of appointing and remunerating members of the Independent Remuneration Panel will be contained within existing budgets. Adopting the proposed pay policy statement does not in itself give rise to any other direct financial implications, although in due course recommendations from the IERP, if adopted, may have direct financial implications.

## **7. Legal Implications**

The pay policy statement attached to this report complies with the requirements of Section 38 of the Localism Act 2011 which required all local authorities to prepare a pay policy statement for the financial year 2012 -2013 and every financial year thereafter. Chapter 8 of the Localism Act 2011 sets out the information which a pay policy statement must contain. Section 40 of the Act also requires the Council to have regard to any guidance issued or approved by the Secretary of State. Guidance under Section 40 was issued in February 2012 and the attached pay policy statement takes account of this guidance.

A pay policy statement must be approved by a resolution of the Council before it comes into force, and the Council complied with the requirement to have a statement in force and approved before the end of 31<sup>st</sup> March 2012. Each subsequent statement must be prepared and approved before the end of 31<sup>st</sup> March immediately preceding the financial year to which it relates. The Council has complied with this requirement in subsequent years. The Council complied with the requirement to have its 2015/16 statement prepared and approved before the end of 31<sup>st</sup> March 2015. The pay policy statement for 2016/17 must be in force and approved before the 31<sup>st</sup> March 2016.

Additional guidance under Section 40 of the Localism Act was issued in February 2013 . As with the earlier guidance, the Council is required under Section 40 to have regard to this guidance when preparing its pay policy statement. This new guidance included commentary on how local authorities had complied with the original guidance. The new guidance also introduced two new requirements. The first requirement is for local authorities with directly elected mayors. The guidance sets out an expectation that the Council would involve the directly elected mayor and have regard to any proposals that the mayor may have before the statement is considered and approved. The second requirement is that that the pay policy statement should include a requirement that full council is required to vote in relation to any severance packages of over £100,000 (including redundancy pay, holiday pay and pension entitlements).

The Mayor has been provided with a draft copy of the 2016/17 pay policy statement on 10<sup>th</sup> February 2016 in accordance with the new guidance, and the Mayor has recommended the pay policy statement to the Council. The guidance requires the Council to have regard to the Mayor's proposals.

With regard to the guidance on severance payments this states that the Council should consider putting a requirement in place that full Council should be given an opportunity to vote before large severance packages (which the guidance recommends should be defined as over £100,000) are provided to staff leaving the organisation. The guidance states that it considers that a severance package will include a number of potential components, including redundancy compensation, pension entitlements and holiday pay.

There are likely to be a number of difficulties with this requirement. Firstly, a number of the elements of the "severance package" are likely to be contractual and/or statutory entitlements, such as redundancy compensation, pension entitlements and holiday pay. If the Council decided not to approve payments of this type then this is likely to result in the Council being in breach of contract and/or statute. It is feasible that a member of staff's pension and redundancy compensation alone could take them above the £100,000 threshold without any further payments being made to them. Secondly, the requirement to hold a vote at full Council could delay the making of any payments, again this has the potential of placing the Council in a position where it may be in breach of contract and/or other legislation. A delay could also fetter the Council's ability to effectively settle any potential claims against the authority, particularly in situations where a timely settlement may be the most cost effective resolution. Thirdly, where the Council enters into settlement of potential claims, it is often a term of any settlement agreement that the settlement remains confidential. This can be of benefit to the Council as well as to the employee. If a vote at full Council was required then it may be difficult for the Council to provide the confidentiality required by these agreements. If the confidentiality requirement of an agreement was breached this could lead to further claims against the Council and it may be difficult for the Council to provide evidence that confidentiality had definitely not been breached when details of the potential settlement had been distributed to full Council.

As set out above, the Localism Act 2011 requires the Council to have regard to the guidance. This does not require the Council to follow the guidance in circumstances where it has considered the requirements of the guidance but where the Council considers that it has good reasons for not following the guidance.

The draft pay policy statement attached to this report does not include a requirement that full council is required to vote before large severance packages are provided to staff leaving the organisation. This report recommends that the Council approve the draft pay policy statement for the reasons set out above.

Once a pay policy statement is in force, any decision of the authority made after 1<sup>st</sup> April 2016 and relating to remuneration or other terms and conditions of chief officers must comply with the pay policy statement in force at the time. An authority may amend its pay policy statement by resolution.

