



COUNCIL: 26 February 2020

Report of: Corporate Director of Transformation and Resources

Contact for further information: Ms. S Lewis (Extn. 5027)
(e-mail: sharon.lewis@westlancs.gov.uk)

SUBJECT: PAY POLICY STATEMENT 2020/21 AND INTRODUCTION OF HOLIDAY PAY PERCENTAGE SUPPLEMENT

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

- 1.1 To agree a Pay Policy Statement for 2020/21 detailing the Authority's policy on Workforce remuneration, as required by the Localism Act 2011 (the 'Localism Act').
- 1.2 To agree to the implementation of a percentage holiday pay supplement on certain enhanced pay elements.

2.0 RECOMMENDATION

- 2.1 That the Pay Policy Statement for 2020/21 attached at Appendix 1 be approved, published on the Council's website and included in the Constitution.
 - 2.1 That with effect from 1 April 2020, the Council will include a percentage supplement on payment of 7.69% on all overtime, Shift Allowances and Shift Pay, Call Out and Standby, Extra Duty and Additional Hours, Honoraria in recompense for holiday pay as noted in the report.
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3.0 BACKGROUND

- 3.1 The Localism Act refers to 'Pay Accountability' and sets out the requirements for Councils and fire and rescue authorities to prepare and publish annual pay policy statements. The pay policy statement must be approved by full Council, in advance of the financial year to which it relates.
- 3.2 The Council must publish the statement on the Council's website and may choose to expand the publication in other ways as part of its approach towards

transparency. The pay policy statement must set out the Council's policies relating to:

- Chief Officer remuneration (at recruitment, salary, bonus/performance related pay, charges/fees/allowances, benefits in kind, enhancement to pension at termination),
- Remuneration of its lowest paid employees (elements as above), the definition used for this group and the reason for adopting that definition,
- The relationship between Chief Officer Remuneration and that of other staff.

3.3 The Council may amend its pay policy statement during the year but must comply with the statement in force in making decisions on relevant remuneration.

3.4 The definition of Chief Officers is not limited to those on Chief Executive and Chief Officer Terms and Conditions (JNC Conditions). It means Heads of Paid Service, statutory and non-statutory Chief Officers and those who report directly to them.

3.5 The Localism Act sets out the minimum requirements and authorities are encouraged to consider whether they wish to extend the scope of their pay policy statement to include highly paid staff not within the definition of 'Chief Officers'. At West Lancashire the scope of the 'Chief Officer' definition means that it is not necessary to so extend.

3.6 The information set out within the Pay Policy Statement complements the data on pay and reward that the Council is required to publish separately, under the Code of Recommended Practice for Local Authorities on Data Transparency and by the Accounts and Audit (England) Regulations and Local Government Transparency Code 2014. This is referred to on the Council's website.

4.0 GUIDANCE ON OPENNESS AND ACCOUNTABILITY IN LOCAL PAY

4.1 Under Section 40 of the Localism Act the Council must, when preparing and approving pay policy statements, have regard to any guidance issued or approved by the Secretary of State for Communities and Local Government. In February 2012, the Secretary of State issued guidance on openness and accountability in local pay setting out specific expectations including:

- Full council having the opportunity to vote on senior remuneration packages with a value over £100,000 prior to an offer being made in a new appointment;
- Policies explaining the planned relationship between chief officers' remuneration and that of other staff and the ratio between the highest paid and the median salary that the authority aims to achieve or maintain;
- Authorities considering Lord Hutton's recommendations on the value of a system of 'earn back' pay, with an element of their basic pay 'at risk', to be earned back each year through meeting pre-agreed objectives;
- Any decision that an authority takes in relation to the award of severance to an individual Chief Officer, complying with their published policy for that year;

- Authorities having an explicit policy in their pay statement on whether or not they permit an individual to be in receipt of a pension in addition to receiving a salary;
- Policies toward Chief Officers, who have returned to an authority and had received a severance or redundancy payment, returned under a contract for services or are in receipt of a LGPS / firefighter pension.

4.2 Additional supplementary guidance was issued in February 2013 which is summarised below:

- Pay Policy Statements are public documents to be used to hold Councillors to account on pay matters;
- The Pay Policy Statement should be published as soon as reasonably practicable after approval by full Council, it should include the Council's approach to the publication of and access to information on Chief Officer Remuneration.
- Building on existing guidance regarding the need for full Council approval for Senior Officer Appointments on salaries over £100,000, where Councils do not have posts within their structure of over £100,000, local salary thresholds should be set for full Council approval to senior officer appointments.
- There should be published policies on severance for Chief Officers and details of any redundancy payment discretions.
- Full Council should vote on large severance packages beyond a threshold of £100,000, the details should be set out to include all components of the severance, including salary paid in lieu, redundancy compensation, pension entitlement, holiday pay, bonuses, fees and allowances.

5.0 CURRENT APPROACH – PAY POLICY STATEMENT

- 5.1 Members have been mindful for many years of ensuring that the remuneration available to the Chief Officers and senior managers within the Council is appropriate including in terms of ensuring the necessary skills are available to the Council.
- 5.2 The annual Pay Policy Statement provides information about the remuneration package offered by the Council to the Chief Officers within the structure. The salary ratio of highest paid and the average salary across the workforce and the Chief Officers is detailed in the policy statement.
- 5.3 Lord Hutton in his review of public sector pay, Fair Pay in the Public Sector, December 2010, recommended amongst a number of other things that the ratio between the lowest and highest paid officers within a public sector organisation should be no more than 1:20. With this recommendation in mind the Council is well within the boundaries of reasonable and appropriate pay differentials.
- 5.4 In producing the Pay Policy Statement, due consideration has been given to the guidance available and it is considered that the Pay Policy Statement presents a fair and appropriate approach to senior officer remuneration across the Council, which also represents good value for money.

