

Committee: Council

Date: 3 February 2021

Wards: All

Subject: Approval of the pay policy statement and of the Members' allowances scheme

Lead officers: Liz Hammond, Interim Head of HR; Louise Round, Managing Director of the South London Legal Partnership

Lead member: Councillor Tobin Byers, Cabinet Member for Finance

Contact officers: Peter Andrews, Employee Relations, Pay and Rewards Manager; Andrew Robertson, Head of Democracy and Electoral Services

Recommendations:

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1. That Council approves publication of the Pay Policy Statement attached as Appendix A for 2021/22 and authorises the Monitoring Officer to make any consequential changes needed to the Constitution.
 2. That Council approves the Members' Allowance Scheme attached as Appendix D for 2021/22, noting that there will be no increase in allowances in 21/22 ;
 3. That Council notes that The Restriction of Public Sector Exit Payments Regulations 2020 are currently subject to legal challenge and that the Pay Policy Statement may need to be amended once the outcome of that challenge is known.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Localism Act 2011 requires the Council to agree and publish a pay policy statement each year.
- 1.2 The existing pay policy statement for 2020/21 was approved by Council on 5 February 2020. The only amendments from the last year's version are updates to the pay ratios to reflect the current position.
- 1.3 The report also recommends re-adopting the existing Members' Allowances Scheme and schedule of rates, with no annual uplift in those rates.

2 DETAILS – PAY POLICY

- 2.1. The pay policy statement for the year 2020/2021, approved by Council, is currently published on the Council's website.
- 2.2. Council is required to re-approve the pay policy statement each year.
- 2.3. There has been no substantive change in the council's pay policy although the pay ratios and statutory gender pay gap information have been updated to reflect the current position, and to report on the ethnicity pay gap for the first

time. The ethnicity pay gap has been determined using a similar methodology to that for the statutory gender pay gap, for those employees who have declared their ethnicity.

- 2.4. The statement has been updated to remove reference to decisions on pay being made by a Senior Remuneration Panel comprising the leaders of all the political groups as in practice that group has rarely met and has no formal status in the Council's constitution . Its role will now be carried out by the Appointments Committee or a subcommittee of it. This will not require any changes to the terms of reference of that Committee.
- 2.5. The draft statement also seeks to clarify the position in relation to termination payments in light of the provisions of The Restriction of Public Sector Exit Payments Regulations 2020 (the Regulations) which came into effect on 14 October 2020. In essence these regulations prevent payments being made to employees on the termination of their employment which exceed the cap which has been fixed at £95,000. Although on the face of it this seems to be a fairly high threshold, as drafted, the Regulations would appear to include the cost to the pension fund of the early release of pension for employees over 55, which is a separate statutory requirement when someone is made redundant. This means that relatively low paid employees with long service who are only just over 55 and therefore maybe receiving their pension up to 12 years before the normal retirement age, can get caught. The Regulations do allow councils to exceed the cap in exceptional circumstances but this must be agreed by a meeting of the full Council.
- 2.6. The pay policy statement currently requires all severance packages over £100,000 to be approved by full Council in any event so it would make sense to reduce this to £95,000 to reflect the Regulations. In addition, where it is proposed to pay a severance payment to a Chief Officer in addition to anything they may be contractually or statutorily entitled to, where the total package does not exceed £95,000, approval of the Appointments Committee will be required. The Standards and General Purposes Committee will continue to receive reports on termination payments made to chief officers for information.
- 2.7. Members' attention is drawn to the fact that the High Court has given permission for judicial review of the Regulations on a number of grounds, including the fact that they are inconsistent with the statutory provisions governing the early release of pensions and in effect have retrospective impact on some elements of contractual entitlements. The hearing of the case is expected to take place in late March and depending on the outcome of the challenge, it may be necessary to make some further changes to the pay policy statement.
- 2.8. Salary packages in excess of £100,000 will, in line with Government Guidance continue to require the approval of full Council before an offer of appointment is made although the updated statement gives the Chief Executive the authority to make temporary arrangements without the need for recourse to full Council.

