

TITLE OF REPORT: PAY POLICY STATEMENT 2016/17

REPORT OF THE STRATEGIC DIRECTOR CUSTOMER SERVICES
PORTFOLIO HOLDER: COUNCILLOR MRS L.A. NEEDHAM

1. SUMMARY

- 1.1 This report sets out a draft Pay Policy Statement 2016/17 (Annex 1) for Council's consideration and approval in accordance with the requirements of Section 38 of the Localism Act 2011 (the Act), associated guidance issued under Section 40 of the Act, the Local Government Transparency Codes 2014 and 2015¹ and the Enterprise Bill 2015 which has not yet received Royal Assent². The Statement incorporates elements of existing policy and practice and is required to be agreed annually.

2. RECOMMENDATIONS

- 2.1 Council is recommended to endorse the Pay Policy Statement attached at Annex 1.
- 2.2 Council is also recommended to agree to delegate authority for revisions, such as subsequent pay awards agreed nationally and new legislative requirements to the Policy Statement to the Strategic Director Customer Services, in consultation with the Leader of the Council, as outlined in Paragraph 3.7 of the policy at Annex 1.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To comply with the requirements of Section 38 of the Localism Act 2011, statutory guidance issued under s40 and the Local Government Transparency Codes 2014 and 2015 and to incorporate changes envisaged in the Enterprise Bill 2015.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Pay Policy Statement reflects current adopted policies and associated statutory reporting arrangements. Where these are proposed to be varied or new elements introduced, consideration of any alternative options are contained in the body of this report.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Initial consultation on the Draft Pay Policy Statement has taken place with the Staff Consultation Forum, Unison and Group Leaders.

6. FORWARD PLAN

- 6.1 This decision has not appeared in the Forward Plan as it is reserved for Full Council under the terms of the Act and as such does not constitute a key decision.

¹ The Local Government Transparency Code 2015 issued February 2015

² The Enterprise Bill 2015-16 is at the amendment stage following the third reading and Grand Committee stages: House of Commons.

7. BACKGROUND

- 7.1 The Localism Act 2011 requires Council to approve, on an annual basis, a Pay Policy Statement. The suggested contents of the statement are set out in guidance issued under Section 40 of the Act, the Local Government Transparency Codes 2014 and 2015 and those envisaged in the Enterprise Bill 2015.
- 7.2 Whilst the guidance primarily requires Councils to set out the policy in relation to senior pay, it is important to understand that NHDC's existing Pay Policy adopted in 2004, does not differentiate between senior staff and others. Thus, the existing and draft NHDC Pay Policy Statement goes beyond that which is required to be published in accordance with paragraph 31 of the guidance issued under Section 40 of the Localism Act 2011 <https://www.gov.uk/government/publications/openness-and-accountability-in-local-pay-guidance> References to 'Chief Officers' in this report and in the Statement are to the Chief Executive, Strategic Directors, Heads of Service and Corporate Managers.
- 7.3 Since the adoption of the first Pay Policy Statement in March 2012, supplementary guidance has been issued by the Secretary of State and this is described further in paragraph 8.2. A copy of the supplementary guidance can be viewed here <https://www.gov.uk/government/publications/openness-and-accountability-in-local-pay-supplementary-guidance> A summary of the content of the supplementary guidance is contained at paragraphs 8.4 to 8.12 below. The 2015 Code reiterates points on pay multiples (para 51 & 52 of that Code) set out in 8.16 below.
- 7.4 The Pay Policy Statement, along with other information on senior salaries (already published in accordance with the Accounts & Audit Regulations 2015 and the Local Government Transparency Code 2014), must be published as soon as reasonably practical on the Council's website.
- 7.5 The former Code of Recommended Practice for Local Authorities on Data Transparency has now been replaced with the Local Government Transparency Codes 2014 and 2015. The relevant requirements of the Codes have been detailed in the Pay Policy Statement at paragraphs 5.1 and 5.2.
- 7.6 The Small Business, Enterprise and Employment Act 2015 and the Enterprise Bill 2015 also envisage some new regulations as set out in paragraph 3.9 and 3.10 of the Pay Policy Statement.

