

DERBYSHIRE COUNTY COUNCIL

CABINET

26 January 2016

Report of the Strategic Director of Corporate Resources

**PAYMENT OF THE LIVING WAGE IN 2016/17
(COUNCIL SERVICES)**

1 Purpose of the Report

To agree payment of the Living Wage as an allowance in 2016/17.

2 Information and Analysis

Cabinet has previously agreed to pay the Living Wage (LW) as an allowance in 2014/15 and 2015/16. On 2 November 2015, the Living Wage Foundation announced a 40p per hour increase in the LW to take it from £7.85 to £8.25 per hour.

The Living Wage Advisory Group considered a report at its meeting on 24 November 2015; the report noted the following matters of significance, namely the:

- increase in the LW to £8.25;
- number of employees being paid the LW allowance in 2015/16;
- impact on pay differentials, particularly in traded services;
- trade unions' request to consolidate part of the LW allowance into basic pay;
- possibility of paying Apprentices the LW;
- introduction of the National Living Wage from April 2016 and its potential effect on 2016/17 national pay negotiations.

Appendix 1 sets out details of the LW in 2016/17 and the potential effect of a 'bottom loaded' pay agreement on the Derbyshire Pay and Grading Structure. **Appendix 2** shows potential LW costs based on a 'bottom loaded' pay agreement.

Currently around 2,900 Council appointments are paid the Living Wage allowance. The number of employees paid the LW in 2016/17 will not be finalised until the national pay agreement is concluded. Currently 296 schools pay the LW allowance to around 3,100 employees.

2.1 National Pay

The National Employers have made a final two year pay offer to the trade unions. It is not certain if a 2016/17 pay agreement will be concluded by April 2016. The National Employers have urged the trade unions to consult their members on the offer. The NJC is due to meet again shortly and it is possible that an agreement may be reached before April.

The main practical consequence of not concluding a national pay agreement by April 2016 is that employees up to pay point 12, the bottom point of grade 5, would be paid the LW allowance in 2016/17 on an interim basis. This includes employees such as Catering Supervisors, and those in care roles in Children's Services and Adult Care, Library Assistants, some craft and landscape roles. The employees would be paid the LW allowance and any difference between allowance paid and back pay would be reconciled following implementation of the pay agreement.

Schools will continue to be encouraged to pay the LW to their directly employed staff from April 2016 pending the national pay agreement being concluded.

2.2 National Living Wage (NLW)

The announcement of the NLW of £7.20 by the Chancellor in July further complicates the 2016/17 national pay agreement, both in terms of the level of award and its distribution across the grading structure. The NLW will rise to 60% of median earnings which it is currently forecast by the National Employers to be around £9.35 an hour by 2020.

The national pay offer has been 'bottom loaded' to take account of the increase in the NLW in 2016/17. The proposed two year national pay agreement anticipates a subsequent increase in the NLW in 2017/18. The Low Pay Commission recommends future increases in the level of the NLW to the Government.

2.3 Derbyshire Pay and Grading Structure

A 'bottom loaded' pay agreement in 2016/17 based on the pay offer if subsequently agreed would increase the Council's minimum hourly rate to £7.59 which would be compliant with the NLW in April 2016. However, it is possible that changes to the current Derbyshire Pay and Grading Structure may be required in order to ensure continued compliance with the increases in the NLW in 2017/18 and subsequent years.

Following a national pay agreement, there will be a need for consideration of the:

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- impact on the Derbyshire Pay and Grading structure,
- affordability;
- consequences for pay differentials;
- trade union desire for consolidation of some of the LW allowance;
- aspiration of applying the LW allowance to apprentices pay.

All of which will form part of the consultation with the local trade unions.

If changes to the grading structure are required these matters will require a discussion on the wider pay, allowances and grading implications, not confined solely to the continued payment of the LW allowance.

3 HR Considerations

The recognised trade unions have actively participated in the LW Advisory Group. Meetings of the LW Joint Working Group and the CJC will provide a forum to consult further with the trade unions on the issues asked in the report.

Relevant Council employees will be advised of the continued payment of the LW Allowance in 2016/17 which will be subject to review by Cabinet.

4 Financial Considerations

The additional cost to Council services for the LW in 2016/17 is expected to be £309k, with an additional £654k funded from traded services. As a budget was allocated to departments on an ongoing basis in 2014/15 when the Living Wage was introduced, a further amount is not required as the cost in 2016/17 is within the budget previously allocated.

As previously reported, the Living Wage will be subject to consultation with the trade unions as issues, such as pay differentials and consolidation, will need to be resolved.

5 Legal Considerations

Advice was obtained from Counsel in 2013 in relation to paying the Living Wage as an allowance and also whether this may give rise to any equal pay challenge. Counsel advised that if the Living Wage was implemented consistently across the Council the risk of equal pay claims arising as a consequence of was low. The erosion of pay differentials may have an impact upon industrial relations, however, this in itself is unlikely to lead to any equal pay liability as in order to bring a prima facie case under the Equality Act 2010 a claimant must be able to show that a comparator has a contractual term which is more favourable than an equivalent term in their contract. Counsel

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emphasised that schools should continue to be encouraged to pay the Living Wage.

6 Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, environmental, health, property and transport considerations.

7 Key Decision

Yes

8 Call-in

Is it required that call-in be waived in respect of the decisions proposed in the report?

No

9 Officer Recommendations

That Cabinet

- 1 Approves that the Living Wage continues to be paid as an allowance to eligible employees in 2016/17;
- 2 Receives further reports on the 2016/17 national pay agreement and National Living Wage;
- 3 Approves that individual school governing bodies be encouraged to adopt the Living Wage.

Judith Greenhalgh
Strategic Director of Corporate Resources

Potential effect of Living Wage and Pay Agreement on the Derbyshire Pay and Grading Structure

Grade	Pay Point	2014/16	Potential 2016/17 Pay	No. of Appointments		FTE	
				Female	Male	Female	Male
Grade 1/2	3	£7.13	£7.59	298	17	56	3
	4	£7.22	£7.69	1,030	35	359	10
Grade 3	5	£7.28	£7.75	111	19	23	5
	6	£7.39	£7.83	104	14	21	3
	7	£7.49	£7.91	840	160	255	50
Grade 4	8	£7.60	£7.99	83	75	47	41
	9	£7.74	£8.05	81	57	34	28
	10	£7.87	£8.13	66	36	36	16
	11	£8.01	£8.21	544	256	292	145
Grade 5	12	£8.12	£8.28	299	47	132	30
	13	£8.29	£8.42	264	48	93	18
	14	£8.47	£8.60	187	29	69	13
	15	£8.65	£8.75	2,402	238	1,140	141

Note

Potential 2016/17 Pay – Provisional figures based on the 'bottom loaded' national pay offer

 Pay points currently affected by the LW at £7.85

 Pay points potentially affected in 2016/17 with the LW at £8.25

Summary of Living Wage Cost

The table shows the estimated annual Living Wage costs for 2015/16 and 2016/17.

	2015/16	2016/17
Council	£279,403	£309,496
Catering	£561,319	£506,340
Cleaning	£139,298	£147,883
Total	£980,019	£963,719