- 2.9. The A draft Pay Policy Statement for 2021/22 is attached at Appendix A, along with the publication figures for 2019/20 at Appendices B and C.

3 DETAILS – MEMBER ALLOWANCES

- 3.1. In relation to the Members' Allowances Scheme the Council is required further to the Local Authorities (Members' Allowances) (England) Regulations 2003 to re-adopt its scheme of members allowances for the year 2021/22 and in doing so give due regard to the recommendations made by the report of the Independent Panel on the Remuneration of Councillors in London whose latest report was published in 2018.
- 3.2. The Independent Panel found that the workload and responsibilities of councillors continue to increase and that their role has become more complex. The Panel advised that allowances should be set at a level that enables people to undertake the role of councillor, whilst not acting as an incentive to do so. Furthermore, the Panel advised that there should not be a financial disincentive and that service as a councillor should not be confined to those with independent means.
- 3.3. The Independent Panel fully accepted that in the current financial climate, it would be inappropriate to recommend a general increase in members' allowances. It recommended that members' allowances be pegged to the annual local government pay settlement, as is already the case in Merton. The scheme therefore allows for these annual increases to be made but in the last few years Council has agreed not to implement such an uplift. For 21/22 it also proposed that the rates remain at the current levels, with no uplift. The Scheme and schedule of existing rates are attached as appendix D.
- 3.4. The Independent Panel recommended that the dependent carers allowance should be set at the London living wage but that, on presentation of proof of expense, payment should be made at a higher rate when specialist nursing skills are required.
- 3.5. The Independent Panel also recommended that Member allowances schemes should allow the continuance of Special Responsibility Allowances in the case of sickness, maternity and paternity leave under the same terms as the council's employees.
- 3.6. These recommendations were incorporated into the current scheme which it is proposed be readopted. The Independent Panel is due to report again in 2022 and it will be necessary to carry out a fuller review once that report has been published.

4 ALTERNATIVE OPTIONS

- 4.1. Publication of a Pay Policy Statement and member allowances are statutory requirements.
- 4.2. The Council can seek to adopt any reasonable scheme of Member Allowances or can agree to retain the present scheme for 2021/22. The Regulations allow

for amendments to come into effect from the beginning of the year in which the amendment was made.

5 CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1. The pay policy statement has been circulated to the Member Constitution Working Group for comment. As at the date of publication

6 TIMETABLE

- 6.1. The Pay Policy Statement must be approved by Council for publication from 1 April 2021 on the Council's website.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. There has been no change in the council's pay policy, and the council is currently awaiting the outcome of national negotiation. The only amendments from last year's version are to update the pay ratios to reflect the current position or where indicated earlier in the report.
- 7.2. There is provision in the draft MTFS for 2021-25 for an increase in the budgeted cost of salaries and Members' Allowances. These provisions will be kept under review each year.
- 7.3. The London living wage is currently set at £10.75 and will be the new rate for dependent carer allowances. No claims have been made by Merton Members in the past eight years.

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1. Publication of the Pay Policy Statement and annual re-approval by a meeting of the full council is a statutory requirement under the Localism Act 2011.
- 8.2. Guidance was issued to authorities in 2011 to accompany the Localism Act, and revised 'final supplementary guidance' was issued by the DCLG in late February 2013. The required changes were addressed in the 2013/14 Pay Policy Statement and in subsequent years.
- 8.3. Regulation 10 of the Local Authorities (Members' Allowances) (England) Regulations 2003 requires re-adoption of the scheme. Before making or amending its allowances scheme, the Council is required, by Regulation 19, to have regard to the recommendations of an Independent Remuneration Panel.

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1. The intention of the pay policy measures in the Localism Act is to improve transparency of decision making, particularly in relation to top earners in the organisation.

10 CRIME AND DISORDER IMPLICATIONS

10.1. None

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

11.1. None

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A – draft pay policy statement for 2020/21.
- Appendix B – statutory gender pay gap publication figures for 2018/19
- Appendix C – statutory BAME pay gap publication figures for 2018/19
- Appendix D – Members’ Allowances Scheme and Schedule of Rates

13 BACKGROUND PAPERS

13.1. None

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