8. ISSUES

Pay Policy Statement 2016/17

- 8.1 The draft Pay Policy Statement 2016/17 is attached as Annex 1. This details:

- Background
- Grading Arrangements
- Future Appointments
- Pay Multiples
- Car Allowances
- Other Payments
- Pension Contributions
- Publication Requirements

- 8.2 The Local Government Transparency Codes 2014 and 2015 require publication of the pay multiple between the highest earning and the median earnings of the whole of the workforce amongst other things and these are detailed in paragraph 8.12 – 8.17 below. The Council has however included this information in all of the previous Pay Policy Statements in the interests of transparency.
- 8.3 The draft Statement illustrates changes in red from the 2015/16 Statement in detail and, in particular:
- Reference to the Local Government Transparency Codes (Annex 1, paragraph 1.1)
 - The pay awards implemented since publication of the 2014/15 Pay Policy Statement (Annex 1, Para 3.7), and;
 - Resulting adjustments to salary levels elsewhere in the statement
 - The highest earnings as a multiple of the median of the whole of the workforce (Annex 1, paragraph 5.1 – 5.2)
 - The changes proposed arising from the Enterprise Bill 2015.
 - The National Living Wage (Annex 1 – paragraph 3.2 and 3.8)

Openness & Accountability in Local Pay: Guidance under Section 20 of the Localism Act

- 8.4 Initial guidance was published in February 2012 and that guidance remains in force. The supplementary guidance published in 2013 and the Local Government Transparency Code 2014 must be taken in to account when preparing the Pay Policy Statement.
- 8.5 The guidance suggests that if a relevant authority concluded that a particular section of the guidance is not applicable to their local circumstances, it should set out clearly in the Pay Policy Statement why it considers this to be the case and paragraphs 8.6-8.12 below restate the rationale provided with the 2015/16 Pay Policy Statement.
- 8.6 NHDC already publishes and intends to continue publishing the Pay Policy Statement and this can be readily located by a simple search on the Council's website. Also as suggested in the guidance it is published as a standalone document in its final form (Supplementary Guidance Para 5). The draft policy is in clear English with acronyms explained and will have working hyperlinks ((Supplementary Guidance Para 7). Further, the policy is structured to replicate each of the requirements listed in the relevant sections of the Localism Act. Any changes to the Draft Pay Policy Statement for 2016/17 are highlighted by way of track changes from 2015/16 statement.
- 8.7 Full council will vote before a salary in excess of £100,000 is offered in respect of a new appointment. A salary package includes salary and fees or allowances routinely payable to the appointee and any benefits in kind to which the officer is entitled as a result of their employment. This will apply to Chief Executive recruitment. No other posts are expected to reach this threshold.
- 8.8 The Enterprise Bill 2015 -16 sets out proposed regulations that will cap severance payments at £95,000 (see Paragraph 8.18 below) and this will apply to Council's policies on severance and for discretionary compensation. This will primarily affect Chief Officers and others particularly in the event of redundancy where pension strain costs may take them in to a higher range. The Councils policies on severance, discretionary compensation and redundancy are already published and are universal policies applied to all members of staff within the organisation (Supplementary Guidance Para 11 -15). The supplementary guidance suggests that '*continuing public concern about the level and frequency of such payments*' is justification for '*going further to ensure that decisions*

to spend local tax payers money on large payoffs are subject to appropriate levels of accountability'. The guidance already requires that authorities should offer full Council the opportunity to vote on large severance packages beyond a particular threshold are approved for staff leaving the organisation as with salaries on appointment (Annex 3, para 13), the Secretary of State considers that £100,000 is the right level for the threshold to be set.

