

MUNICIPAL YEAR 2012/2013 REPORT NO. 171A

MEETING TITLE AND DATE:

Council - 27 March 2013

REPORT OF:

Acting Assistant Director -
Human Resources

Contact officer and telephone number:

Tony Gilling - 020 8379 4141

Agenda – Part: 1	Item: 9
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Subject:

**Review & Adoption of a Statutory Pay
Policy Statement**

Cabinet Members Consulted:

Cllr Andrew Stafford

Email: Tony.Gilling@enfield.gov.uk

1. EXECUTIVE SUMMARY

The Localism Act 2011 requires all Councils to review and adopt a Pay Policy Statement each financial year. This report proposes a number of amendments to the Council's policy agreed in 2012 for adoption in the financial year 2013/14.

2. RECOMMENDATIONS

The Council adopts the Statutory Pay Policy Statement attached as Appendix 2 of this report.

3. BACKGROUND

- 3.1 Sections 38 to 43 of The Localism Act 2011 required all Councils to formally adopt a pay policy statement by 31 March 2012. The Act requires that a policy statement is adopted annually by a vote of the Council and once adopted, can only be varied by a vote of the Council.
- 3.2 In broad terms, the Act requires that the Statutory Pay Policy Statement includes:-
- A local authority's policy on the level and elements of remuneration for each chief officer
 - A local authority's policy on the remuneration of its lowest paid employees (together with its definition of 'lowest paid employees' and its reasons for adopting that definition)
 - A local authority's policy on the relationship between the remuneration of its chief officers and other officers

- A local authority's policy on other specific aspects of chief officers' remuneration; remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

The pay and remuneration of schools based staff is not covered by the Act.

3.3 The Council's pay policy was agreed on 28 March 2012 and is attached as Appendix 1.

3.4 The Remuneration Sub Committee has reviewed the operation of the pay policy for the financial year 2012/13 and has recommended the following amendments :

Paragraph 3.10

Delete £8.30 and insert £8.55
Delete £15,580 and insert £16,050
Delete 1.2.12 and insert 1.3.13
Delete point 8 and insert point 10

This amendment incorporates the London Living Wage increase implemented on 1 March 2013 and reflects the fact that staff on Scale 1c now fall under the London Living Wage level.

Paragraph 3.17

Delete whole paragraph and insert
On 21 March 2012, the Council adopted a severance policy under which staff at all levels in the Council could be allowed to leave the Council's employment with a discretionary severance payment. Details of this scheme are set out in the relevant Cabinet report.

Paragraph 3.18

Delete 'In such circumstances personal file'.

This amendment is required to ensure that there is no inference that pay in lieu of notice is a contractual entitlement.

Insert Paragraph 3.25

Public Health Team

On 1 April 2013, the NHS public health function will be transferred to local councils. The transfer will be actioned under a statutory transfer scheme and staff will be protected on their NHS pay, pensions and conditions of service.

This paragraph is required to explain the rationale for the different pay

rates for staff transferring from the NHS into the Council's public health function with effect from 1 April 2013.

Insert after 3.9.1.

The 2012 and 2013 government guidance on pay policy statements recommends that full Council should have the opportunity to vote before large salary packages are offered in respect of a new appointment, and propose £100,000 as an appropriate threshold. Supplementary guidance does not have the force of law but the council is required to have regard to it.

In Enfield, all appointments at Assistant Director level and above are made by an Appointments Sub Committee comprising elected members of both political parties; and the adopted pay policy already requires a report to be made to Council where it is proposed to offer the appointment at a salary other than the minimum of the appropriate salary range.

The council's Constitution already requires the appointment of a new Chief Executive to be ratified by full Council, and such an approval could be explicit as to the salary to be offered; so this leaves only Director level posts where the salary offered on appointment could exceed the £100,000 threshold. The salary range for Directors is fixed (see paragraph 3.6.2 above) and is binding on the council by virtue of the pay policy statement. If there is a decision to pay a Director at a higher point, it must be reported to the next full Council meeting. If the matter is reported to full Council, it would be open to a member to move a motion on the matter which could be the subject of a vote. The Council therefore, believes that the requirements of openness and accountability and the principles of transparency are met by existing procedures. Set against this, the potential delays in waiting for a full Council meeting before being able to offer a job, or having to renegotiate the salary, risk losing good candidates and increasing recruitment costs.

On this basis, the council is satisfied that its existing mechanism for senior appointments allows for an appropriate level of accountability, openness and oversight by members.

These paragraphs are required to address paragraphs 8, 9 and 10 of the 2013 supplementary guidance on pay policy statements.

