

Item No. 7.3	Classification: Open	Date: 26 March 2014	Meeting Name: Council Assembly
Report title:		Pay Policy Statement	
Ward(s) or groups affected:		All	
From:		Chief Executive	

RECOMMENDATION

1. That the council's pay policy statement, as set out in Appendix 1, be agreed.

BACKGROUND INFORMATION

2. The Localism Act 2011 sets down requirements on authorities to prepare pay policy statements on an annual basis. These statements must describe an authority's policy for the pay of its workforce and be agreed annually in advance of the coming financial year. The Department of Communities and Local Government published initial guidance for local authorities on preparing their statements, which they further supplemented in February 2013, and has been taken into account in developing the pay policy statement given in Appendix 1.

KEY ISSUES FOR CONSIDERATION

3. Pay statements must be published and thus open to public scrutiny. Under the Localism Act; the statement must describe specific elements of remuneration paid to chief officers. The roles of chief officers are defined and accord with the descriptions used in the Local Government & Housing Act 1989; these being:-
 - The head of the authority's paid service designated under section 4(1) of the Act
 - Its monitoring officer designated under section 5(1) of that Act
 - A statutory chief officer mentioned in section 2(6) of that Act
 - A non-statutory chief officer mentioned in section 2(7) of that Act
 - A deputy chief officer mentioned in section 2(8) of that Act.
4. Nothing in the Act supersedes existing responsibilities and duties placed on authorities in their role as employers. Each local authority is an individual employer in its own right and has the autonomy to make decisions on pay that are appropriate. Instead, the Act focuses on requiring authorities to be more open about their policies and how decisions are made.

5. The Act does not require authorities to publish specific salary data as part of the pay policy statement. Doing so risks data being out of date where any pay awards apply. The declaration of specific salary information is managed by the publication of the statement of accounts and other information under data transparency arrangements. Such specific information is published on the council's website.
6. Appendix 1 to this report sets out the proposed pay statement for agreement by council assembly. This reflects the scope of the posts to be captured and the range of information to be included; as defined in the Act. It should be noted that following publication of pay policies statements in 2012 there was a public debate on whether the statement should include the ratio of earnings between the highest paid employee and other employees. There is no requirement to do so in the Act and no approved method of calculating this. The government commissioned (Hutton) Fair Pay Review, concluded that such a ratio would be unhelpful because it "could create perverse incentives and even become a target for executives [who are currently] earning less" than a government based benchmark. The review did suggest that if such a measure was put forward it should be to compare top earner with median salary. Until such time as there is clarity on definition and methodology for comparing earnings, we do not intend including this data in the policy statement. However, Southwark's ratio between the top earner and the median earnings is 5.48 to 1, (November 13 data); this is low compared to other public bodies which have reported such data.
7. Subject to council assembly's agreement it is proposed to again publish the pay policy statement on the Southwark website as part of Open Data. For the purpose of this report Appendix 3 gives the council's salary and grading structure for April 2014 applicable at the point of drafting the item, i.e. financial values are as at 1 April 2013. This grading structure delivers cabinet's decision of 30 July 2013 that those earning less than £21,000 (full time equivalent) should at minimum receive an annual increase in pay of £250. Details will be further updated to reflect the National Joint Council for Local Government Employees pay award, effective from 1 April 2014, and to consolidate the London Living Wage rate as the minimum spinal column point.
8. From 1 April 2013 public health staff transferred into the council. Under the transfer scheme, with TUPE like protection, existing employees retain their NHS salaries and terms and conditions of employment; this approach is mandatory on the council. There are different schemes of employment, complicated by additional personal entitlements and supplementary payments. The role of director of public health is defined as a chief officer. The actual earnings of this postholder will be published in the annual statement of accounts. When all allowances are taken into account, the earnings of the director of public health are equivalent to other chief officers. For the purpose of this statement; the salary range and key pay characteristics of this post and the assistant directors of public health are described as "other information" to the pay policy statement.

Top managers

9. The pay policy statement is primarily concerned with the salary arrangements of chief officers as defined in the Local Government & Housing Act 1989 (as above). In Southwark this cadre of posts forms the top management team of the council.

10. A contractual element of individual's pay at top manager level is the potential to earn performance related pay (PRP) based on measurable achievements.

New employees

11. Members will note that the proposed pay policy statement (Appendix 1) also makes specific reference to the salary package for staff newly appointed to top manager posts. The Localism Act has the impact of amending the Local Government Act 1972 (appointment of staff) as follows:-

“A local authority's power to appoint officers on such reasonable terms and conditions as the authority thinks fit is subject to section 41 of the Localism Act 2011 (requirement for determinations relating to terms and conditions of chief officers to comply with pay policy statement”.

