

London Borough of Enfield

Committee Name: Staff Appeals, Appointments & Remuneration Committee

Meeting Date: 12 January 2021

Subject: Public Sector Exit Payments Regulations 2020

Cabinet Member: Cllr Nesil Caliskan/Cllr Mary Maguire

Executive Director: Ian Davis/Tinu Olowe/Jeremy Chambers

Key Decision: No

Purpose of Report

1. To provide an overview of the Restriction of Public Sector Exit Payments Regulations 2020 (the Public Sector Exit Payments Regulations 2020) that came into force on 4 November 2020 and the impact on Council employees who are dismissed due to redundancy or efficiency. At the point of writing this report, there is a conflict between the current LGPS Regulations and the new Public Sector Exit Payments Regulations 2020. This report recommends the interim options available pending publication of the revised LGPS Regulations.

Proposal(s)

2. There are limited options available, therefore this report is for noting, pending any clarity provided following publication of the revised LGPS Regulations.

Reason for Proposal(s)

3. To ensure the Council is compliant with its statutory obligations.

Relevance to the Council Plan

4. There are limited options available to ensure the Council is compliant with its statutory obligations. However, by implementing the restrictions imposed by Public Sector Exit Payments Regulations 2020, along with the uncertainty until there is clarity in the legislation there is the potential that these Regulations may inhibit the Councils ability to progress with service redesign and reform and may result in an increased number of legal challenges.

Background

5. The Public Sector Exit Payments Regulations 2020 came into force on 4 November 2020.
6. From 4 November 2020, an exit payment made to an employee in the public sector must not total more than £95,000 (Exit Payment Cap) save limited exceptions as outlined at paragraph 8 below.
7. The Exit Payment Cap will apply to most payments made on termination of employment, including:

- a. redundancy pay (including voluntary redundancy)
 - b. payments made to prevent reduction of a pension on early retirement (including payments made to the scheme)
 - c. payments made under a settlement or conciliation agreement and compensation awarded under the ACAS arbitration scheme (although the cap will be waived for payments to settle whistleblowing, discrimination and health and safety detriment complaints)
 - d. severance payments and ex gratia payments
 - e. contractual payments in lieu of notice (except where the payment does not exceed a quarter of the employee's salary)
 - f. compensation for the termination of a fixed-term contract
 - g. any other payment, contractual or otherwise, in consequence of termination of employment or loss of office.
8. The Exit Payment Cap restriction does not apply to payments made:
- a. in respect of death in service
 - b. in respect of incapacity as a result of accident, injury or illness
 - c. in respect of accrued annual leave
 - d. in compliance with an order of any court or tribunal
 - e. in lieu of notice under the contract that do not exceed a quarter of the employee's salary.
9. The LGPS Regulations have not changed and currently act in conflict with the Public Sector Exit Payments Regulations 2020.
10. The LGPS Regulations are currently under review and pending updating in the Spring of 2021 following the Department for Regional Growth and Local Government consultation concerning proposed changes to the LGPS Regulations, which ended on 18 December 2020.
11. On 28 October 2020 Luke Hall MP, Minister for Regional Growth and Local Government wrote to Chief Executives of Councils and LGPS Administering Authorities. This letter made it clear that LA's should be mindful that the 2020 Regulations reflect Parliament's intention to limit total public section exit payments to no more than £95k. The Department is going through a policy consultation in relation to the LGPS that will remove any remaining ambiguity in the legal position. In the meantime, an administering authority should act consistently with its legal duties that the provisions of Regulation 30(7) are subject to the cap.
12. The lawfulness of the Public Sector Exit Payments Regulations 2020 are currently subject to a number of judicial review challenges.
13. The Council, as employer and pension fund administrator, has quasi-fiduciary duties in respect of public funds, and therefore is advised to proceed on the basis that the effect of the Public Sector Exit Payments Regulations 2020 is to include PSP in the calculation of capped payments.
14. The rules of the LGPS do not currently allow for part payment of the PSP or employer augmentation contributions and therefore cannot currently offer a 'partly reduced pension.
15. Under the current 2013 LGPS Regulations entitlements are:
- a. Regulation 30(7)
Where an active member who has attained the age of 55 or over is dismissed from an employment by reason of redundancy or business efficiency, or

whose employment is terminated by mutual consent on grounds of business efficiency, that member is entitled to, and must take immediate payment of:

- i. retirement pension relating to that employment payable under regulation 16 (additional pension contributions), adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State; and
- ii. any other retirement pension relating to that active member's pension account payable under these Regulations, without reduction.