In the event that the Council wished to adopt a pay policy that does not reflect the current contractual arrangements in place for the employment of officers, then this may give rise to employment law implications.

**London Borough of Lewisham  
Pay Policy Statement  
2016/17**

**1. Introduction**

The Council seeks to be a fair and good employer of choice and in doing so deliver effective services in the borough. It seeks to engage talented people at all levels of the organisation and to benefit from the exercise of these people's talents. To this end it sets its pay (and reward packages generally, including pensions, etc) in accordance with a fair pay policy and with regard to national and regional pay policy. In doing so it has regard to changing conditions in differing occupational labour markets. The Council's people management strategy recognises the need for a committed and engaged workforce which is rewarded fairly for its motivation, adaptability, innovation and achievement.

Whatever their role, the Council seeks to ensure that every member of staff is valued and remunerated on a fair and just basis – taking into account the burden of personal responsibility their job requires, the delivery expectations placed upon them, as well as any requirements for the exercise of any particular expertise or speciality. The Council wants people to do valuable work and it wants the work to be of value to the workers performing the roles. It is for this reason that the Council has decided that it will conform to the London Living Wage and wherever it is lawful to do so, requires payment of the London Living Wage by its contractors.

The Council's pay strategy is designed to ensure that its pay structures are fair, support a sustainable management structure and foster managerial accountability and effectiveness and provide value for money to the tax payer.

The Council's approach to pay is to:

- ensure pay levels are right to provide the right levels of reward and motivation; and
- ensure pay levels are affordable by the Council

It is set in the wider context of a remuneration policy focussed on:

- employee roles
- employee development
- benefits (including pension)
- salary

The Council's management arrangements continue to be reviewed to optimise the effectiveness of management while reducing its overall cost (by a process of reducing managerial overheads and by reviewing managerial layers as well as spans of managerial control).

**2 Remuneration of chief officers**

The definition of chief officers including Executive Directors and Service Heads appears in paragraph 22. Chief officers are all graded as Heads of Service or higher depending on their responsibilities.

The Council pays its chief officers on the following scales shown with pay rates for 2015/16. Some of these pay rates have been increased for the first time in 5 years, whereas those earning more than £100K have had no rises in this time period. In the course of 2016/17 these figures may be increased by a maximum of any increase negotiated by the appropriate negotiating body. Generally post holders are not remunerated at a higher level than the position they report to.

| <b>Employees</b>           | <b>Scale</b> | <b>From</b> | <b>To</b> |
|----------------------------|--------------|-------------|-----------|
| Heads of Service (JNC4)    | 3 points     | £75,627     | £80,589   |
| Heads of Service (JNC3)    | 3 points     | £91,776     | £96,738   |
| Director of Public Health  | 8 points     | £75,249     | £101,451  |
| Directors (JNC2)           | 3 points     | £102,678    | £107,538  |
| Executive Directors (JNC1) | 3 points     | £135,867    | £141,123  |
| Chief Executive            | Fixed point  | £192,387    |           |

Pay points for chief officers and the Chief Executive are determined following independent pay expert advice. The remuneration for chief officers on these pay points is determined by reference to Hay job evaluation advice, save where chief officers have transferred to the Council under statutory provisions which entitle them to retain their pre transfer pay scales. The Council's levels of pay for chief officers are regularly benchmarked against other London Councils. These benchmarking exercises show that Lewisham's pay levels for Executive Directors and Heads of Service fall at the 71<sup>st</sup> and 47<sup>th</sup> percentile respectively amongst London Councils.

The salary paid to chief officers is inclusive of all hours worked and no additional payments are paid to chief officers apart from those specifically set out in any of the following paragraphs. Since July 2011 the Chief Executive has been engaged on a part-time (0.6) basis and is remunerated pro rata to the fixed point referred to in the table above.

An Independent Executive Remuneration Panel (IERP) has been established since 2011 to advise on the appropriate pay framework and structure for chief officer positions. In fulfilling this role the Remuneration Panel:

- supports the achievement of the Council's aims,
- takes account of wider public sector pay policy and good practice,
- ensures their decisions are proportionate, fair and equitable and support equal pay principles, including having regard to the "Fair Pay" code published by the Review of Fair Pay in the Public Sector,
- takes account of appropriate pay differentials, including relationship and multiples between chief officers and all employees,
- develops pay policies which attract, retain and motivate senior managers of the right quality and talent,
- takes account of the resources required in transitioning to any revised arrangements.