12. Elected members have a special role in the appointment of chief officers and deputy chief officers as defined, whereby they must be given the opportunity to raise any well founded and material objection to appointment prior to an offer being made. As in previous years it is proposed that to meet requirements under the Localism Act, notification of an appointment includes confirmation of the salary package which attaches to the post and whether this accords with the council's pay policy statement. Were the proposed salary package to be outside the current statement, this to be deemed as an amendment to the pay policy which requires explicit members' approval.

Lowest paid employees

13. The Act requires the council to describe the relationship between the remuneration of its chief officers, and other staff; and to define the “lowest-paid employees” adopted by the authority for the purposes of the statement. The specific information to be included on pay actuals is limited.
14. As described in the statement; the use of job evaluation and the grading structure is the method used to determine the relativities of posts across the Southwark structure. The council's decision to adopt the London Living Wage rate sets the minimum pay rate for staff across the council. Employers' participation in the London Living Wage is voluntary. The council's commitment to adopt, aims to stop working Londoners from falling into poverty; making sure that the unemployed in London are better off in work than living on benefits. London Living Wage has been set at £8.80 per hour (2014) compared to the national minimum wage of £6.31 per hour.

Policy implications

15. The statement is used as a method to articulate the council's existing policy on remuneration, with specific details on top manager posts in particular. As such it does not amend or introduce new policy. Were current arrangements to be amended as a result of the development of the statement; the policy implications and contractual implications of doing so, would require review by cabinet.

Community impact statement

16. Development and publication of the pay policy statement is a useful step in increasing accountability and transparency of council business to the local community. This continues the trend of openness. It allows elected members, those who are directly accountable to the local community, to have input into how decisions on pay are made, particularly senior pay.
17. The equality analysis provided in Appendix 2 to this report clarifies that there are no adverse implications for people of protected characteristics. Publication of the statement accords with good practice of openness in pay arrangements.

Resource implications

18. There are no specific implications arising from the development and publication of the pay statement so far as this represents existing policy. Were future statements seeking agreement to move away from established arrangements it would be necessary to consider financial resources and the employment implications. Changes to individual's terms and conditions are likely to reflect a contractual change requiring consultation and due process in order to be lawful.
19. Publication of the pay statement as presented in Appendix 1 does not create conflict with the Data Protection Act as it does not contain information relating to a particular individual.

Consultation

20. The trade unions have been advised of the need to publish the statement and have been provided with a copy. As the statement is a method to articulate existing policy rather than a change, it is not part of the formal consultation process.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

21. Section 38 of the Localism Act ('the Act') requires a relevant authority to prepare a pay policy statement. Pursuant to section 43 of the Act a London borough is defined as a 'relevant authority'. The statement must set out an authority's policies towards a range of issues relating to the pay of its workforce including the remuneration of its chief officers; the remuneration of its lowest-paid employees; and the relationship between the pay of its chief officers and that of other employees. Chief officer is defined to include chief and deputy chief officers as defined in the Local Government and Housing Act 1989. The statement must state the definition of "lowest paid employees" adopted by the authority for the purposes of the statement and the authority's reasons for adopting that definition. Pay policy statements have to be prepared for each financial year; this began with year 2012/13.

22. The pay policy statement must also specifically cover the authority's policies relating to:
- The level and elements of remuneration for each chief officer (including salary, bonuses and benefits in kind)
 - 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
 - The publication of and access to information relating to remuneration of chief officers.
23. Section 39 of the Act states that an authority's pay policy statement must be approved by a resolution of the authority before it takes effect. This means that the resolution must be by full council before 31 March 2014. Following approval the statement must be published as soon as possible on the authority's website and in any other manner the authority thinks fit. An authority can amend its pay policy statement and any amendment must be made by a similar resolution.
- In complying with its duties on the pay policy requirements relevant authorities in England must have regard to any guidance issued or approved by the Secretary of State. The Department of Communities and Local Government ('DCLG') has published guidance to help English authorities understand and comply with their new duties; this is entitled 'DCLG: Openness and accountability in local pay: Guidance under section 40 of the Localism Act'. The guidance sets out the key policy principles that underpin the pay accountability provisions.
24. Supplementary guidance was issued in February 2013. These were taken into account in preparing this statement.
25. The draft pay policy statement in Appendix 1 will enable the council to meet its obligations under sections 38 to 43 of the Act.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Communities & Local Government: Openness and accountability in local pay	HR – 160 Tooley Street	Bernard Nawrat 020 75257185
Localism Act – Sections 38 – 43	HR – 160 Tooley Street	Bernard Nawrat 020 75257185

APPENDICES

No.	Title
Appendix 1	Southwark Council – Pay Policy Statement
Appendix 2	Equality Analysis
Appendix 3	Salary & Grading Structure

AUDIT TRAIL

Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Bernard Nawrat, Human Resources Director	
Version	Final	
Dated	10 March 2014	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance & Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	10 March 2014	