8.9 In presenting such information to full Council the supplementary guidance states that authorities should set out clearly the components of the relevant severance packages and suggests the components which may be included in this. These include: salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and bonuses, fees or allowances paid (Supplementary Guidance Para 14).

8.10 Council is asked to note that payment of any severance package is already regulated by the appropriate pay policies applicable to all staff within the organisation including the most senior. As such, these components comprise a contractual/statutory terms with individual employees and a vote by full Council to unilaterally vary these could result in a claim for breach of contract or unfair dismissal. Council has already determined the components of such severance arrangements adopted by NHDC should comprise only elements where discretion can be applied in line with the underlying Pay Policies, namely:

- Salary paid in Lieu of Notice
- Pension Strain Costs
- Outstanding Holiday Pay
- Redundancy/Compensation under the Discretionary Compensation Regulations 2006.

8.11 The Government opened another consultation on 5 February regarding further proposed reforms to exit payments. The details are set out in 3.10 of the Pay Policy Statement, The proposed reforms relate to reducing or removing pension entitlements and payments in the event of redundancy.

8.12 In considering the Pay Policy Statement for 2013/14 Council was asked to note that the supplementary guidance also signalled the Secretary of State's intention to remove the requirement for an Independent Person to investigate allegations of misconduct by senior officers from the Local Authorities (Standing Orders) (England) Regulation 2001. During 2015 this did become regulatory and the Councils constitution was updated to reflect these changes. There remain significant concerns about how the regulations will work in practice and the Local Government Employers have raised these concerns on behalf of Local Authorities. The JNC Chief Officers Handbook is expected to be changed in the year ahead to reflect the new regulations. During 2015 this did become regulatory and the Councils constitution was updated to reflect these changes. There remain significant concerns about how the regulations will work in practice and the Local Government Employers have raised these concerns on behalf of Local Authorities. The JNC Chief Officers Handbook is expected to be changed in the year ahead to reflect the new regulations.

Local Government Transparency Codes 2014 and 2015

8.13 As it was proposed last year, the relevant pay information publication requirements arising from the 2014 Code have been incorporated in to the Annual Pay Policy Statement and will be published on an annual basis. Other areas now covered are published on the Councils website as detailed in 8.14-8.18 below.

8.14 **Organisation Structure** (To be published on the Council's Website)

Publish an organisation chart covering staff in the top three levels of the organisation. The following information must be included for each member of staff included in the chart:

- Grade
- Job title
- Local authority department and team
- Whether permanent or temporary staff
- Contact details
- Salary in £5,000 brackets, consistent with the details published for senior salaries
- Salary ceiling (i.e. The maximum salary for the grade).

8.15 **Trade Union Activity** (To be published on the Council's Website)

Local authorities must publish specified information on Trade Union 'facility time':

- Total number (absolute number and full time equivalent) of staff who are Union representatives (including general, learning and health and safety representatives)
- Total number (absolute number and full time equivalent) of Union representatives who devote at least 50 per cent of their time to Union activity
- The names of all Trade Unions represented in the local authority
- A basic estimate of spending on unions as a percentage of the total pay bill (calculated as the number of full time equivalent days spent on Union activities multiplied by the average

8.16 **Senior Salaries** (To be published on the Council's Website)

Local authorities must place a link on their website to the following data or must place the data itself on its website:

- The number of employees whose remuneration in that year was at least £50,000 in brackets of £5,000
- The name of each employee and details of their remuneration, for employees whose salary is at least £150,000
- Details of remuneration and job title of certain senior employees whose salary is between £50,000 and £150,000
- A list of responsibilities (for example, the services and functions they are responsible for, budget held and number of staff) for all employees whose salary exceeds £50,000.

8.17 **Pay Multiples** (incorporated in to the Pay Policy Statement)

Publish the pay multiple on their website defined as the ratio between the highest paid salary and the median salary of the whole of the authority's workforce. The measure must:

- Cover all elements of remuneration that can be valued (eg. All taxable earnings for the given year, including base salary, variable pay, bonuses, allowances and the cash value of any benefits-in-kind)

- The median earnings figure should be that of all employees of the local authority on a fixed date each year, coinciding with reporting at the end of the financial year
- Exclude changes in pension benefits, which due to their variety and complexity cannot be accurately included in a pay multiple disclosure.