### **3 Remuneration of employees who are not chief officers**

The majority of employees who are not chief officers are appointed on NJC for Local Government terms and conditions. This will remain the case for 2016/17.

Remuneration for posts below chief officer will normally be determined by either the Greater London Provincial Council job evaluation scheme or the Hay job evaluation scheme. In both cases they are designed to ensure fairness and reward, making assessments based on objective criteria. In 2016/17 salary levels for employees who are not chief officers will range from £17,055 per annum (see below) to £68,505 per annum.

Apprentices within the Council are paid the equivalent of the National Living Wage, regardless of their age, during the first year of their apprenticeship and the equivalent of the LLW in their final year.

Save for apprentices who are excluded from the London Living Wage Scheme, in 2016/7 the Council will not pay below point 8 (currently £17,055 of the Greater London pay spine) and has adopted a policy of not paying below the current level of the London Living Wage (LLW), calculated on an annual basis (i.e. after any pay awards for that year have been agreed and implemented). Because of this, for the purposes of this Pay Policy Statement the Council defines its lowest paid employee as an employee earning the full time equivalent salary for the LLW, without any additional payments. This is to enable a pay multiple to be calculated against the Chief Executive's full time equivalent salary. The Council has agreed a maximum pay multiple of 13 to 1. In 2015/16 had the Chief Executive worked on a full time basis he would have earned not more than 11.3 times that of the lowest paid employee. In effect, the 2015/16 pay multiple was below the maximum figure.

Council policy is to pay chief officers in accordance with pay scales set by reference to the Hay job evaluation scheme and non chief officers in accordance with the pay scales set by reference to the Greater London Provincial Councils (GLPC) job evaluation scheme. This does not apply to chief officers who have transferred to the Council under statutory provisions which entitle them to remain on their pre-transfer levels of pay. The Hay Scheme remunerates employees above the levels of the GLPC scheme. As at January 2016 the median average of the pay of chief officers is 3.2 times that of all non chief officer posts (excluding apprentices). The IERP have endorsed the current senior pay structure and believe that this has served the Council well, particularly in the context of the changes to public services. The IERP has been requested to keep this relationship under review to ensure it is fair and appropriate.

#### **4. Performance related pay**

As with chief officers, the Council does not pay bonuses or performance related pay to any of its employees.

#### **5 Market supplements**

In a limited number of cases the Council currently makes market supplement payments to employees. During 2016/17, the Council may make such market supplement payments where market conditions dictate that this is necessary to recruit or retain suitable staff where it would otherwise be unable to do so. Market supplements are not currently and normally will not be paid to any chief officers.

#### **6 Approach to remuneration on recruitment**

New employees, including chief officers, are normally appointed to the bottom of the particular pay scale applicable for the post. If the employee's existing salary falls

within the pay scale for the post, the employee is normally appointed to the nearest point on the scale which is higher than their existing salary. In cases where the existing salary is higher than all points on the pay scale for the new role, the employee is normally appointed to the top of pay scale for the role.

## **7 Appointment to new posts paid in excess of £100,000 per annum**

Where it is proposed to appoint to a post which is not in existence at the time of the publication of this pay policy statement, and the proposed remuneration is more than £100,000 per annum the appointment may not be made unless the Council has agreed to the level of remuneration attaching to the position. This provision does not apply to any roles which transfer to the Council through either TUPE or any other equivalent or similar statutory transfer process. This requirement does not apply to roles arising out of restructures to which the Council is obliged to match existing employees to or conduct a ring fenced recruitment exercise.

## **8 Increments and pay awards**

For all employees the Council's usual policies on incremental progression and application of appropriate pay awards will apply.

## **9 Additional salary payments**

Council policy allows for an additional salary payment to be made to employees to reflect duties of an exceptional nature that are required to be undertaken which are over and above the normal requirements of the employee's post.

In accordance with Council policy, additional salary payments may be agreed for all employees, in the case of chief officers this is made up to the value of five increments (currently a maximum of £12,405). No additional salary payments of this nature are currently made to Executive Directors or the Chief Executive and this will remain the case in 2016/17.

However, the post of Director of Public Health is entitled to receive additional payments of £8,917 in respect of a director supplement. Medical Consultants are able to submit an application for either a local or national Clinical Excellence Award for specific projects/work. If successful an award is made which becomes a permanent element of pay. Awards can be made at 12 levels ranging from £2,957 to £75,796.