16. Whereas the Public Sector Exit Payments Regulations 2020 state:

a. Regulation 8

Where these Regulations prevent a relevant authority from making an exit payment of the type described in regulation 5(2)(b) which exceeds the exit payment cap in respect of a person, the relevant authority must, as an alternative, make to that person or in respect of that person to another person, a payment of an amount not exceeding the amount of that exit payment

17. Points of conflict:

- a. The Public Sector Exit Payments Regulations 2020 prohibit the Council from making a payment to the LGPS in relation to the pension strain cost to provide an unreduced pension, where the total exit payments exceed £95k.
- b. The current LGPS Regulations do not allow part payment of an employer pension strain cost and do not allow for a partially reduced pension.
- c. The Public Sector Exit Payments Regulations 2020 do not clearly set out any priority of exit payments but do imply a statutory redundancy payment must be paid (this is lower than current [Council Redundancy Compensation Provisions](#)).

18. Revised LGPS Regulations

a. The revised LGPS Regulations are expected to be published in spring and come into force in April 2021. It is hoped that the revised LGPS Regulations will provide clarity in relation to pension entitlements that are aligned with the Public Sector Exit Payments Regulations 2020. It is hoped that the additional options that will become available under the revised LGPS Regulations will include:

- i. Ability for the employer to make a part payment towards the pension strain cost.
- ii. Ability for the LGPS to provide a 'partially' reduced pension based on the pension strain contribution the employer can afford without breaching the £95k cap.
- iii. The option for the employee to make a payment into the pension scheme towards the pension strain cost so they can receive an unreduced early pension.

19. However, until the legislation is clear and there is clarity regarding the legal position in relation to pension entitlements under the Public Sector Exit Payments Regulations 2020, the Council is obliged to restrict payments as if the full Exit Payment Cap does apply. Once clarity has been provided, and if this changes the position regarding any entitlements due, the Council should make good any shortfall in payment, plus interest (based on standard Bank of England lending rates).

20. Discretionary exercise of the power

As a local authority Full Council have the authority to relax the restrictions subject to Treasury consent, where the business case to relax the restrictions meets one of the following criteria:

- a. that not exercising the power would cause undue hardship;

- b. that not exercising the power would significantly inhibit workforce reform
- c. that a written agreement to exit was made before the coming into force date of the Regulations;
 - i. that it was the intention of both parties that the exit would occur before that date; and
 - ii. that any delay to the date of exit was not attributable to the employee or office holder as applicable.

Pursuant to regulations 10 (b), 10 (c) or 10 (d), the Decision Maker must seek consent of HM Treasury before exercising the power.

21. Mandatory exercise of the power to relax

The Council must exercise the power to relax the restriction imposed by the Public Sector Exit Payments Regulations 2020 on payments described in regulation 5(2), and detailed in HM Treasury Directions, which are made in consequence of a relevant public sector exit including the following circumstances:

- a. Transfer of Undertakings (TUPE)
- b. Employment tribunal claims: health & safety, whistleblowing and discrimination.

Main Considerations for the Council

22. Based on the information currently available employees who are at risk of redundancy can be offered the following interim payments and entitlements where the total value of entitlements exceeds the £95k Exit Payment Cap:
- a. Statutory redundancy payment (SRP) (Appendix 1)
 - b. Enfield enhanced Redundancy compensation, and/or
 - i. Early retirement reduced pension, or
 - ii. Deferred pension payable from 'normal pension age'.
23. As the above are interim options the following information should also be provided:
- a. Once there is clarity in the legislation it is hoped the following additional options can be provided:
 - i. The Council can make a part payment towards the pension strain cost of the Exit Payment Cap of £95,000 less the cost of SRP and any enhanced redundancy compensation already paid. This can be used to provide early retirement pension benefits that are partially reduced (based on the actuarial valuation of the employer payment),
 - ii. The employee can pay an amount towards the pension strain cost, up to the full pension strain cost. This can be used to provide early retirement pension benefits that are unreduced or still partially reduced based on the amount paid (again subject to the actuarial valuation of the employer and employee payment),
 - iii. The employer can make an additional one-off cash payment into the pension plan of the difference between the Exit Payment Cap of £95,000 less the cost of SRP and any enhanced redundancy compensation already paid, to provide additional deferred pension benefits.
 - b. Based on the above the employee will need to decide whether they take SRP or enhanced redundancy compensation at the point of their redundancy.

