

MAYOR AND CABINET			
Report Title	Pay Policy Statement		
Key Decision	Yes	Item Number	
Ward	n/a		
Contributors	Head of Organisational Development & Human Resources		
Class	Open	Date	7 February 2018

1. Introduction

In compliance with Section 38(1) of the Localism Act 2011, the Council is required to publish a Pay Policy Statement, which sets out the Council's policies relating to the pay of its workforce for the next financial year 2018/2019.

2. Background

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. Subsequent guidance introduced two further requirements. The first additional 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 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).

A draft copy of the 2018/2019 pay policy statement has been provided in accordance with the guidance. The guidance requires the Council to have regard to the Mayor's proposals.

3. Recommendation

To note and comment on the Pay Policy Statement.

4. Report

The Pay Policy Statement provides an overview of the Council's Pay Strategy.

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 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.

5. Independent Executive Remuneration Panel

The IERP has been consulted on this statement in accordance with their terms of reference and it has agreed the proposed pay statement for 2018/19.

6. Summary of changes from 2017/2018

- 6.1 The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (in force from 31 March 2017) require public sector employers operating in England to provide gender pay reports by 30 March 2018 covering mean gender pay gap in hourly pay for year from 31 March 2017 (included on page 8 paragraph 18). This data is also required to be published publicly on the Government website. The headline statistic within the Gender Pay Gap Information, of mean hourly rate, shows a positive picture in favour of women of 10.9% and will position Lewisham as one of the most positive large organisations in the country in terms of women's mean pay.
- 6.2 Changes to the taxation of agency workers and interim workers known as IR35 came into effect from April 2017. In the public sector responsibility for determining whether IR35 applies passed to the engaging public sector employer rather than the supplier itself.
- 6.3 Expected legislation and guidance in relation to exit payments has not yet been brought into force. Any legislation that may be enacted during the year in respect of termination payments and/or claw back of termination payments will be applied and may vary this policy.
- 6.4 Changes are also expected from April 2018 in relation to the taxation of termination payments.

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.

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 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 is provided with a draft copy of the 2018/2019 Pay Policy Statement in accordance with the new guidance. 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 is consistent with the position set out in the previous year's Pay Policy Statement. 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 1st April 2018 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.

8. Financial Implications

The cost of appointing and remunerating members of the Independent Executive 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.