8.18 Legislative changes/ potential changes (Small Business, Enterprise and Employment Act 2015 and The Enterprise Bill 2015-16)

The Small Business, Enterprise and Employment Act was passed in 2015 and since the last Pay Policy Statement it has been brought into force, with Regulations to follow that deal with the legal requirement on individuals to repay “prescribed”³ public sector exit payments if they are re-employed in the same public sector area within 1 year. The government has announced it intends to proceed with the introduction of a £95,000 cap on the total value of exit payments as part of the proposed Enterprise Bill 2015. The payments that are likely to be included are:

- Redundancy payments
- Payments on voluntary exits
- Pension strain costs
- Severance or ex gratia payments
- Payments or compensation in lieu of notice and payments relating to the cashing up of outstanding entitlements (such as outstanding leave or allowances that are cashed up and added to the value of the sum)
- Share or share options
- The draft regulations also include a general provision of any other payment made as a consequence of, in relation to or conditional on loss of employment whether under a contract of employment or otherwise.

8.19 The Use of severance agreements and “off payroll” arrangements was the subject of Guidance for local authorities issued in March 2015. In so far as it is necessary the Council complies with the provisions of this non statutory guidance. In relation to performance management the Council does not use any performance related pay schemes and the appraisal scheme is the same for all officers of the Council.

9. LEGAL IMPLICATIONS

9.1 The Act reserves to full Council the decision relating to approval of the Pay Policy Statement.

9.2 As stated above, the Act requires the Council to agree, on an annual basis, a Pay Policy Statement. The Council must have regard to any guidance issued or approved by the Secretary of State under Section 40 of the Act.

9.3 Paragraph 8.10 above details potential for a claim for breach of contract or unfair dismissal if the Council chooses not to comply with statutory or contractual terms when determining severance packages.

10. FINANCIAL IMPLICATIONS

10.1 There are no direct financial implications arising from this report.

³The Repayment of Public Sector Exit Payments Regulations 2015; Draft Regulation 7 sets out which exit payments would qualify for a potential repayment.

11. RISK IMPLICATIONS

- 11.1 There are no direct risk implications arising from this report other than those referred to paragraph 8.10 and 9.3.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The Pay Policy Statement reflects the practical arrangements that are in place to ensure all employees are remunerated in accordance with the requirements of the Equality Act and Public Sector Equality Duty and, in particular, through the application of a universal grading, flexible retirement scheme, and salary structure for all staff. The pay policy ensures consistency in regard to pay and remuneration in regard to individual roles, and therefore with no direct adverse impact on any single group with protected characteristics.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at Paragraph 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 The Pay Statement meets the requirements of the Localism Act 2011. In addition to this the Council maintains a transparent Rates of Pay Policy covering the pay and benefit rates for all employees of the Council.

15. APPENDICES

- 15.1 Annex 1 - North Herts District Council Draft Pay Policy Statement 2016/17.

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17. BACKGROUND PAPERS

- 17.1 These are referred to in the body of the report and the Draft Pay Policy Statement 2016/17.
- 17.2 Guidance issued by the Secretary of State under S.40 of the Localism Act (Feb. 2012).
- 17.3 Supplementary Guidance issued by the Secretary of State under S.40 of the Localism Act (February 2013).
- 17.4 Local Government Transparency Codes 2014 & 2015.
- 17.5 Enterprise Bill 2015–16.
- 17.6 The Use of severance agreements and “off payroll” arrangements - Guidance for local authorities March 2015.
- 17.7 The Small Business, Enterprise and Employment Act 2015.
- 17.8 (Draft) The Repayment of Public Sector Exit Payments Regulations 2015.