Safeguarding Implications

24. No safeguarding implications have been identified as a result of the new Regulations.

Public Health Implications

25. No public health implications have been identified as a result of the new Regulations.

Equalities Impact of the Proposal

26. The Public Sector Exit Payments Regulations 2020 will potentially have a negative impact on older employees as the cap is more likely to restrict early retirement benefits for employees aged 55 or over.

27. The Public Sector Exit Payments Regulations 2020 will potentially have a negative impact on female employees as the overall gender split of the Council's workforce favours women.

Environmental and Climate Change Considerations

28. No environmental and climate change implications have been identified as a result of the new Regulations.

Risks that may arise if the proposed decision and related work is not taken

29. The Council would not be compliant with its mandatory statutory obligations and duties.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

30. The Council will be compliant but there may be an increased risk of legal challenge.

Financial Implications

31. The intention behind the cap is to strike a better balance between treating individuals and the taxpayer fairly. The ability to determine exit arrangements has been restricted for both Enfield Pension Fund and Enfield Council as an employer and this will result in an additional burden of work in calculating and implementing an exit payment. Although there is a positive budgetary impact to the General Fund as the strain cost is limited to £95k. The cost of administering the LGPS is chargeable to the Pension Fund.

Legal Implications

32. The Council is required under sections 38-43 of the Localism Act 2011 (the Act) to adopt a pay policy statement by 31 March for every financial year. Once 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.

33. The Council pay policy statement is required to comply with all relevant employment legislation and is bound by any collective agreements and contractual arrangements in place which cannot be unilaterally altered.

34. The Council is required to respond to legislative and regulatory changes affecting the workforce including any impact on its pay policy and is required to make any necessary arrangements to comply with any legislative and regulatory changes. The Restriction of Public Sector Exit Payments Regulations 2020 (the Public Sector Exit Payments Regulations 2020) which came into force on 4 November 2020 impacts the council pay policy statement. The Council has a mandatory duty to comply the regulations and cap exit payments at £95,000. This Report outlines the requirements incumbent on the Council and highlights the conflict between the Public Sector Exit Payment Regulations 2020 and the current LGPS Regulations. The LGPS Regulations are under review and pending updating in the Spring of 2021. There are a number of legal challenges to the Public Sector Exit Payments Regulations 2020 pending. Notwithstanding, the pending outcomes of the LGPS review and legal challenges, the Council is currently required to comply with the Public Sector Exit Payments Regulations 2020 and cap exit payments at £95,000. The Council's Statutory Pay Policy 2021 is required to incorporate the requirements of the Public Sector Exit Payments Regulations 2020 (see Appendix 2 paragraph 3.14.9-3.14.15). This will require to be reviewed pending the outcomes of the LGPS Regulations Review and the legal challenges.

Workforce Implications

35. The Council must ensure it is compliant with the new Public Sector Exit Payments Regulations 2020 and subsequently restrict exit payments where the total cost exceeds the £95,000 Exit Payment Cap.
36. Employees at risk of redundancy should be offered reduced benefits outlined in paragraph 22 above and the additional information detailed in paragraph 23 above.
37. There is a risk of increased legal challenge and it is therefore important that the Council is clear and transparent with all information provided whilst ensuring it is compliant with the new Public Sector Exit Payments Regulations 2020.
38. As soon as the revised LGPS Regulations are available all staff affected by the interim measures should be contacted and provided with their revised options.
39. The Council should work closely with the recognised trade unions.

Property Implications

40. No property implications have been identified as a result of the new Regulations.

Other Implications

41. None identified

Options Considered

42. Not to implement the Public Sector Exit Payments Regulations 2020, however, the Council would not meet its mandatory statutory obligations.

Conclusions

43. The Council is legally obliged to comply with the Public Sector Exit Payments Regulations 2020 and restrict overall exit payments where the total value exceeds the £95,000 Exit Payment Cap. The Council ensure all employees affected by the new Public Sector Exit Payments Regulations 2020 are fully informed of all interim entitlements and updated with actual entitlements as soon as clarity is provided in

pending review and updates to the LGPS Regulations which are anticipated in the Spring of 2021.