Employees within the School Improvement team and Educational Psychologists are entitled to receive additional payments of up to 3 pay points on the Soulbury pay scale. Employees are able to submit an application which takes into account certain criteria, including length in post and contribution to the development of the service. If successful an award is made which becomes a permanent element of pay. Awards for strategic leaders, the most senior posts, will be at 3 levels, with the award for each level (the equivalent of 1 pay point) at an average of £1,103.

## **10 Resilience for emergencies: disaster/incident recovery, command and control**

The Council is required to have measures in place to respond to any major incident in the borough. There is an emergency plan in place which is supported by a team of senior officers within the Council, led by the Chief Executive. Responding to incidents so as to ensure adequate recovery requires 24/7 management coverage by

those senior managers who are able to perform these emergency incident roles. The Chief Executive and Executive Directors do not receive any additional payment for undertaking this role which is incorporated into their contracts of employment. Other senior staff, including other chief officers, who undertake a role in emergency planning and disaster recovery for the borough and participate in the emergency rota receive an additional payment. In the case of roles covered by chief officers, other than Executive Directors, this payment is £2,000 per annum.

## **11 Terms and Conditions of employment**

The terms and conditions of employment for Council employees (excluding those who have transferred under specific statutory provisions) are as negotiated nationally by the relevant Negotiating Body for Local Authority Employees and supplemented/amended by any policies or procedures agreed.

The negotiating bodies which apply to employees include:

- The National Joint Council for Local Government Employees, commonly known as the Green Book, applicable to most non-teaching professional and support staff in the Council.
- The Joint Negotiating Committee for Chief Executives of Local Authorities
- The Joint Negotiating Committee for Chief Officers of Local Authorities
- The National NHS Staff Council
- The Soulbury Committee

The employment conditions and any subsequent amendments are incorporated into employees' contracts of employment. The Council's employment policies and procedures are reviewed on a regular basis in the light of service delivery needs and any changes in legislation etc.

The Council reached an Agreement with the local trade unions on 1 April 2008, known as Single Status, which applies to most of its employees up to Chief Officer level. This included the introduction of a single pay and grading structure together with a new job evaluation scheme (the GLPC scheme). The Agreement also sets out the Council's working arrangements and the payments to be made to employees for working outside normal working hours including overtime, and call out payments.

## **12 Interim and Consultant engagements**

Any temporary or short term engagement should be made through REED. In exceptional circumstances where it becomes necessary to engage a specialist interim or consultant to cover a PAYE position the individual is required to complete a HMRC questionnaire which is then processed through the HMRC website to establish whether the individual is self employed or an employee and they are then paid accordingly.

If the Council is engaging a company the contract is with the company and not the individual. The contract should have a start and end date and specify the work to be undertaken. This work should not be work that is covered by a Council JD as this is the work of 'an employee'.

## **13 Election Fees**



At any election time, approximately 500 – 600 Council staff will be employed on election duties of varying types. The fees paid to Council employees for undertaking election duties vary according to the type of election they participate in and the nature of the duties they undertake. All election fees paid are additional to Council salary and are subject to normal deductions for tax.

Returning Officer duties (and those of the Deputy Returning Officer) are contractual requirements but fees paid to them for national elections/ referendums are paid in accordance with the appropriate Statutory Fees and Charges Order/Guidance from London Councils.

In 2016, the election for the Mayor of London and the members of the London Assembly is due to take place in May. Fees for this election will be fixed by reference to the amounts reimbursed by the Greater London Returning Officer. There will be a national referendum relating to membership of the European Union on 23 June 2016. Fees will be paid in accordance with the relevant Charging Order.

## **14 Pensions**

All Council employees are eligible to join the Local Government Pension Scheme. The Council does not enhance pensionable service for its employees either at the recruitment stage or on leaving the service, except in certain cases of retirement on grounds of permanent ill-health where the strict guidelines specified within the pension regulations are followed. Teachers and NHS staff have their own pension schemes.

## **15 Payments on ceasing office**

### The general position

Employees who leave the Council, including the Chief Executive and chief officers, are not entitled to receive any payments from the Council, except as detailed below.

