

**Report To: Full Council**

**Date of Meeting: 12<sup>th</sup> May 2015**

**Lead Member / Officer: Councillor Barbara Smith**

**Report Author: Catrin Roberts, HR Manager**

**Title: Pay Policy Statement**

---

**1. What is the report about?**

The Localism Act 2011 requires local authorities to prepare pay policy statements. These statements must articulate an authority's own policies towards a range of issues relating to the pay of its workforce particularly its senior staff (or "chief officers") and its lowest paid employees. Pay Policy Statements must be approved by the Council on an annual basis, and published on the relevant website.

**2. What is the reason for making this report?**

To seek approval of the attached Pay Policy Statement which has been drafted in accordance with the requirements of 38 (1) of the Localism Act 2011 and incorporates all existing pay arrangements for the workforce groups within the Council, including Chief Officers and the lowest paid employees.

**3. What are the Recommendations?**

- I. That Council agree the Pay Policy Statement for 2015/16.
- II. That the Council will pay the national annual cost of living pay increases for Chief Officers as and when determined in accordance with current contractual requirements.
- III. That a Remuneration Committee is set up to determine the pay and reward for the Council's Senior Leadership Team which consists of the Chief Executive, Directors and Heads of Service. Draft terms of reference for the committee are included in appendix B.
- IV. That the Chief Executive can award an honorarium of up to 15% of the Head of Service's substantive pay for a maximum period of 12 months, where they are required to carry out additional duties over and above their substantive post for a period of time. This would normally be to cover for a long term absence; following a restructuring whereby responsibility for additional services has been given to the Head of Service; or responsibility for a large project outside of their normal portfolio.

**4. Report details.**

Under Section 112 of the Local Government Act 1972 the Council has 'the power to appoint officers on such reasonable terms and conditions as the Council thinks fit'.

This Pay Policy statement sets out the Council's approach to pay in accordance with the requirements of s38 (1) of the Localism Act 2011 which requires English and Welsh Local Authorities to produce and publish a Pay Policy Statement each financial year, detailing:

- a) The Council's Policies towards all aspects and elements of the remuneration of Chief Officers
- b) Their approach to the publication of and access to information relating to all aspects of the remuneration of Chief Officers
- c) The Council's Policies towards the remuneration of its lowest paid employees (including the definition adopted and reasons for it)
- d) The relationship between the remuneration of its Chief Officers and other employees.

The Pay Policy has been reviewed for 2015/16 and the following amendments made:

### ***National Pay Awards***

The Pay Policy has been updated in line with the national pay awards which have been agreed to date:

- I. A pay award has been agreed for the national pay spine for the period 1<sup>st</sup> January 2015 to 31<sup>st</sup> March 2016. This consisted of a non-consolidated lump sum for those on spinal column point 5 – 49 and an average pay award of 2.2%
- II. For Soulbury Staff and Youth & Community Workers, a pay award of 2.2% has been agreed for the period 1<sup>st</sup> March 2015 to 31<sup>st</sup> August 2016
- III. For the first time since 2008 national cost of living pay award has been agreed to Local Government Chief Officers and Chief Executive of 2% on guaranteed Full Time Equivalent basic salary of £99,999 or less [as at 31 December 2014] with effect from 1 January 2015. The offer covers the period 1<sup>st</sup> January 2015 to 31<sup>st</sup> March 2016.

### ***Chief Officer Pay Award***

Recent Welsh Government amendments to the Local Authorities (Standing Orders) (Wales) Regulations 2006 effective from 1st July 2014 introduced a new requirement that:

“The relevant authority must determine the level, and any change in the level, of the remuneration to be paid to a chief officer”

The impact of this amendment is that all changes to Chief Officer pay must be approved by the Council, not just those which are determined locally. This includes any pay rises which have been nationally negotiated by the JNC for Chief Officers and these now cannot be paid, unless and until, they have been agreed by the Council.

As the Chief Officers of this Authority are employed under JNC terms and conditions which are incorporated into their contracts of employment, they will be contractually

entitled to any JNC pay rises and a decision to withhold payment could result in claims against the Authority of 'unlawful deduction from wages' and/or 'breach of contract'. As well as the risk of such litigation, the demoralising effect of not supporting the payment of the first nationally agreed pay award for Chief Officers since 2008 would be significant.