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Appendices:

Appendix 1 – Statutory Redundancy Provisions

Appendix 2 – Statutory Pay Policy 2021

Background Papers

The following documents have been relied on in the preparation of this report:

[The Restriction of Public Sector Exit Payments Regulations 2020](#)

[The Local Government Pension Scheme Regulations 2013](#)

[LGA Exit Cap Information for LGPS Administering Authorities](#)

[Redundancy Compensation Provisions.docx](#)

[Restriction of Public Sector Exit Payments HM Treasury Directions.pdf](#)

Statutory Redundancy Calculator

Appendix 1

Age	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
17	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
18	1	1½	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19	1	1½	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
20	1	1½	2	2½	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
21	1	1½	2	2½	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
22	1	1½	2	2½	3	3½	-	-	-	-	-	-	-	-	-	-	-	-	-	-
23	1½	2	2½	3	3½	4	4½	-	-	-	-	-	-	-	-	-	-	-	-	-
24	2	2½	3	3½	4	4½	5	5½	-	-	-	-	-	-	-	-	-	-	-	-
25	2	3	3½	4	4½	5	5½	6	6½	-	-	-	-	-	-	-	-	-	-	-
26	2	3	4	4½	5	5½	6	6½	7	7½	-	-	-	-	-	-	-	-	-	-
27	2	3	4	5	5½	6	6½	7	7½	8	8½	-	-	-	-	-	-	-	-	-
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½	-	-	-	-	-	-	-	-
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½	-	-	-	-	-	-	-
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½	-	-	-	-	-	-
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½	-	-	-	-	-
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½	-	-	-	-
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½	-	-	-
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½	16	16½
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½	17
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	17½
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	18½
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	19
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	19½
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	20
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	20½
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	25
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	26
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	26½
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	27
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	27½
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	28
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	28½
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	29
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	29½
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	30
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	30
61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	30

Statutory redundancy pay is based on a multiplier of weeks based on age and length of service and average weekly pay.

- Weekly pay is capped at £538 (2020/21)
- Weeks paid based on age and length of service is capped at 20 weeks and is calculated using the following multiplier:
 - 0.5 week's pay for each full year worked under age 22

- 1 week's pay for each full year worked between the age of 22 and 41
- 1.5 week's pay for each full year worked aged 41 or older

The Council's Statutory Pay Policy 2020/21

1. Enfield Council is a large and diverse organisation providing a range of statutory and other services to a local community with a population of c333,000. It is responsible for managing an annual revenue budget of £1.1bn and a 10-year capital budget of £2.3bn. To ensure such a large and complex organisation is effectively led and efficiently managed, the Council needs to be able to attract and retain a range of high calibre and skilled managers and leaders. In a competitive job market, the value and composition of the remuneration package offered to senior managers, i.e. Director and above is a key factor enabling the Council to attract, recruit, motivate and retain staff with the skills sets required to deliver the Council's vision, objectives and aspirations, which in turn, have a significant impact on the lives of local residents.
2. This statement has been drawn up primarily to meet the requirements of Section 38(1) of the Localism Act 2011. The full details of the remuneration of both senior managers and other groups of staff employed by the Council will be published on the Council's website as required by the Code of Recommended Practice for Local Authorities on Data Transparency. The details of the remuneration received by individual senior managers in each financial year will be published in the annual statement of accounts.

3. Pay Provisions

- 3.1. The implementation of the Council's pay and remuneration strategy for senior managers is overseen by the Staff Appeals, Appointments & Remuneration Sub-Committee.
- 3.2. The key features of the Council's remuneration package for senior managers includes a competitive salary structure that is aligned with benefits packages offered by other benchmark public sector organisations providing a similar range of services i.e. primarily other London boroughs.
- 3.3. The Council adopted a pay structure of progression through experience from 1 July 2018. The Council believes that adopting this approach promotes greater transparency and is consistent with the pay progression for other Council staff. This model of pay progression through experience will apply to all posts at middle management and above.
- 3.4. As part of its commitment to ensuring equal value in pay matters, the Council determines the relative grades of the vast majority of jobs in the organisation through the application of recognised analytical job evaluation schemes. For the majority of staff, the job evaluation scheme used is that developed by the Greater London Provincial Council published in 2000. For middle and senior management jobs, the Hay Job Evaluation Scheme developed by Hay Management Consultants (now Korn Ferry) is used.