- 5.5 It is Council policy to pay an additional supplement to those Council employees not currently receiving 'a Living Wage Foundation living wage'. This wage level is currently £9.30 per hour and this approach has been accounted for in the Pay Policy Statement 2020/21.
- 5.6 Employees who are members of the Local Government Pension Scheme (LGPS) pay annual contributions into the Scheme based on a banding structure. The LGPS was amended with effect from 1 April 2014 and the current contribution bandings are incorporated into the Pay Policy 2020/21.
- 5.7 The Pay Policy Statement contains the grade structure for the Council, following the National Joint Council 2018/19 two year pay award. The national salary scale is due for the next national award in April 2020 for NJC officers and July 2020 for JNC officers. However these updated figures are not available at this current time. It is unlikely to affect the grade structure, but will affect the actual annual salary offered. Consequently when the pay award negotiations have been settled the annual salaries figures and respective ratios will be amended and the Policy will be updated to reflect those revised annual salaries, as an administrative update to the policy.

6.0 CURRENT APPROACH – HOLIDAY PAY

- 6.1 Historically many employers, including West Lancashire Borough Council, have paid staff their basic pay rate when they are on holiday. However following a series of employment tribunals, case law has now made it clear that holiday pay should correspond to what is "normal remuneration" for the worker, including factors such as overtime and standby allowance where it is worked on a regular basis. This is seen to be a "fairer" approach to take, for example because workers will not be deterred from taking holidays because their pay will reduce.
- 6.2 This basically means that a person should be paid the same amount when they are on holiday as they are paid when at work.
- 6.3 The case law on holiday pay and overtime separates the contractual annual leave allowance that people are entitled to, and the statutory allowance of 20 days a year. It also indicates that overtime need only be taken into account in calculating holiday pay where the overtime is regular, however, there is still no definition of what is "regular".

Additional

7.0 PROPOSALS – PAY POLICY STATEMENT

- 7.1 The Council needs to agree a Pay Policy Statement and is recommended to adopt the Pay Policy Statement 2020/21, as attached at Appendix 1. The Policy will be reviewed annually and further reports prepared for Council each year in order to ensure effective delivery of the Council's objectives. Any national pay award changes will be updated as an administrative update in year.

8.0 PROPOSALS – HOLIDAY PAY

8.1 It is proposed that the Council pays an additional percentage when we make all overtime payments, to compensate staff for any additional holiday pay they may be entitled to. This will be an amount equivalent to 7.69% (20/260) of the overtime payment. This percentage takes into account the number of statutory holidays (20) and typically no more than 260 working days in the year. This is in line with what some of our neighbouring district Councils have implemented. We will also pay this additional percentage for the following claimable pay elements:

- Shift Allowances and Shift Pay
- Call Out and Standby
- Extra Duty and Additional Hours
- Honoraria

8.2 This additional percentage would not be paid on living wage supplements, travel and subsistence claims. Any contractual payments that already attract a holiday-related entitlement will also not change. The basic contractual rates for overtime and other allowances are not changing and remain as set out currently in the Harmonisation Document.

8.3 This change will be implemented from 1 April 2020. The payments will be subject to the normal employee deductions, including tax and national insurance and pension contributions. As the case law is potentially subject to further change, it is also proposed to include a caveat into any contractual amendments that states that, if the legal position changes and it is clear that the Council is not obliged to take overtime and other payments into account when calculating holiday pay, then the additional payments will cease.

8.4 Consideration will also need to be given to backdating these changes, but the legal rulings have placed a time limit on the claims that can be made by employees, which will limit the impact on back pay.

8.5 The trade unions have been consulted on the proposals and their comments will be available for consideration at the meeting.

9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

9.1 The report acknowledges the need to be transparent and open about Chief Officer Pay arrangements. The Council has sought to make sure its pay arrangements ensure a suitably qualified and experienced set of Chief Officers are in place to deliver the Council's business, through appropriate remuneration at this senior level, whilst at the same time achieving value for money and being cognisant of the Council's objectives and budgetary circumstances.

10.0 FINANCIAL AND RESOURCE IMPLICATIONS

10.1 The proposed Pay Policy Statement itself will not have any direct effect on the budgetary position of the Council as it encapsulates the current arrangements in relation to Pay and Conditions of its employees. However the revised grading structure that will be effective from 1 April 2020 will detail changes to the salaries budget, which has been accounted for within the Council's overall budget, discussed elsewhere on the agenda.

- 10.2 Annual pay negotiations for both NJC and JNC officer salaries in 2020 have not yet concluded, so the salaries quoted in Appendix 1 are based on levels approved for 1 April 2019.
- 10.3 The cost of implementing the changes to the Holiday Pay arrangements will depend on the level of overtime and other relevant pay elements incurred each year. If these measures had been in place for the 2018-19 financial year it would have resulted in an additional cost of around £45,000 including employer oncosts. There will be potential additional costs associated with any backdating of claims, but this will be limited to a maximum of 2 years, with no more than 12 weeks gap between leave event for it to be considered a continuous period to achieve the full 2 years back pay.

9.0 RISK ASSESSMENT

- 9.1 The publication of a pay statement and introducing measures in relation to holiday pay is a statutory / regulatory requirement.

Background Documents

There are no background documents (as defined in Section 100D (5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required and a formal assessment is attached as Appendix 2 to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

Appendix 1 - Pay Policy Statement 2020/21

Appendix 2 - Equality Impact Assessment