



**Report for:
ACTION**

Item Number:

Contains Confidential or Exempt Information	NO.
Title	Pay Policy Statement 2021-2022
Responsible Officer(s)	Liz Chiles, Director of HR & OD
Author(s)	Andrew Scully, HR Business Partner and Head of HR Operational Services
Portfolio(s)	Councillor Bassam Mahfouz, Finance and Leisure
For Consideration By	Full Council
Date to be Considered	Tuesday 2 nd March 2021
Implementation Date if Not Called In	Not applicable
Affected Wards	None
Keywords/Index	Localism Act 2011, Pay Policy Statement, Policy Statement, Accounts and Audit (England) Regulations 2015; Local Government Transparency Code 2015; Accounts and Audit (England) Regulations 2015; real Living Wage (rLW); London Living Wage (LLW).

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 2021-22, to pay the real Living Wage (rLW) formerly known as the London Living Wage (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 proposed remuneration packages of £100,000 and above 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.

Reason for Decision and Options Considered

2.1. The Act requires Full Council to approve a Pay Policy Statement for the financial year 2021-22. 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 2021-22, to pay the real Living Wage {rLW} [formerly known as the London Living Wage (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 Monday 9th November 2020 to £10.85 per hour from £10.75 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 2021-22.

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 2020 is 5.54. 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. He is currently Principal of Hertford College, University of Oxford, and Chair of the Big Innovation Centre, an initiative from the Work Foundation, having been chief executive of the Work Foundation from 2000 to 2008. In May 2010 Will Hutton was appointed to lead an inquiry into cutting top public pay by Prime Minister, David Cameron”.

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 proposed remuneration packages 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).

Real Living Wage (rLW) formerly known as the London Living Wage (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 real Living Wage {rLW} formerly known as the London Living Wage (LLW) in London is currently £10.85 per hour announced on Monday 9th November 2020 (£10.75 per hour prior to the 9th November 2020 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 2020-21 as a direct employer of staff the Council met the requirements of paying the rLW by means of implementing the Pay Policy Statement for 2020-21, 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 2021-22, 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 make a decision 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 2021-22, that no employee or agency worker is paid less than the real Living Wage (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.

Financial

4.1. The Pay Policy Statement 2021-22 will have no impact on current budgets.

4.2. The 2020-21 Pay Policy Statement mentioned that it was conceivable that the real Living Wage could rise during 2020-2021 (see section headed "Low Pay"). This did happen. A new rate for rLW is likely to be announced in October/November 2021, however, this is set by an external organisation, the Living Wage Foundation, and the likely increase is not known at this time.

5. Legal

5.1. Full Council has to comply with the requirements contained in the Localism Act 2011 which require Full Council to approve a Pay Policy Statement for the financial year 2021-2022 and in future years and must have regard to any guidance issued or approved by the Secretary of State. The Council must also comply with its obligations under the Accounts and Audit (England) Regulations 2015 and the Local Government Transparency Code.

5.2. The Act contains a definition of “chief officer” which is set out in the proposed policy.

5.3. The Act also 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 proposed statement complies with the statutory requirements for pay policy statements as set out in the Localism Act 2011.

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.

5.6. 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).

5.7. 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.

5.8. If the Council having considered any factors which might appear relevant, decided that it was reasonable to ensure, for the year 2021-22, 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 2021-22.

5.9. Where the contractual entitlement to salary for a post is, for any reason, lower than the rLW, then the proposal is that, for 2021-22, 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 make a decision 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.

6. Value For Money

6.1. None.

7. Sustainability Impact Appraisal

7.1. None.

8. Risk Management

8.1. None.

9. Community Safety

9.1. None.

10. Links to the Priorities for the Borough

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

- Good, genuinely affordable homes
- Opportunities and living incomes
- A healthy and great place

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 property implications.

14. Any other implications:

14.1. None.

15. Consultation

15.1. None.

16. Timetable for Implementation

16.1. After Full Council approval publication of Pay Policy Statement for the financial year 1st April 2021 to 31st March 2022 on the Council's website.

17. Appendices

Appendix 1 - Ealing Council – Pay Policy Statement for the year 1st April 2021 to 31st March 2022

Appendix 2 - Salary Rates from 1st April 2020

Appendix 3 - Discretions Policy, Ealing Council 2015

Appendix 4 - Pay Protection arrangements as at 12th February 2013

Appendix 5 - Equality Analysis Assessment

18. Background Information

Localism Act 2011;

Account 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.

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Paul Najsarek	Chief Executive	28012021		
Liz Chiles	Director of HR & OD	13012021		
Mark Nelson	Head of Schools HR Consultancy	13012021		
Jenny Connett	Pensions Manager	13012021	14.01.2021	Appendix 1
Helen Harris	Director of Legal and Democratic Services	13012021		
Ross Brown	Chief Finance Officer	13012021		
Anita Hamilton	Finance Business Manager	05022021	12022021	3.13
Julian Bell	Leader	28012021		
Bassam Mahfouz	Cabinet Member for Finance and Leisure	28012021		
Sam Bailey	Head of Democratic Services	13012021		

Report History

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