- 3.5. The Council determined the pay ranges for Heads of Service, Directors, Executive Directors and the Chief Executive in 2006, with advice from Hay Management Consultants (Korn Ferry), using benchmarking data drawn from the Chief Officers Pay and Benefits Survey independently compiled by London Councils.
 - 3.5.1. In 2018 the Council's middle and senior managers' pay ranges were consolidated into six points. Under the six-point scale it will take up to six years to progress to the top of the pay range, but all payments are guaranteed once progression is granted. In all, the Council has eight such middle and senior manager salary ranges covering 608 posts with salary ranges starting at or above £38,946 p.a.

- 3.6. The pay ranges for middle and senior managers are increased in line with National Pay Agreements determined by the Joint National Council (JNC) for Chief Officers. The latest increase in JNC pay rates was 2.75% effective from April 2020;
 - 3.6.1. the salary range for the Chief Executive is £175,674 - £208,746;
 - 3.6.2. the salary range for the Executive Directors of People, Place, Resources is £126,882 - £164,196;
 - 3.6.3. the actual levels of pay received by the Chief Executive and each Executive Director are published annually in the Council's statement of accounts;
 - 3.6.4. the salary range for all Directors is £102,570 - £125,244;
 - 3.6.5. the contracts of employment of all senior managers only allow them to undertake additional duties and responsibilities with the recorded agreement of the Leader of the Council, in the case of the Chief Executive and the Chief Executive in the case of an Executive Director and Director. Where these additional duties attract the payment of a fee, the Staff Appeals, Appointments & Remuneration Sub-Committee will determine the proportion of that fee that is received by the individual senior manager and that received by the Council. In the specific case of fees for local and other election duties, the Council allows any fees received to be retained by the Chief Officers' fulfilling these roles.

- 3.7. The Council has the discretion to exceptionally make additional one-off payments to staff at any level, including senior staff, in recognition of work undertaken in addition to that of their substantive role. Any such additional payments will be authorised by the Chief Executive, in the case of a payment being made to an Executive Director, Director and the Leader of the Council, in the case of discretionary payment being made to the Chief Executive. An objective justification for each such payment will be recorded on the employee's file. Any such additional payments made will be reflected in the relevant statements of earnings published in the annual statement of

accounts. The Council has no provision to make a bonus payment to any member of staff.

3.8. The pay rates of other staff in the Council are based on a pay spine negotiated by the National Joint Council (NJC) for Local Government Services and supplemented to reflect regional differences arising from agreements made by the Greater London Provincial Council (GLPC). The last increase in the NJC pay spine was 2.75% effective from April 2020. This pay deal brings the lowest pay point above the London Living Wage and ensures a pay differential between lower pay grades. All pay progression through the grade range is consolidated. Typically, the pay range for each grade comprises of between two and five incremental pay points with staff progressing to the next pay point after specified periods of time in the post.

3.8.1. The Council will consider paying an appropriate market supplement, in addition to the job evaluated grade range where it can be objectively demonstrated that the Council is experiencing difficulties in recruiting and retaining suitably skilled and qualified staff to provide safe, efficient and effective high quality services and that the level of pay offered is the primary reason for this.

3.9. **Pay on appointment**

3.9.1. Under the terms of the Council's Constitution, all permanent appointments to posts graded Director, Executive Director and Chief Executive are made by the Appointments' Panel. Staff will normally be appointed at the minimum point of the grade unless there is an objectively justifiable reason for appointing to a higher salary and this is a) recorded and b) approved by the chair of the Appointments' Panel that made the appointment and c) reported to the next Council in the case of the appointment of an Executive Director. (Note the Council's Constitution already requires the appointment of the Chief Executive to be ratified by the full Council). The composition of the Appointments' Panel for appointments to posts at Director, Executive Director and Chief Executive is set out in the Council's Constitution.

3.9.2. 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.

3.9.3. In Enfield, all appointments at Director level and above are made by an Appointments Sub-Committee comprising elected members of all main 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 and Executive Director level posts where the salary offered on appointment could exceed the £100,000 threshold. The salary range for Directors and Executive Directors is fixed (see paragraph 3.6 above) and is binding on the council by virtue of the pay policy statement. If there is a decision to pay an Executive 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.