Insert after 3.14.

The 2013 government guidance on pay policy statements recommend that full Council should have the opportunity to vote before large severance payments are made and proposed £100,000 as an appropriate threshold. Supplementary guidance does not have the force of law but the council is required to have regard to it.

However, the council has decided not to incorporate this element of the guidance into the pay policy as at March 2013. This is because there is a

lack of clarity on what constitutes a severance payment and whether non-discretionary elements should be included in the calculation to meet the threshold. It is also necessary to consider whether such disclosure in respect of officers below AD level would be proportionate, and compliant with Data Protection and Article 8 HRA considerations.

Given this, the council is seeking further advice and in the interim, the Assistant Director Human Resources, in consultation with the Cabinet Member for Finance & Property and relevant Director and Cabinet Member will make decisions on a case by case basis on whether severance payments in excess of £100,000 should be referred to full Council.

These paragraphs are required to address paragraphs 11, 12, 13 and 14 of the supplementary guidance on pay policy statements.

- 3.5 The amendments detailed in paragraph 3.4 are incorporated in the revised Pay Policy which is attached as Appendix 2.

4. ALTERNATIVE OPTIONS CONSIDERED

The review and adoption of a Statutory Pay Policy Statement each financial year is a statutory requirement.

5. REASONS FOR RECOMMENDATIONS

To meet a statutory requirement

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES & CUSTOMER SERVICES

6.1. Financial Implications

No financial implications arise from the adoption of the proposed Pay Policy Statement.

6.2 Legal Implications

6.2.1 The council is required under sections 38-43 of the Localism Act 2011 to adopt a pay policy statement for every financial year. The pay policy statement for 2013/14 must be adopted by 31 March 2013. The pay policy statement must be adopted by full council, and can only be varied by full council. Once it has been adopted, all determinations on pay, conditions and remuneration of chief officers (broadly, the chief executive, directors and assistant directors) for that year must be in accordance with the policy.

6.2.2 The Secretary of State issued statutory guidance on pay policy statements in 2012, followed by additional statutory guidance in February 2013. Statutory guidance does not have the force of law, but the council is required to have regard to it. One element

of both the 2012 and 2013 guidance is that full council should have the opportunity to vote before large salary packages are offered in respect of new appointments at or above a proposed threshold of £100,000. The proposed Pay Policy Statement for 2013/14 complies with the guidance in respect of the appointment of the chief executive. In respect of directors, the guidance is followed in part, in that full council would have the opportunity to vote if it was proposed to offer a salary higher than the lowest point on the grade set out in the Pay Policy Statement. To the extent that it does not follow the 2012 and 2013 guidance, the council is nevertheless entitled to approve the proposed Pay Policy Statement provided it has taken account of the statutory guidance, amongst other considerations, in reaching its decision, for example if it is satisfied that the proposed arrangements allow for sufficient transparency, accountability and oversight by members in line with the spirit of the guidance.

6.2.3 The 2013 guidance was issued in late February 2013 and without the usual consultation process. It proposes a new component for pay policy, namely that full council should have the opportunity to vote before large severance packages of £100,000 or above are awarded to senior staff. As statutory guidance, the council is still required to have regard to it. However, as set out in the proposed Pay Policy Statement for 2013/14, the council is also entitled to take into account issues such as the current lack of clarity as to how the £100,000 threshold is to be calculated and how non-discretionary elements are to be treated. Accordingly, the council is entitled to adopt the interim measures proposed while greater clarity is sought if it is satisfied that this is the most appropriate course of action in the circumstances.

6.3 Key Risks

As detailed in section 6.2 of the report.

7. IMPACT ON COUNCIL PRIORITIES

7.1 Fairness for All

The annual adoption of a Pay Policy Statement will afford the Council a regular opportunity to ensure that the remuneration of senior managers remain commensurate with the responsibilities of the roles relative to the pay of the Council's overall workforce.

7.2 Growth and Sustainability

The Pay Policy Statement will afford Members and the public the opportunity to ensure that the reward of senior managers reflects their contributions towards achieving the Council's aims and objectives.

7.3 Strong Communities

The publication of the remuneration details of senior managers will ensure that the local community has access to the information needed to hold senior managers to account for the realisation of the Council's vision.

7.4 Equalities Impact Assessment

The production of a statutory pay policy statement is a legislative requirement which will only impact on a very small number of senior staff.

8. HEALTH AND SAFETY IMPLICATIONS

None

9. PUBLIC HEALTH IMPLICATIONS

These have been set out in section 3.4 above.

Background Papers

None