### Retirement

Employees who contribute to the Local Government Pension Scheme who elect to retire at age 55 or over are entitled to receive immediate payment of their pension benefits in accordance with the Scheme. Early retirement, with immediate payment of pension benefits, is also possible under the Pension Scheme on grounds of permanent ill-health at any age.

The Council will consider applications for flexible retirement from employees aged 55 or over on their individual merits and in the light of service delivery needs. Approval is conditional upon the employee agreeing to reduce their hours/pay by not less than 40%. Benefits closely reflect those permitted by Regulation 18 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007/1166.

### Redundancy

Employees who are made redundant are entitled to receive statutory redundancy pay as set out in legislation calculated on their actual salary. In addition the Council has a policy for the payment of further compensation, of an amount based on statutory limits. This scheme may be amended from time to time in accordance with the Council's Constitution.

### Voluntary Severance

Voluntary Severance payments may be made where it is in the Council's best interests to do so; such payments should comply with any applicable legislation and the Council's Voluntary Severance scheme at the time.

#### Settlement of potential claims

Where an employee leaves the Council's service in circumstances which are, or would be likely to, give rise to an action seeking redress through the courts from the Council about the nature of the employee's departure from the Council's employment, the Council may settle such claims by way of compromise agreement where it is in the Council's interests to do so. The amount to be paid in any such instance may include an amount of compensation, which is appropriate in all the circumstances of the individual case. Should such a matter involve the departure of an Executive Director or the Chief Executive it will only be made following external legal advice that it would be legal and reasonable to pay it.

#### Payment in lieu of notice

In exceptional circumstances, where it suits the Council's service needs, payment in lieu of notice is made to employees on the termination of their contracts.

#### Other payments

There may be exceptional circumstances not envisaged by the pay policy, where payments may be made, provided they are in the Council's best interests, comply with applicable statutory requirements and with Council policy.

### **16 Re-employment**

Employees who have left the Council on grounds of redundancy will not normally be re-employed for a period of one year and for 2 years in the case of voluntary severance.

Applications for employment from employees who have retired from the Council or another authority or who have been made redundant by another authority will be considered in accordance with the Council's normal recruitment policy. However like many authorities, Lewisham operates an abatement policy which means that any pension benefits that are in payment could be reduced on re-employment in local government.

### **17 Memorandum of Co-Operation**

The Council has signed up to a Memorandum along with other London Councils, which attempts to address recruitment and retention issues for children's social workers. The Memorandum includes a cap on agency worker rates, which the Council will comply with.

### **18. Gender Pay Differentials**

The Council considers it good practice to publish information on gender pay differentials by comparing the differences in the median level of earnings between female and male employees. The median earnings for female employees stands at £32,930 and male median earnings at £27,879. The Council therefore has a gender pay differential of 1:0.85.

### **19. Exceptional circumstances**

The provisions of this pay policy are designed to set out the Council's normal approach to remuneration and to provide transparency for the public about its policies relating to remuneration. However exceptional circumstances may occasionally arise where it would be appropriate to depart from the detailed provisions set out in this policy where Council service needs demand. This pay policy authorises such payment if appropriate specialist external advice is that it would be appropriate to make an exception in any particular case, in which case the Council may act in accordance with that advice

## **20. Publication of and access to information relating to remuneration**

The Council will publish details of all chief officer positions. This will be published at the same time as the Council's statement of accounts.

## **21 Publication and amendment**

The Council will publish this Pay Policy Statement on its website and may amend it at any time during 2016/17 if it is of the opinion that it is appropriate to do so. Any amendments to it will also be published on the Council's website.

## **22 Definition of chief officers**

Within this Pay Policy Statement, chief officer includes the following roles: the Council's Chief Executive, Monitoring Officer and those fulfilling statutory chief officer roles as set out in section 2(6) of the Local Government and Housing Act 1989. It also includes non-statutory chief officers as set out in section 2(7) of that Act, which includes all officers for whom the Chief Executive is directly responsible, those who report directly or are directly accountable to the Chief Executive and those who are directly accountable to the Council itself or any committee or sub-committee.

Within this Pay Policy Statement, the term chief officer also includes those who are a deputy to a statutory or non-statutory chief officer referred to above (i.e. those who report directly or are directly responsible to a statutory or non-statutory chief officer, as set out in section 2(8) of that Act). It does not include those employees who report to the Chief Executive or to a statutory or non-statutory chief officer but whose duties are solely secretarial or administrative.