- 3.9.4. 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.
- 3.9.5. Appointments to posts at all other levels in the Council will be made at the minimum point of the relevant grade unless agreed by the Director of HR & OD or as specified in the approved scheme of delegation. Where appointments are made to salary levels above the minimum of the scale, the objectively justifiable reasons for this will be recorded on the relevant personnel file. The Council does not make any additional payments to prospective senior managers to encourage them to join the Council's workforce. Relocation expenses can be paid in approved cases where these are agreed by the Chair of Appointments' Panel that made the appointment.
- 3.9.6. From time to time, to meet unforeseen temporary business needs, it may be necessary for the Council to engage specialists' contractors/agency workers to cover elements of the roles of senior manager posts. In such cases, the engagement of such workers and the rates of payment and conditions of engagement will be approved by the Cabinet Member for Finance & Procurement which will not necessarily be in line with the Council's general terms and conditions for staff engaged under a permanent contract of employment.
- 3.9.7. The Council would not normally consider appointing a person to a permanent senior management post other than under a normal employment contract.

3.10. **Low pay**

In March 2011, the Cabinet determined that irrespective of the grade of a job as determined by the application of an analytical job evaluation process, the minimum level of pay received by any employee would be the level of the London Living Wage as set/amended from time to time by the Greater London

Authority. The Council will determine the lowest paid by reference to the contractual hourly rate of pay of the employee. For these purposes Apprentices are considered to be engaged under training rather than employment contracts. The London Living Wage is currently £10.85 per hour (from 9 November 2020) i.e. £20,365.88 per annum for a full-time worker (i.e. working 36 hours per week). Where appropriate, basic levels of pay that are on or below the GLPC pay spine from the April following any increase to the London Living Wage are enhanced by the payment of a pay appropriate supplement to ensure that every member of staff receives a level of pay that is equivalent to the level of the London Living Wage. With effect from 1 April 2020 the bottom point of the GLPC pay spine is currently above the previous London Living Wage hourly rate of £10.75 (agreed November 2019) and the bottom point of the new GLPC pay spine from 1 April 2021 is expected to remain above the current London Living Wage. Any subsequent increase in the London Living Wage will be implemented within six months of the increase in the level of London Living Wage being announced. Where the London Living Wage rises above the minimum pay point the Council will not adjust the basic wage levels of staff that are above the London Living Wage for the purpose of maintaining grade/pay differentials. An explanation of the Council's reasons for adopting the London Living Wage as the low pay benchmark are set out in report 207 considered by the Cabinet on 9 March 2011.

3.11. Working hours

3.11.1. Middle and senior managers in the Council do not have a specified working week and are required to work the hours necessary for the effective performance of their duties. It is not unusual for senior managers in the organisation i.e. Directors, Executive Directors and Chief Executive to regularly work up to 60 hours per week without any compensatory time off or additional payments being made.

3.11.2. Staff other than middle and senior managers work a basic 36-hour week and are entitled to time off in lieu or additional payments in respect of any hours worked in excess of an average of 36 hours per week calculated over specified periods. Enhanced payments are made to staffs who are contractually required to work at night, at weekends and on bank holidays.

3.12. Other non-pay benefits

3.12.1. Holiday entitlement

In addition to paid time off in respect of public/bank holidays, the paid annual leave entitlement for all staff is set out in the following table:-

Directors and Assistant Directors			Completed Years of Continuous Service as at 31 March	
			0 - 4 years	5 + years
Chief	Executive	&	32 days	35 days

Executive Directors		
Directors	29 days	32 days

Other Staff	Completed Years of Continuous Service as at 31 March	
	0 - 4 years	5 + years
Grade and pay spine	0 - 4 years	5 + years
Up to and including Scale 4 (scp 1-21)	24 days	29 days
Scales 5-6 (scp 22-28)	25 days	30 days
SO1 to PO2 (from scp 29)	26 days	31 days
MM1 to HOS3	29 days	31 days

3.12.2. Sick pay

While unable to work because of illness, staff at all levels receive:

During 1 st year of service	1 month's full pay and (after completing 4 months' service) 2 months' half pay
During 2 nd year of service	2 months' full pay and 2 months' half pay
During 3 rd year of service	4 months' full pay and 4 months' half pay
During 4 th and 5 th year of service	5 months' full pay and 5 months' half pay
After 5 years' service	6 months' full pay and 6 months' half pay

This provision mirrors the national terms and conditions for local authorities' staff.

3.13. Other general terms and conditions of service

Other general terms and conditions of service for senior staff are as determined by the Joint National Council for Chief Officers and for other staff by the National Joint Council for Local Government Services.