Seeking the Council's determination to pay JNC nationally agreed pay rises at the time they are agreed is likely to cause delay in their payment. The WLGA has therefore pursued this matter with Welsh Government on behalf of councils in order to seek a pragmatic solution. As a result it has been agreed that the requirement that the Council must determine nationally agreed contractually entitled pay rises for Chief Officers can be met by the Council agreeing to insert a suitable clause in their Pay Policy Statements to cover this issue. It is therefore proposed that the following paragraph is included within the Pay Policy Statement:

*The Council employs Chief Officers under JNC terms and conditions which are incorporated in their contracts. The JNC for Chief Officers negotiates on national (UK) annual cost of living pay increases for this group, and any award of the same is determined on this basis. Chief Officers employed under JNC terms and conditions are contractually entitled to any national JNC determined pay rises and this Council will therefore pay these as and when determined in accordance with current contractual requirements.'*

Should the Council at any time decide that it does not wish to implement nationally negotiated JNC pay increases then Council would be able to resolve accordingly and alter its Pay Policy Statement.

### **Remuneration Committee**

Denbighshire currently has no agreed process for reviewing Chief Officers' salaries. Chief Officer posts are currently evaluated under HAY by an independent HAY consultant. A full re-evaluation of these posts was undertaken and agreed by Council in 2001 following a major re-organisation of Chief Officer and Senior Management posts. Any new posts or substantial changes to posts are re-evaluated at that time by an independent Hay consultant.

In order to contribute to the Council's positive reputation with regard to having appropriate and effective corporate governance arrangements for senior pay it is proposed that a Remuneration Committee is set up to determine the pay and reward for the Council's Senior Leadership Team. This will provide an independent, transparent and informed approach to managing senior pay. Draft terms of reference for the committee are included in appendix B of the Pay Policy Statement.

The scope of the committee will be to:

- Make recommendations on senior pay and reward issues to Council
- Make recommendations on the management of and structure of senior pay and reward, and grounds for pay progression.
- Determine the level of pay and any award of Performance Related Pay for the

Chief Executive.

### ***Honorarium for Chief Officers***

There are occasions when it is necessary for a Head of Service to carry out additional duties over and above their substantive post for a period of time. This would normally be to cover for a long term absence; following a restructuring where by responsibility for additional services has been given to the Head of Service; or responsibility for a large project which is outside of their normal portfolio. As the additional duties are normally only temporary, these have historically been recognised via temporary honorarium rather than a permanent increase in pay.

Under the changes to the Local Authorities (Standing Orders) (Wales) in the future temporary honorariums would need to be agreed by Full Council.

The pay policy is intended to provide Council approval for such payments to be made with the responsibility of when they are made delegated to the Chief Executive where the criteria is met. Such payments to be limited to the period until the Remuneration Committee is able to consider whether any permanent change to salary is required or until these additional responsibilities cease, whichever is the sooner.

It is therefore proposed that Full Council agree that the Chief Executive can award an honorarium of up to 15% of the Head of Service's substantive pay for a maximum period of 12 months, where they are required to carry out additional duties over and above their substantive post for a period of time. This would normally be to cover for a long term absence; following a restructuring whereby responsibility for additional services has been given to the Head of Service; or responsibility for a large project outside of their normal portfolio.

#### **5. How does the decision contribute to the Corporate Priorities?**

Having a fair and transparent pay policy will contribute towards a well-motivated workforce who in turn will contribute towards achieving the corporate priorities.

#### **6. What will it cost and how will it affect other services?**

There are no new financial implications arising from this Pay Policy.

#### **7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

The Equality Impact Assessment form is attached.

#### **8. What consultations have been carried out with Scrutiny and others?**

Consultation with the Head of Legal, HR and Democratic Services, the Section 151 Officer and CET to ensure all requirements of s38 (1) of the Localism Act are incorporated.

## **9. Chief Finance Officer Statement**

There are no new financial implications arising out of this report.

## **10. What risks are there and is there anything we can do to reduce them?**

The Council will be in breach of its legal obligations in respect of the Localism Act if it fails to adopt the Pay Policy.

That the Council will not be compliant with the Local Authorities (Standing Orders) Wales) Amendment Regulations 2014 changes and, in the event that payments of the JNC national pay award are made without an appropriate enabling Council resolution will be open to challenge that an unlawful payment has been made. Conversely, as highlighted in paragraph 4.3 above failure to pay such national pay awards to Chief Officers could result in claims against the authority of 'unlawful deduction from wages' and/or 'breach of contract'. As well as the risk of such litigation, the demoralising effect of not supporting the payment of the first nationally agreed pay award for Chief Officers since 2008 would be significant.

## **11. Power to make the Decision**

S38 (1) of the Localism Act 2011 and section 112 of the Local Government Act 1972 covering the power to appoint officers