3.14. Termination payments

- 3.14.1.** In 2010, the Cabinet adopted a revised policy in respect of the level of discretionary payments made to staff who were made redundant. Under the terms of this policy, which applies to staff at all levels including senior managers, on being made redundant, staff who are immediately able to access their occupational pension payments will receive a redundancy payment which is calculated using the statutory table for the calculation of redundancy payments with the payment being based on an actual week's pay i.e. salary ÷ 52.14 weeks, rather than a statutory week's pay. In all cases of redundancy of staff at all levels the Council automatically waives any actuarial reduction in pension payments that would otherwise arise. Staff who are not able to access an occupational pension for any reason receive a supplementary additional discretionary payment calculated on half a week's actual pay for every year of local government service. The Council's redundancy payments scheme is located at [Discretionary Redundancy Compensation Provision](#).
- 3.14.2.** The Council's flexible retirement policy, adopted in 2011, enables eligible staff to receive their occupational pension and continue working, for a maximum period of up to two years, provided they either reduce their contractual hours by at least 50% or reduce the grade of their job by two grades. Three staff were retired flexibly in the period 1 January to 31 December 2020.
- 3.14.3. 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. No employees left on the basis of voluntary severance in the period 1 January to 31 December 2020.
- 3.14.4.** The Council has the discretion to agree the early retirement of a member of staff aged 55 to 60, where this is in the best interests of the efficiency of the service. In such cases, the Council considers each case on its merit and in the light of this determines a) whether to agree the request and b) where applicable, whether to waive any actuarial reduction that may arise. No employees retired early in the interests of the efficiency of the service in the period 1 January to 31 December 2020.
- 3.14.5. While under the specific circumstances set out in this statement, the Council may waive the actuarial reduction that would otherwise arise as a consequence of the early payment of an employee's occupational pension; the Council does not enhance the pension provision of any staff.
- 3.14.6. The Council would not normally consider re-engaging in any capacity any senior member of staff who had left the Council with a discretionary compensatory payment or via a settlement agreement within two years of his/her recorded last day of service. Any

proposal to do so would be subject to the agreement of an appropriately constituted Appointments' Panel.

- 3.14.7. The Council has no provision to make any other termination payments to staff at any level in the organisation other than in settlement of a potential or actual legal claim against the Council. Any such payment to a senior member of staff would be agreed by the Chief Executive or appropriate Executive Director, in consultation with the Leader of the Council, under the terms of an appropriate Compromise Agreement following receipt of written legal advice.
- 3.14.8. As a matter of principle, the Council expects all staff to work any contractual periods of notice unless it is considered this would not be in the best interests of the Council.
- 3.14.9. The Restriction of Public Sector Exit Payments Regulations 2020 (the Public Sector Exit Payment Regulations 2020) came into force on 4 November 2020. These Regulations provide for a cap of £95,000 (Exit Payment Cap) which is applicable to most payments made on termination of employment including redundancy pay, pension strain costs to prevent reduction of a pension on early retirement, severance and ex-gratia payments, payments in lieu of notice (except where the payment does not exceed a quarter of the employee's salary). The Council is required to restrict exit payments in accordance with the Exit Payment Cap provided within the Public Sector Exit Payments Regulations 2020. There are limited mandatory exclusions including TUPE provisions and whistleblowing settlements.
- 3.14.10. The Public Sector Exit Payments Regulations 2020 impact the LGPS Regulations which are currently under review following consultation and are expected to be updated in Spring 2021.
- 3.14.11. The Public Sector Exit Payments Regulations 2020 permit the £95,000 Exit Payment Cap to be relaxed in limited circumstances exercisable only by Full Council and subject to the consent of the Treasury.
- 3.14.12. Where the Council proposes to exercise its discretion to make a severance payment that exceeds £95,000, under paragraphs 3.14.2 (flexible retirement), 3.14.3 (severance) or 3.14.4 (early retirement in the interests of efficiency), the proposal shall be referred to full Council for decision which decision would be subject to the consent of the Treasury in accordance with the requirements of the Public Sector Exit Payments Regulations 2020.
- 3.14.13. Where the Council proposes to make an officer redundant which will involve costs exceeding £95,000 and which is in excess of the provisions detailed in paragraph 3.14.1, the proposal should be referred to full Council for decision which decision would be subject to the consent of the Treasury in accordance with the requirements of the Public Sector Exit Payments Regulations 2020.

- 3.14.14. Where the Council has incurred costs in relation to the redundancy of an officer in excess of £95,000 but which consists exclusively of payments made in accordance with the Council's redundancy scheme detailed in paragraph 3.14.1, the payment will be reported to the Remuneration Sub Committee for information.
- 3.14.15. The Council notes and will be bound by the Public Sector Exit Payments Regulations 2020 with regard to the cap on exit payments and re-engagement of senior officers after receiving an exit payment.

3.15. Retirement on medical grounds

Decisions to retire staff on grounds of permanent ill health are medical decisions over which the Council has little influence or discretion. In such cases, the Council will meet any additional costs that arise as specified in Regulation 20 of the Local Government Pension Scheme Regulations. Seven staff have been retired on grounds of permanent ill health in the period 1 January to 31 December 2020.

3.16. Other payment/reimbursement of expenses/accommodation costs

3.16.1. Middle and senior managers engaged on grades MM2 and above are not reimbursed for any additional expenses incurred in the course of carrying out their duties within the borough boundaries. Reimbursement of actual costs incurred is made in respect of additional costs incurred in travelling outside the borough on production of an appropriate receipt. Where Council business necessitates an overnight stay and it has not been possible for the Council to directly pay for accommodation and/or meals in advance, all staff including senior managers are reimbursed all reasonable costs as set out in the Council's policy on subsistence allowances and overnight stays as approved by the appropriate Executive Director for Directors, Director for HOS, and, the Chief Executive for Executive Directors and the Leader of the Council for the Chief Executive.

3.16.2. All other staff are reimbursed for additional expenses incurred in the course of undertaking their duties irrespective as to whether this work is undertaken within or outside the borough boundaries. Reimbursements of expenses for other staff are authorised in accordance with the Council's Scheme of Delegation.

3.17. Occupational pension provisions

3.17.1. All staff are eligible to join the Local Government Pension Scheme. Approximately 86% of the workforce are currently members of the Pension Scheme. The level of contributions made by staff is determined by Regulations. In addition, the Council makes a contribution to the Local Government Pension Scheme in respect of each member of staff who is a member of the scheme.

3.17.2. The level of pension contribution made by the Council is based on actuarial calculations approved by the Council's Pension Board from time to time.

3.17.3. In the light of recent changes in general taxation legislation and particularly in respect of the annual and lifetime pension allowances, there is an increasing likelihood that in the medium term, a number of senior managers will choose to cease to be members of the Local Government Pension Scheme. In such cases, the Council would not make any compensatory payment to a senior manager to maintain the overall value of the individual's remuneration package.

3.18. Relationship between the remuneration of the Chief Executive and that of the overall workforce

3.18.1. Section 38(2) of the Localism Act 2011 requires the Council to set out policies on the relationship between the remuneration of its chief officers and that of other staff. The Code of Recommended Practice for Local Authorities on Data Transparency defines the "pay multiple as the ratio between the highest paid salary and the median average salary of the whole of the authorities' workforce".

3.18.2. The report on Fair Pay in the Public Sector highlights that in general terms, the multiple indicating the relationship between the pay of the Chief Executive and the pay of the general workforce in a local authority is significantly lower than for organisations of similar size, turnover and complexity in the private sector. The report indicates that typically the pay of the Chief Executive of a London Borough is approximately eight times that of the median pay of all staff (chart 2A, page 33, Fair Pay in the Public Sector). In 2019/20, the gross pay of the Chief Executive was 6.7 times the median pay for the whole of the Council's non-schools workforce. –The multiple for 2019/20 will be published in the annual accounts.

3.18.3. To ensure the Council continues to offer a competitive remuneration package to staff at all levels in the organisation, the Council periodically undertakes a benchmarking exercise to ensure that potential pay levels remain aligned with the median pay of other London Boroughs.

3.19. Shared services

Where the Council agrees to share the services of a senior manager with one or more other councils, then the remuneration and terms of conditions of employment will be determined by the primary employer with the secondary employer reimbursing the primary employer an agreed sum.

3.20. Public Health Team

On 1 April 2013, the NHS public health function was transferred to local councils. The transfer was actioned under a statutory transfer scheme and transferred staff have been protected on their NHS pay, pensions and conditions of service. At present, there is one member of staff on NHS terms and conditions. The terms of the transfer agreement protect councils from equal pay challenges until April 2015. However, from this date, councils will need to review the pay arrangements to ensure that any differentials are objectively justified. The numbers of public health staff on NHS conditions has steadily decreased since 1 April 2013 through natural wastage.